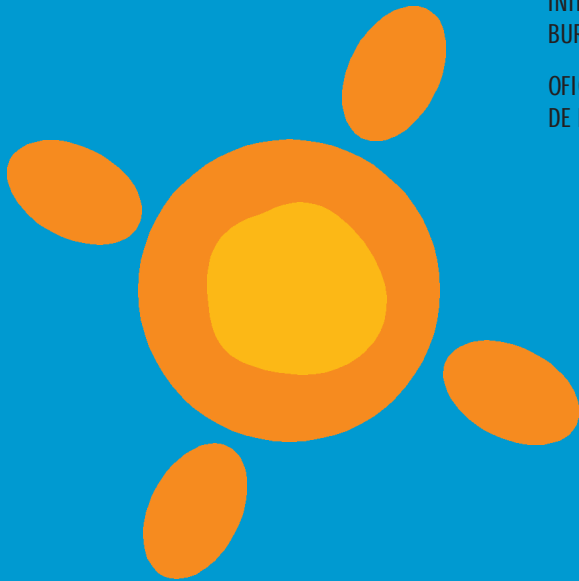




BUREAU INTERNATIONAL
DES DROITS DES ENFANTS

INTERNATIONAL
BUREAU FOR CHILDREN'S RIGHTS

OFICINA INTERNACIONAL
DE LOS DERECHOS DEL NIÑO



The rights of child victims and witnesses of crime

A
**compilation
of selected provisions
drawn from international
and regional
instruments**



Second Edition □
January 2005

The International Bureau for Children's Rights

Based in Montreal, Canada, the International Bureau for Children's Rights (IBCR) is an international non-governmental organisation (INGO) with special consultative status to the United Nations Economic and Social Council (ECOSOC). The mission of IBCR is to contribute to the promotion and protection of children's rights in conformity with the norms and principles enshrined in the Convention on the Rights of the Child (CRC) and its Optional Protocols. Within the framework of its mission, IBCR pursues the following objectives: Raise awareness about children's rights; Develop strategies to address violations of children's rights; Support international, regional and national initiatives to implement children's rights, and; Facilitate the exchange of experiences and best practices within the international community.

Since its creation in 1994, the IBCR has principally focused its attention on the protection of children in especially difficult circumstances. These include: child victims and witnesses of crime, children affected by armed conflict, children separated from their families and children victims of trafficking and sexual exploitation. The work of IBCR mainly consists of:

- Development of strategies, guidelines and monitoring tools in priority areas of intervention for use by governments, international organizations, agencies, NGOs as well as professionals working with these children;
- Research, analysis, case-studies and evaluation in the area of protection for marginalized and exploited children whose rights are not being respected;
- Advocacy for the rights of the child to influence and encourage decision-makers to take necessary measures including policy formulation, adoption and reform of legislation, change of certain practices to ensure that children's rights are fully respected;
- Close collaboration with other agencies of the international system working to promote and protect children's rights through support to international, regional and national initiatives on children's rights.
- Building alliances with other organisations on strategic issues of child protection to share knowledge, experiences and good practices identified.

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Foreword

Over the past decade, the international community has increasingly responded to the need to enhance the protection of child victims and witnesses of crime who too often neither benefit from adequate protection of their rights nor from child-friendly procedures, both within and outside the judicial process. To this end, a number of standard setting exercises have led to the adoption of norms and principles on child rights and criminal justice.

When first published in December 2002, this publication was the first compilation of provisions of international and regional instruments protecting child victims and witnesses of crime. It was prepared by the International Bureau for Children's Rights (IBCR) in an attempt to bring together the most relevant standards, norms and principles relating to the rights of child victims and witnesses of crime contained in international and regional instruments relating to human rights including child rights, crime prevention, as well as to criminal and juvenile justice. It was prepared as part of the drafting process of the **Guidelines on Justice for Child Victims and Witnesses of Crime**. Published in January 2005, this revised edition reflects the final structure of the Guidelines, and as such represents the perfect companion to the Guidelines.

Finalised by the IBCR in 2003, the Guidelines on Justice for Child Victims and Witnesses of Crime are the result of an extensive process of dialogue and consultation with NGOs, Government representatives, criminal lawyers, academics, professionals and experts in the field of child rights and victimology. “*Noting with appreciation* the efforts of the International Bureau for Children’s Rights in drawing up the guidelines on justice for child victims and witnesses of crime”, the United Nations Social and Economic Council (ECOSOC), has recently requested the Secretary-General to convene an intergovernmental expert group to develop guidelines on justice in matters involving child victims and witnesses of crime, taking into consideration any relevant material, including the IBCR Guidelines. Furthermore, the Eleventh United Nations Congress on Crime Prevention and Criminal Justice has been invited by ECOSOC to consider and discuss this issue. It is hoped that this process will lead to the adoption of a new UN standard in this field.

Like the Guidelines, this compilation seeks to guide those working with child victims and witnesses of crime in their day-to-day practice; to assist in the review of national and domestic laws, procedures, and practices so that they can ensure respect for the rights of child victims and witnesses of crime; to assist governments, international organisations, public institutions, non-governmental and community-based organizations and other interested parties in designing and implementing legislation, policies, programmes and practices that address key issues related to child victims and witnesses of crime; and finally to assist and support those caring for children in dealing sensitively with child victims and witnesses of crime.

It is hoped that this compilation, now available in English and French, will receive a wide circulation and will be used, together with the Guidelines (available in seven languages), as a reference tool by those who wish to lobby for change and make a difference to the children throughout the world who suffer from the traumatic physical, psychological and emotional impact of crimes.

Foreword

This new edition of the compilation as well as the previous edition on which it is based would have not been possible without the innumerable hours spent on research and review of an unquantifiable number of texts and documents. In addition to the IBCR team of professionals who worked on this project, special thanks go to a wonderful team of students who have generously devoted their time to this endeavour.

Special thanks also go to the members of the Steering and Drafting Committee for their expert contribution in helping draft the Guidelines on Justice for Child Victims and Witnesses of Crime as well as for their relentless commitment and dedication in seeing these Guidelines implemented in practice.

Finally, the International Bureau for Children's Rights would like to express its gratitude to the Government of Canada (more specifically the Department of Justice Canada) for its financial support of this publication, as well as for its leadership role seeing that the issue of rights for child victims and witnesses of crime gets the attention it deserves both nationally and internationally.



Jean-François Noël
Director General

Crime has a traumatic impact on victims. When these victims are children, this impact takes an even greater toll. In addition to the physical, psychological and emotional trauma that crime can inflict, children may be intimidated, confused and re-traumatised as a result of their involvement in the criminal justice system, particularly when having to testify in court. Professionals working with children, including law enforcement and judicial personnel, social workers, international organisations, NGOs, child rights advocates, as well as policy and decision-makers are often unfamiliar with the rights of child victims and witnesses of crime, as contained in international and regional human rights instruments.

This compilation was prepared cognisant of the fact that specific instruments already exist to protect child offenders and juveniles deprived of their liberty but that there is a need to strengthen the protection of child victims and witnesses of crime.

Many of these provisions are scattered across international and regional instruments that address human rights, including child rights, as well as human rights within the context of crime prevention and criminal justice. This compilation provides a comprehensive, but non-exhaustive, catalogue of existing provisions that are relevant to child victims and witnesses of crime.

Explanatory note

The selection of instruments

The instruments referred to in the compilation are both binding and non-binding and range from treaties, protocols, and conventions to declarations, recommendations and resolutions. The binding instruments call upon States to fulfill the obligations they have entered into upon accession or ratification. Their provisions have a binding effect on States Parties, and their implementation is often monitored by a committee, a commission or a court. The non-binding documents include declarations, recommendations and resolutions, and other decisions that carry moral force (although some of their provisions refer to standards which are otherwise binding) and provide guidance to States in applying the provisions contained therein. Both binding and non-binding instruments reflect a consensus among States on rights applicable to child victims and witnesses of crime, at least as to the content of the norms, if not as to their binding nature.

Selection of the provisions

The provisions in each of the instruments were selected on the basis that they provided either direct protection of child victims and witnesses of crime, or that they could apply to this population group by analogy. The provisions that offer direct protection to child victims and witnesses of crime are drawn from general human rights instruments but also from those which provide protection to specific population groups such as victims of crime and abuse of power, women and children. Other provisions are not applicable per se to child victims and witnesses of crime but could be so by analogy. These include the rights of children in conflict with the law and child rights within the context of family law.

Introduction

Layout of the compilation

All the relevant provisions are grouped by subject, and correspond to each of the Guidelines on Justice for Child Victims and Witnesses of Crime. The provisions are reflected in the compilation according to the following criteria:

- the binding and non binding nature of the instrument;
- the region applicable to the instrument. Reference has been made to the African, European and inter-American instruments;
- the body that adopted the instrument or document. At the international level, reference has been made for example to instruments adopted by the General Assembly and at the regional level to African, inter-American or European instruments adopted by bodies such as the African Union, the Organisation of American States, or the Council of Europe, respectively. The instruments adopted by the Commission on Crime Prevention and Criminal Justice, a “functional commission” under ECOSOC, have been listed under the UN Office on Drugs and Crime (formally known as the Office for Drug Control and Crime Prevention); the umbrella organization that makes up the United Nations Drug Control Programme (UNDCP) and the Centre for International Crime Prevention (CICP). It also includes the Terrorism Prevention Branch and the Global Programmes against Money Laundering, Corruption, Organized Crime and Trafficking in Human Beings.
- the binding international instruments have been listed according to their importance, while the others are listed in accordance to the chronological order of adoption. The instruments that have not yet entered into force are included at the end of each section. The non-binding instruments are listed according to the chronological order of the adoption.

In order to facilitate the reading of the compilation, an index (contents) has been included at the beginning of the compilation and a bibliography containing the exact references of the selected instruments has been appended at the end. In the tables, the instruments are referred to by title, the name of the body that adopted them, the exact references, the date of adoption, and if relevant, the date of entry into force. The reader should note that there are a number of cross-references to provisions in the table, which implies that the same provisions may be found under different themes.

Note on the second edition

A first edition of the compilation was released in December 2002 prior to the finalisation of the Guidelines on Justice for Child Victims and Witnesses of Crime. The first edition contained instruments that were accessible on the Internet up to and including July 2002.

The second edition was completed in January 2005 and published simultaneously in English and French. In addition to minor changes in the structure of the compilation to reflect the structure of the Guidelines on Justice for Child Victims and Witnesses of Crime as finalised by IBCR in March 2003, this second edition contains the following adjustments: the list of IBCR Directors (inside front cover) has been updated to reflect the composition of the Board of Directors as at December 1, 2004 and the instruments that have entered into force between July 2002 and December 1, 2004, have been updated accordingly.

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Principle

Best
interests of
the child

PRINCIPLE: Best interests of the child

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Convention on the Rights of the Child General Assembly resolution 44/25 of November 20, 1989 Entry into force September 2, 1990 (1989/1990)	Article 3 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. 2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being , taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography General Assembly resolution 54/263 of May 25, 2000 Entry into force January 18, 2002 (2000/2002)	Article 8 3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.
Rome Statute of the International Criminal Court Doc. A/CONF.183/9 of July 17, 1998 Entry into force July 1, 2002 (1998/2002)	Article 53 Initiation of an investigation 1. The Prosecutor shall, having evaluated the information made available to him or her, initiate an investigation unless he or she determines that there is no reasonable basis to proceed under this Statute. In deciding whether to initiate an investigation, the Prosecutor shall consider whether: (c) Taking into account the gravity of the crime and the interests of victims , there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice. 2. If, upon investigation, the Prosecutor concludes that there is not a sufficient basis for a prosecution because: (c) A prosecution is not in the interests of justice, taking into account all the circumstances, including the gravity of the crime, the interests of victims and the age or infirmity of the alleged perpetrator, and his or her role in the alleged crime. The Prosecutor shall inform the Pre-Trial Chamber and the State making a referral under article 14 or the Security Council in a case under article 13, paragraph (b), of his or her conclusion and the reasons for the conclusion. Article 54 Duties and powers of the Prosecutor with respect to investigations

PRINCIPLE: Best interests of the child

	<p>1. The Prosecutor shall:</p> <p>(b) Take appropriate measures to ensure the effective investigation and prosecution of crimes within the jurisdiction of the Court, and in doing so, respect the interests and personal circumstances of victims and witnesses, including age, gender as defined in article 7, paragraph 3, and health, and take into account the nature of the crime, in particular where it involves sexual violence, gender violence or violence against children; and</p>
<p>Rules of Procedures and Evidence of the International Criminal Court</p> <p>Adopted by the assembly of states, first session New York, September 3-10 2002</p> <p>ICC-ASP/1/3</p> <p>Entry into force: 2002 (2002)</p>	<p>Rule 18</p> <p>Responsibilities of the Unit</p> <p>For the efficient and effective performance of its work, the Victims and Witnesses Unit shall:</p> <p>(a) Ensure that the staff in the Unit maintain confidentiality at all times;</p> <p>(b) While recognizing the specific interests of the Office of the Prosecutor, the defence and the witnesses, respect the interests of the witness, including, where necessary, by maintaining an appropriate separation of the services provided to the prosecution and defence witnesses, and act impartially when cooperating with all parties and in accordance with the rulings and decisions of the Chambers.</p>
<p>International Covenant on Civil and Political Rights</p> <p>General Assembly resolution 2200A (XXI) of December 16, 1966</p> <p>Entry into force March 23, 1976 (1966/1976)</p>	<p>Article 14</p> <p>1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.</p>
	Regional Instruments
	African Instruments
	African Union
<p>African Charter on the Rights and Welfare of the Child</p> <p>OAU Doc. CAB/LEG/24.9/49</p> <p>July 1990</p> <p>Entry into force November 29, 1999 (1990/1999)</p>	<p>Article 4</p> <p>Best Interests of the Child</p> <p>1. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.</p> <p>Article 9</p> <p>Freedom of Thought, Conscience and Religion</p> <p>2. Parents and where applicable, legal guardians shall have a duty to provide guidance and direction in the exercise of these rights having regard to the evolving capacities, and best interests of the child.</p>

PRINCIPLE: Best interests of the child

	European Instruments
	Council of Europe
European Convention on the Exercise of Children's Rights ETS No. 160 of January 25, 1996 Entry into force July 1, 2000 (1996/2000)	B. Decision-Making Process Article 6 In proceedings affecting a child, the judicial authority, before taking a decision, shall: (a) consider whether it has sufficient information at its disposal in order to take a decision in the best interests of the child and, where necessary it shall obtain further information, in particular from the holders of parental responsibilities; C. Role of representatives Article 10 1. In the case of proceedings before a judicial authority affecting a child the representative shall, unless this would be manifestly contrary to the best interests of the child: (a) provide all relevant information to the child, if the child is considered by internal law as having sufficient understanding; (b) provide explanations to the child if the child is considered by internal law as having sufficient understanding, concerning the possible consequences of compliance with his or her views and the possible consequences of any action by the representative; (c) determine the views of the child and present these views to the judicial authority.
	Inter-American Instruments
	Organisation of American States (OAS)
American Convention on Human Rights "Pact of San José, Costa Rica " of November 22, 1969 Entry into force July 18, 1978 (1969/1978)	Article 17 Rights of the Family 4. The States Parties shall take appropriate steps to ensure the equality of rights and the adequate balancing of responsibilities of the spouses as to marriage, during marriage, and in the event of its dissolution. In case of dissolution, provision shall be made for the necessary protection of any children solely on the basis of their own best interests .

PRINCIPLE: Best interests of the child

	Fifth Inter-American Specialized Conference on Private International Law (CIDIP-V)
Inter-American Convention on “International traffic in Minors” of March 18, 1994 Entry into force August 15, 1997 (1994/1997)	<p>Article 1</p> <p>The purpose of the present Convention, with a view to protection of the fundamental rights of minors and their best interests, is the prevention and punishment of the international traffic in minors as well as the regulation of its civil and penal aspects.</p> <p>Accordingly, the States Parties to this Convention undertake to:</p> <p>(a) ensure the protection of minors in consideration of their best interests;</p> <p>(c) ensure the prompt return of minors who are victims of international traffic to the State of their habitual residence, bearing in mind the best interests of the minors.</p> <p>Article 11</p> <p>The actions taken in accordance with the provisions of this chapter shall not prevent the competent authorities of the State Party where the minor is located from ordering, at any time, said minor's immediate return to the State of his or her habitual residence, bearing in mind the best interests of the minor.</p> <p>Article 18</p> <p>Adoptions and other similar legal proceedings performed in a State Party shall be subject to annulment if they had their origin or purpose in international traffic in minors.</p> <p>In such annulment, the minor's best interests shall be taken into account at all times.</p>

NON-BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) General Assembly resolution 40/33 of November 29, 1985 (1985)	<p>Rule 1</p> <p>Fundamental perspectives</p> <p>1.1 member states seek to further the well-being of the juvenile and her or his family.</p> <p>Rule 5</p> <p>Aims of Juvenile justice</p> <p>5.1 The juvenile justice system shall emphasize the well-being of the juvenile 5. 1 The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence.</p> <p>Rule 14</p> <p>Competent authority to adjudicate</p> <p>14.2 The proceedings shall be conducive to the best interests of the juvenile and shall be conducted in an atmosphere of understanding, which shall allow the juvenile to participate therein and to express herself or himself freely.</p>

PRINCIPLE: Best interests of the child

	<p>Rule 17</p> <p>Guiding principles in adjudication and disposition</p> <p>17.1 The disposition of the competent authority shall be guided by the following principles</p> <p>(d) The well-being of the juvenile shall be the guiding factor in the consideration of her or his case.</p>
	<p>UN Organs – Economic and Social Council (ECOSOC)</p>
<p>Guidelines for Action on Children in the Criminal Justice System</p> <p>Annex to Administration of Juvenile Justice</p> <p>Economic and Social Council resolution 1997/30 of July 21, 1997 (1997)</p>	<p>Guideline 8. In the use of the Guidelines for Action at both the international and national levels, consideration should be given to the following:</p> <p>(a) Respect for human dignity, compatible with the four general principles underlying the Convention, namely: non-discrimination, including gender-sensitivity; upholding the best interests of the child; the right to life, survival and development; and respect for the views of the child.</p> <p>Guideline 43. In accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 13/ States should undertake to ensure that child victims and witnesses are provided with appropriate access to justice and fair treatment, restitution, compensation and social assistance. If applicable, measures should be taken to prevent the settling of penal matters through compensation outside the justice system, when doing so is not in the best interests of the child.</p>
	<p>Regional Instruments</p>
	<p>European Instruments</p>
	<p>European Union</p>
<p>Charter of Fundamental Rights of the European Union</p> <p>(2000/C 364/01) of December 7, 2000 (2000)</p>	<p>Article 24</p> <p>The rights of the child</p> <p>2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.</p>
	<p>Council of Europe – Committee of Ministers</p>
<p>On the Protection of Children against Sexual Exploitation</p> <p>Recommendation No. R (2001) 16 of October 31, 2001 (2001)</p>	<p>Considering that the well-being and best interests of children are fundamental values shared by all member states and must be promoted without any discrimination;</p> <p>30. Ensure that the rights and interests of children are safeguarded throughout proceedings, in particular by enabling them to be heard, to be assisted or, where relevant, to be represented, while respecting the rights of the alleged offenders.</p>
<p>On the Medico-Social Aspects of Child Abuse</p> <p>Recommendation No. R (93) 2</p> <p>March 22, 1993 (1993)</p>	<p>3. Investigation and evaluation</p> <p>3.2 Ensure that in intervention in all cases of child abuse the best interests of the child shall be the primary consideration and that when services are made available to abused children and their families, they are sensitive to the child's age, wishes, understanding, gender and to his/her ethnic, cultural, religious and linguistic background, and to special needs, such as disability.</p>

PRINCIPLE: Best interests of the child

	<p>3.5 Ensure that, except where this would be contrary to the best interests of the child, parents are informed of the concerns about their child and of their rights to participate in decision-making and of appeal.</p> <p>3.6 Ensure that in cases where children are separated from their parents, strenuous efforts are made to maintain links between the child and his/her parents as far as possible and consistent with the welfare of the child.</p> <p>3.10 Ensure that in any police investigations and subsequent criminal proceedings the welfare and interests of the child are paramount. This includes sensitivity to the child's needs in interviews and in the courts when children are called as witnesses, and ensuring that any delays are kept to a minimum and do not prejudice the child's right to receive help.</p>
<p>Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in, Children and Young Adults</p> <p>Recommendation No. R (91) 11 of September 9, 1991 (1991)</p>	<p>d. Penal law and penal proceedings</p> <p>12. Ensure that the rights and interests of children and young adults are safeguarded throughout proceedings while respecting the rights of the alleged offenders.</p>
<p>Social Measures Concerning Violence within the Family</p> <p>Recommendation No. R (90) 2 of January 15, 1990 (1990)</p>	<p>Appended to Recommendation No R (90) 2</p> <p>Section B : Specific measures</p> <p>18. When the interests of an abused child are in conflict with those expressed by its parents, the child's interests should in principle have priority. When there is a need to protect the child by removing it from its family, short- or long-term, that should not be considered as an end in itself but as a provisional part of an overall family treatment approach for the interests of both parties. Work with the family should continue regardless of the child's removal.</p>
	<p>Council of Europe – Parliamentary Assembly</p>
<p>International Abduction of Children by one of the Parents</p> <p>Resolution 1291 (2002) of June 26, 2002 (2002)</p>	<p>3. The Assembly believes that the member states, united within the Council of Europe by their attachment to the same values, ought to be able to overcome their legal, cultural and other differences, recognise the same concept of the “best interests of the child” and state that situations in which children are denied their rights cannot be allowed to continue.</p>

A decorative graphic on the left side of the slide. It consists of a vertical stack of five blue squares. The top square is a darker shade of blue, while the others are a lighter shade. A dark blue line starts from the right side of the top square, extends horizontally to the right, and then turns vertically downwards, passing between the first and second squares, and then between the second and third squares.

1.

The right to be
treated with
dignity and
compassion

Right to be treated with dignity and compassion

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Convention on the Rights of the Child General Assembly resolution 44/25 of November 20, 1989 Entry into force September 2, 1990 (1989/1990)	Article 39 States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child .
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography General Assembly resolution 54/263 of May 25, 2000 Entry into force January 18, 2002 (2000/2002)	Article 8 1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by: (a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses.
Rome Statute of the International Criminal Court Doc. A/CONF.183/9 of July 17, 1998 Entry into force July 1, 2002 (1998/2002)	Article 68 Protection of the victims and witnesses and their participation in the proceedings 1. The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the Court shall have regard to all relevant factors, including age, gender as defined in article 7, paragraph 3 [For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above], and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The Prosecutor shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.
Rules of Procedures and Evidence of the International Criminal Court Adopted by the assembly of states, first session New York, September 3-10 2002	Rule 67 Live testimony by means of audio or video-link technology 3. The Chamber, with the assistance of the Registry, shall ensure that the venue chosen for the conduct of the audio or video-link testimony is conducive to the giving of truthful and open testimony and to the safety, physical and psychological well-being, <u>dignity</u> and privacy of the witness.

Right to be treated with dignity and compassion

ICC-ASP/1/3

Entry into force: 2002

(2002)

Rule 70

Principles of evidence in cases of sexual violence

In cases of sexual violence, the Court shall be guided by and, where appropriate, apply the following principles:

- (a) Consent cannot be inferred by reason of any words or conduct of a victim where force, threat of force, coercion or taking advantage of a coercive environment undermined the victim's ability to give voluntary and genuine consent;
- (b) Consent cannot be inferred by reason of any words or conduct of a victim where the victim is incapable of giving genuine consent;
- (c) Consent cannot be inferred by reason of the silence of, or lack of resistance by, a victim to the alleged sexual violence;
- (d) Credibility, character or predisposition to sexual availability of a victim or witness cannot be inferred by reason of the sexual nature of the prior or subsequent conduct of a victim or witness.

Rule 71

Evidence of other sexual conduct

In the light of the definition and nature of the crimes within the jurisdiction of the Court, and subject to article 69, paragraph 4 [The Court may rule on the relevance or admissibility of any evidence, taking into account, inter alia, the probative value of the evidence and any prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness, in accordance with the Rules of Procedure and Evidence] , a Chamber shall not admit evidence of the prior or subsequent sexual conduct of a victim or witness.

Rule 86

General principle

A Chamber in making any direction or order, and other organs of the Court in performing their functions under the Statute or the Rules, shall take into account the needs of all victims and witnesses in accordance with article 68 [Protection of the victims and witnesses and their participation in the proceedings], in particular, children, elderly persons, persons with disabilities and victims of sexual or gender violence.

Regional Instruments

African Instruments

African Union

African Charter on the Rights and Welfare of the Child

OAU Doc. CAB/LEG/24.9/49 of July 1990

Entry into force November 29, 1999.

(1990/1999)

Article 13

Handicapped Children

1. Every child who is mentally or physically disabled shall have the right to special measures of protection in keeping with his physical and moral needs and under conditions which **ensure his dignity**, promote his self-reliance and active participation in the community.

Article 17

Administration of Juvenile Justice

1. Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the **child's sense of dignity** and worth and which reinforces the child's respect for human rights and fundamental freedoms of

Right to be treated with dignity and compassion

	<p>others.</p> <p>Article 21</p> <p>Protection against Harmful Social and Cultural Practices</p> <p>1. States Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular.</p>
<p>African [Banjul] Charter on Human and Peoples' Rights</p> <p>OAU Doc. CAB/LEG/67/3 rev. 5 of June 27, 1981</p> <p>Entry into force October 21, 1986 (1982/1986)</p>	<p>Article 5</p> <p>Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.</p>
<p>Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa</p> <p>adopted in Maputo, July 11th, 2003</p> <p>Not in force</p>	<p>Article 1</p> <p>Definitions</p> <p>(k) women means persons of female gender, including girls.</p> <p>Article 3</p> <p>Right to Dignity</p> <p>1. Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights;</p> <p>2. Every woman shall have the right to respect as a person and to the free development of her personality;</p> <p>3. States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women; dignity and protection of women from all forms of violence, particularly sexual and verbal violence.</p>
	<p>European Instruments</p> <p>Council of Europe</p>
<p>To Combat Child Pornography on the Internet</p> <p>Council Decision (2000/375/JAI) of May 29, 2000</p> <p>Entry into force May 29, 2000</p>	<p>Paragraph 19</p> <p>Convinced that respect for the physical and emotional integrity of children and the protection of victims of sexual exploitation are of fundamental importance and must lie at the heart of the Union's concerns.</p>

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	Inter-American Instruments
	Organisation of American States (OAS)
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belem do Para" of June 9, 1994 Entry into force March 5, 1995 (1994/1995)	Article 4 Every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others: (b) The right to have her physical, mental and moral integrity respected; (e) The rights to have the inherent dignity of her person respected and her family protected.
American Convention on Human Rights "Pact of San José, Costa Rica " of November 22, 1969 Entry into force July 18, 1978 (1969/1978)	Article 3 Right to the integrity of the person 1. Everyone has the right to respect for his or her physical and mental integrity . Article 5 Right to Humane Treatment 1. Every person has the right to have his physical, mental, and moral integrity respected. 5. Minors while subject to criminal proceedings shall be separated from adults and brought before specialized tribunals, as speedily as possible, so that they may be treated in accordance with their status as minors . Article 11 Right to Privacy Everyone has the right to have his honor respected and his dignity recognized.
NON-BINDING INSTRUMENTS	
	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
The Rights of the Child General Assembly resolution 55/79 of February 22, 2001 (2001)	III Promotion and protection of the rights of children in particularly vulnerable situations and non-discrimination against children 10. <i>Calls upon</i> all States to take all necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities, and to develop and enforce legislation against their discrimination so as to ensure dignity , promote self-reliance and facilitate the child's active participation in the community, including effective access to educational and health services.

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<p>Basic Principles of Justice for Victims of Crime and Abuse of Power</p> <p>General Assembly resolution 40/34 of November 29, 1985 (1985)</p>	<p>A. Victims of Crime</p> <p>Access to justice and fair treatment</p> <p>Principle 4</p> <p>Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.</p>
<p>Domestic Violence</p> <p>General Assembly resolution 40/36 of November 29, 1985 (1985)</p>	<p>7. Invites Member States to adopt specific measures with a view to making the criminal and civil justice system more sensitive in its response to domestic violence, including the following:</p> <p>(b) To respect, in all instances of the criminal proceeding, starting with the police investigation, the special and sometimes delicate position of the victim, in particular in the manner in which the victim is treated.</p>
<p>Universal Declaration of Human Rights</p> <p>General Assembly Resolution 217 A (III) of December 10, 1948 (1948)</p>	<p>Article 1</p> <p>All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.</p> <p>Article 22</p> <p>Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality...</p>
	<p>UN Organs – Economic and Social Council (ECOSOC)</p>
<p>Guidelines for Action on Children in the Criminal Justice System</p> <p>Annex to Administration of Juvenile Justice</p> <p>Economic and Social Council resolution 1997/30 of July 21, 1997 (1997)</p>	<p>8. (a) In the use of the Guidelines for Action at both the international and national levels, consideration should be given to the following:</p> <p>Respect for human dignity, compatible with the four general principles underlying the Convention, namely: non-discrimination, including gender-sensitivity; upholding the best interests of the child; the right to life, survival and development; and respect for the views of the child;</p> <p>45. Child victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm they have suffered.</p> <p>52. Children displaced illegally or wrongfully retained across borders are as a general principle to be returned to the country of origin. Due attention should be paid to their safety, and they should be treated humanely and receive necessary assistance, pending their return. They should be returned promptly to ensure compliance with the Convention on the Rights of the Child. Where the Hague Convention on the Civil Aspects of International Child Abduction of 1980 14/ or the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993, approved by the Hague Conference on Private International Law, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of the Child are applicable, the provisions of these conventions with regard to the return of the child should be promptly applied. Upon the return of the child, the country of origin should treat the child with respect, in accordance with international principles of human rights, and offer adequate family-based rehabilitation measures.</p>

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	UN Organs – Secretariat United Nations Office on Drugs and Crime (UNODC) UN Congress on Crime Prevention and Criminal Justice
Guidelines on the Role of Prosecutors Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders August 27 -September 7, 1990 U.N. Doc. A/CONF.144/28/Rev.1 at 189 welcomed by General Assembly resolution 45/121 of December 18, 1990 (1990)	12. Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, <u>and respect and protect human dignity</u> and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.
	UN Organs – Secretariat United Nations Office on Drugs and Crime (UNODC) Commission on Crime Prevention and Criminal Justice
Basic principles on the use of Restorative Justice Programmes in Criminal Matters Draft resolutions for the adoption by the Economic and social Council – Eleventh Session of the Commission on Crime Prevention and Criminal Justice April 16-25, 2002 E/CN.15/2002/L.2/Rev.1 welcomed by Economic and Social Council resolution 2002/12 of July 24, 2002 (2002)	19. Facilitators should be responsible for providing a safe and appropriate environment for the restorative process. They should be sensitive to any vulnerability of the parties.
	Regional Instruments
	European Instruments
	European Union
Charter of Fundamental Rights of the European Union (2000/C 364/01) of December 7, 2000 (2000)	Article 1 - Human dignity Human dignity is inviolable. It must be respected and protected.

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	Council of Europe – Committee of Ministers
Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation Recommendation No. R (2000) 11 of May 19, 2000 (2000)	<p>28. Provide, where possible, victims of trafficking, particularly children and witnesses, with special (audio or video) facilities to report and file complaints, and which are designed to protect their private lives and their dignity and reduce the number of official procedures and their traumatising effects.</p>
Concerning Intimidation of Witnesses and the Rights of the Defence Recommendation No. R (97) 13 of September 10, 1997. Appendix to Recommendation No. R (97) 13 Concerning Intimidation of Witnesses and the Rights of the Defence (1997)	<p>25. Vulnerable witnesses should, whenever possible, be examined at the earliest stage of the criminal proceedings, as soon as possible after the facts have been reported. Such examination should be carried out in a particularly careful, respectful and thorough manner.</p> <p>26. Such examination should not be repeated. The examination should be conducted by or in the presence of a judicial authority, and the defence should have sufficient opportunity to challenge this testimony.</p>
On the Position of the Victim in the Framework of Criminal Law and Procedure Recommendation No. R (85) 11 of June 28, 1985 (1985)	<p>I. Recommends the governments of member states to review their legislation and practice in accordance with the following guidelines:</p> <p>C. Questioning of the victim</p> <p>8. At all stages of the procedure, the victim should be questioned in a manner which gives due consideration to his personal situation, his rights and his dignity. Whenever possible and appropriate, children and the mentally ill or handicapped should be questioned in the presence of their parents or guardians or other persons qualified to assist them.</p> <p>F. Protection of privacy</p> <p>15. Information and public relations policies in connection with the investigation and trial of offences should give due consideration to the need to protect the victim from any publicity which will unduly affect his private life or dignity. If the type of offence or the particular status or personal situation and safety of the victim make such special protection necessary, either the trial before the judgment should be held in camera or disclosure or publication of personal information should be restricted to whatever extent is appropriate.</p>
	Council of Europe – Parliamentary Assembly
On the Traffic in Children and other Forms of Child Exploitation Recommendation 1065 (1987) October 6, 1987 (1987)	<p>4. Considering that children have the same right as all human beings to enjoy an environment which affords them security, health and physical integrity, and that they must be treated humanely, that society has a duty to provide them with protection, to monitor observance of their rights and to afford them equality of opportunity.</p>



2.

The right to be
protected from
discrimination

Right to be protected from discrimination

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Convention on the Rights of the Child General Assembly resolution 44/25 of November 20, 1989 Entry into force September 2, 1990 (1989/1990)	Article 2 1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind , irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography General Assembly resolution 54/263 of May 25, 2000 Entry into force January 18, 2002 (2000/2002)	Article 8 2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations , including investigations aimed at establishing the age of the victim. Article 9 4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination , compensation for damages from those legally responsible.
Rome Statute of the International Criminal Court Doc. A/CONF.183/9 of July 17, 1998 Entry into force July 1, 2002 (1998/2002)	Article 36 Qualifications, Nomination and Election of Judges 8. (b) States Parties shall also take into account the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women or children . Article 42 The Office of the Prosecutor 9. The Prosecutor shall appoint advisers with legal expertise on specific issues , including, but not limited to, sexual and gender violence and violence against children . Article 54 Duties and Powers of the Prosecutor with Respect to Investigations 1. The Prosecutor shall: (b) Take appropriate measures to ensure the effective investigation and prosecution of crimes within the jurisdiction of the Court, and in doing so, respect the interests and personal circumstances of victims and witnesses, including age, gender as defined in article 7, paragraph 3, and health, and take into account the nature of the crime, in particular where it involves sexual violence, gender violence or violence against children .

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Rules of Procedures and Evidence of the International Criminal Court

Adopted by the assembly of states, first session New York,

September 3-10 2002

ICC-ASP/1/3

Entry into force: 2002

(2002)

Rule 66

Solemn undertaking

2. A person under the age of 18 or a person whose judgment has been impaired and who, in the opinion of the Chamber, does not understand the nature of a solemn undertaking may be allowed to testify without this solemn undertaking if the Chamber considers that the person is able to describe matters of which he or she has knowledge and that the person understands the meaning of the duty to speak the truth.

Convention on the Elimination of Discrimination Against Women (CEDAW)

General Assembly resolution 34/180 of December 18, 1979

Entry into force September 3, 1981

(1979/1981)

Article 2

States Parties **condemn discrimination against women** in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public **institutions the effective protection of women against any act of discrimination;**

(f) To take all appropriate measures, **including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;**

(g) To **repeal all national penal provisions which constitute discrimination** against women.

Article 5

States Parties shall take all appropriate measures:

(a) To **modify the social and cultural patterns of conduct** of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

International Covenant on Economic, Social and Cultural Rights

General Assembly resolution 2200A (XXI) of December 16, 1966

Entry into force January 3, 1976

(1966/1976)

Article 10

3. **Special measures of protection and assistance** should be taken on behalf of all children and young persons **without any discrimination** for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

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International Covenant on Civil and Political Rights

General Assembly resolution 2200A (XXI) of December 16, 1966

Entry into force March 23, 1976

(1966/1976)

Article 2

1. Each State Party to the present Covenant undertakes to respect and to **ensure to all individuals** within its territory and subject to its jurisdiction **the rights** recognized in the present Covenant, **without distinction of any kind**, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 14

1. **All persons shall be equal before the courts and tribunals.** In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

International Convention on the Elimination of All Forms of Racial Discrimination

General Assembly resolution 2106 (XX) of December 21, 1965

Entry into force 4 January 4, 1969

(1965/1969)

Article 1

1. In this Convention, the term "**racial discrimination**" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Article 2

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development **and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights** and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 5

In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to **eliminate racial discrimination** in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to **equal treatment** before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.

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	Regional Instruments
	African Instruments
	African Union
African Charter on the Rights and Welfare of the Child OAU Doc. CAB/LEG/24.9/49 of July 1990 Entry into force November 29, 1999. (1990/1999)	Article 3 Non-Discrimination Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his-her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status. Article 13 Handicapped Children 1. Every child who is mentally or physically disabled shall have the right to special measures of protection in keeping with his physical and moral needs and under conditions which ensure his dignity , promote his self-reliance and active participation in the community.
African [Banjul] Charter on Human and Peoples' Rights OAU Doc. CAB/LEG/67/3 rev. 5 of June 27, 1981 Entry into force October 21, 1986 (1982/1986)	Article 3 1. Every individual shall be equal before the law. 2. Every individual shall be entitled to equal protection of the law. Article 18 3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions. Article 28 Every individual shall have the duty to respect and consider his fellow beings without discrimination , and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.
Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa adopted in Maputo, July 11 th , 2003 Not in force	Article 1 Definitions For the purpose of the present Protocol: f) "Discrimination against women" means any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life; k) "Women" means persons of female gender, including girls; Article 2 Elimination of Discrimination Against Women 1. States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall: a) include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application; b) enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women; c) integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;

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	<p>d) take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;</p> <p>e) support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.</p> <p>2. States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.</p>
	<h2>Inter-American Instruments</h2> <h3>Organisation Of American States (OAS)</h3>
<p>Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women</p> <p>"Convention of Belem do Para" of June 9, 1994</p> <p>Entry into force March 5, 1995 (1994/1995)</p>	<p>Article 4</p> <p>Every woman has the right to the recognition, enjoyment, exercise and protection of all human rights and freedoms embodied in regional and international human rights instruments. These rights include, among others:</p> <p>(f) The right to equal protection before the law and of the law;</p> <p>Article 6</p> <p>The right of every woman to be free from violence includes, among others:</p> <p>(a) The right of women to be free from all forms of discrimination</p>
<p>American Convention on Human Rights</p> <p>"Pact of San José, Costa Rica" of November 22, 1969</p> <p>Entry into force July 18, 1978 (1969/1978)</p>	<p>Article 24</p> <p>Right to Equal Protection</p> <p>All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.</p>
<p>Additional Protocol to American Convention on Human Rights in the Area of Economic, Social and Cultural Rights</p> <p>"Protocol of San Salvador" of November 17, 1988</p> <p>entry into force November 16th, 1999 (1988)</p>	<p>Article 2</p> <p>Right to Equality Before the Law</p> <p>All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.</p> <p>Article 4</p> <p>Any person, without regard to nationality, race, sex, religion, parentage, place of origin, immigration status or any other distinction, is entitled to receive support.</p>

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NON-BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
The Rights of the Child General Assembly resolution 55/79 of February 22, 2001 (2001)	I. Implementation of the Convention on the Rights of the Child 10. <i>Calls upon</i> all States to take all necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities, and to develop and enforce legislation against their discrimination so as to ensure dignity, promote self-reliance and facilitate the child's active participation in the community, including effective access to educational and health services.
United Nations Rules for the Protection of Juveniles Deprived of Liberty General Assembly resolution 45/113 of December, 14 1990 (1990)	Rule 4 The Rules should be applied impartially, without discrimination of any kind as to race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability. The religious and cultural beliefs, practices and moral concepts of the juvenile should be respected.
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) General Assembly resolution 40/33 of November 29, 1985 (1985)	Article 2 1. The following Standard Minimum Rules shall be applied to juvenile offenders impartially, without distinction of any kind, for example as to race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status.
Basic Principles of Justice for Victims of Crime and Abuse of Power General Assembly resolution 40/34 of November 29, 1985 (1985)	A. Victims of Crime Principle 3 The provisions contained herein shall be applicable to all, without distinction of any kind , such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.
Universal Declaration of Human Rights General Assembly Resolution 217 A (III) of December 10, 1948 (1948)	Article 6 Everyone has the right to recognition everywhere as a person before the law. Article 7 All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

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	UN Organs – Economic and Social Council (ECOSOC)
<p>Guidelines for Action on Children in the Criminal Justice System</p> <p>Annex to Administration of Juvenile Justice</p> <p>Economic and Social Council resolution 1997/30</p> <p>July 21, 1997 (1997)</p>	<p>13. Notwithstanding the age of criminal responsibility, civil majority and the age of consent as defined by national legislation, States should ensure that children benefit from all their rights, as guaranteed to them by international law, specifically in this context those set forth in articles 3 [public or private social welfare institutions, courts of law, administrative authorities or legislative bodies], 37 [children deprived of liberty] and 40 [juvenile justice] of the Convention. [Convention on the Rights of the Child].</p>
	UN Organs – Secretariat United Nations Office on Drugs and Crime (UNODC) UN Congress on Crime Prevention and Criminal Justice
<p>Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century</p> <p>Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders</p> <p>Vienna, April 10-17, 2000</p> <p>U.N. Doc. A/CONF.187/4/Rev.3</p> <p>Welcomed by General Assembly resolution 55/59 of January 17, 2001 (2000)</p>	<p>12. We also commit ourselves to the development of action-oriented policy recommendations based on the special needs of women as criminal justice practitioners, victims, prisoners and offenders.</p>
<p>Guidelines on the Role of Prosecutors</p> <p>Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders</p> <p>August 27 -September 7, 1990</p> <p>U.N. Doc. A/CONF.144/28/Rev.1 at 189 welcomed by General Assembly resolution 45/121 of December 18, 1990 (1990)</p>	<p>13. In the performance of their duties, prosecutors shall:</p> <p>(a) Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination.</p>

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	UN Specialized Agency - International Labour Organisation
R190 Worst forms of Child Labour Recommendation of June 17, 1999 (1999)	<p>I. Programmes of action</p> <p>2. The programmes of action referred to in Article 6 of the Convention [C182 Worst Forms of Child Labour Convention - Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour] should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such programmes should aim at, inter alia:</p> <p>(c) giving special attention to:</p> <ul style="list-style-type: none"> (i) younger children; (ii) the girl child; (iii) the problem of hidden work situations, in which girls are at special risk; (iv) other groups of children with special vulnerabilities or needs.
	Regional Instruments
	European Instruments
	European Union
Charter of Fundamental Rights of the European Union (2000/C 364/01) of December 7, 2000 (2000)	<p>Article 20 Equality Before the Law Everyone is equal before the law.</p> <p>Article 22 Cultural, Religious and Linguistic Diversity The Union shall respect cultural, religious and linguistic diversity.</p>
	Council of Europe – Committee of Ministers
On the Role of Public Prosecution in the Criminal Justice System Recommendation No. R (2000) 19 of October 6, 2000 (2000)	<p>25. Public prosecutors should abstain from discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, health, handicaps or other status.</p>
Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation Recommendation No. R (2000) 11 of May 19, 2000 (2000)	<p>28. Provide, where possible, victims of trafficking, particularly children and witnesses, with special (audio or video) facilities to report and file complaints, and which are designed to protect their private lives and their dignity and reduce the number of official procedures and their traumatising effects.</p>

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Concerning Intimidation of Witnesses and the Rights of the Defence

Recommendation No. R (97) 13 of September 10, 1997
Appendix to Recommendation No. R (97) 13 Concerning Intimidation of Witnesses and the Rights of the Defence (1997)

29. The mere fact that **evidence by children is not given under oath should not be, in itself, a reason for its exclusion.**

On the Medico-Social Aspects of Child Abuse

Recommendation No. R (93) 2 of March 22, 1993 (1993)

3. Investigation and evaluation

3.2 Ensure that in intervention in all cases of child abuse the best interests of the child shall be the primary consideration and that when services are made available to abused children and their families, **they are sensitive to the child's age, wishes, understanding, gender and to his/her ethnic, cultural, religious and linguistic background**, and to special needs, such as disability.

On the Position of the Victim in the Framework of Criminal Law and Procedure

Recommendation No. R (85) 11 of June 28, 1985 (1985)

I. Recommends the governments of member states to review their legislation and practice in accordance with the following guidelines:

C. Questioning of the victim

8. At all stages of the procedure, the victim should be questioned in a manner which gives **due consideration to his personal situation**, his rights and his dignity. Whenever possible and appropriate, children and the mentally ill or handicapped should be questioned in the presence of their parents or guardians or other persons qualified to assist them.

Council of Europe – Parliamentary Assembly

Campaign against Trafficking in Women

Recommendation 1545 (2002) of January 21, 2002 (2002)

10. The Assembly therefore urges the governments of member states:

(viii) to take the following steps regarding the prevention of trafficking in women:

(b) **create special police services** and make them aware of the fight against trafficking and forced prostitution. Such services should have direct contacts with Interpol and Europol in order to ensure an exchange of information on trafficking networks and efficient collaboration in the detention of criminals.

(ix) to adopt the following measures regarding victims of trafficking:

(f) increase the state financing of the social services **specialised in assistance** to the victims of trafficking and prostitution.

On a European Strategy for Children

Recommendation 1286 (1996) of January 24, 1996 (1996)

8. The Committee of Ministers should strongly urge these states:

(x) to pay particular attention to the situation and **the specific needs of immigrant and refugee children and minority and marginalised children.**



3.

The right to
be informed

Right to be informed

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Convention on the Rights of the Child General Assembly resolution 44/25 of November 20, 1989 Entry in force September 2, 1990 (1989/1990)	Article 40 <p>1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.</p> <p>2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:</p> <p>(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:</p> <p>(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence.</p>
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography General Assembly resolution 54/263 of May 25, 2000 Entry into force January 18, 2002 (2000/2002)	Article 8 <p>1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:</p> <p>(b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;</p>
International Covenant on Civil and Political Rights General Assembly resolution 2200A (XXI) of December 16, 1966 Entry into force March 23, 1976 (1966/1976)	Article 14 <p>3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:</p> <p>(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him.</p>
Rules of Procedures and Evidence of the International Criminal Court Adopted by the assembly of states, first session New York, September 3-10 2002	Rule 16 Responsibilities of the Registrar Relating to Victims and Witnesses <p>2. In relation to victims, witnesses and others who are at risk on account of testimony given by such witnesses, the Registrar shall be responsible for the performance of the following functions in accordance with the Statute and these Rules:</p> <p>(a) Informing them of their rights under the Statute and the Rules, and of the</p>

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ICC-ASP/1/3

Entry into force:2002

(2002)

existence, functions and availability of the Victims and Witnesses Unit;

(b) Ensuring that they are aware, in a timely manner, of the relevant decisions of the Court that may have an impact on their interests, subject to provisions on confidentiality.

Rule 17

Functions of the Unit

3. In performing its functions, the Unit shall give due regard to the particular needs of children, elderly persons and persons with disabilities. **In order to facilitate the participation and protection of children as witnesses,** the Unit may assign, as appropriate, and with the agreement of the parents or the legal guardian, **a child-support person to assist a child** through all stages of the proceedings.

Rule 92

Notification to Victims and their Legal Representatives

1. This rule on notification to victims and their legal representatives shall apply to all proceedings before the Court, except in proceedings provided for in Part 2.

2. In order to allow **victims to apply for participation** in the proceedings in accordance with rule 89, the **Court shall notify victims concerning the decision of the Prosecutor** not to initiate an investigation or not to prosecute pursuant to article 53. Such a notification shall be given to victims or their legal representatives who have already participated in the proceedings or, as far as possible, to those who have communicated with the Court in respect of the situation or case in question. The Chamber may order the measures outlined in sub-rule 8 if it considers it appropriate in the particular circumstances.

3. In order to allow victims to apply for participation in the proceedings in accordance with rule 89, the **Court shall notify victims regarding its decision to hold a hearing to confirm charges** pursuant to article 61. Such a notification shall be given to victims or their legal representatives who have already participated in the proceedings or, as far as possible, to those who have communicated with the Court in respect of the case in question.

5. In a manner consistent with the ruling made under rules 89 to 91, victims or their legal representatives participating in proceedings shall, in respect of those proceedings, be **notified by the Registrar in a timely manner** of:

(a) Proceedings before the Court, including the date of hearings and any postponements thereof, and the date of delivery of the decision;

(b) Requests, submissions, motions and other documents relating to such requests, submissions or motions.

6. Where victims or their legal representatives have participated in a certain stage of the proceedings, the **Registrar shall notify them as soon as possible of the decisions of the Court in those proceedings.**

Right to be informed

<p>Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children</p> <p>Supplementing the United Nations Convention Against Transnational Organized Crime</p> <p>General Assembly resolution 55/25, of November 15, 2000</p> <p>Entry into force December 25, 2003 (2000)</p>	<p>II. Protection of Victims of Trafficking in Persons</p> <p>Article 6</p> <p>Assistance to and Protection of Victims of Trafficking in Persons</p> <p>3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:</p> <p>(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand.</p>
	<p>Regional Instruments</p>
	<p>African Instruments</p>
	<p>African Union</p>
<p>African Charter on the Rights and Welfare of the Child</p> <p>OAU Doc. CAB/LEG/24.9/49 of July 1990</p> <p>Entry into force November 29, 1999. (1990/1999)</p>	<p>Article 17</p> <p>Administration of Juvenile Justice</p> <p>1. Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.</p> <p>2. States Parties to the present Charter shall in particular:</p> <p>(c) ensure that every child accused in infringing the penal law:</p> <p>(ii) shall be informed promptly in a language that he understands and in detail of the charge against him, and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used.</p>
	<p>European Instruments</p>
	<p>Council of Europe</p>
<p>European Convention on the Exercise of Children's Rights</p> <p>ETS No. 160 of January 25, 1996</p> <p>Entry into force July 1, 2000 (1996/2000)</p>	<p>Chapter I – Scope and object of the Convention and definitions</p> <p>Article 1</p> <p>Scope and Object of the Convention</p> <p>This Convention shall apply to children who have not reached the age of 18 years.</p> <p>The object of the present Convention is, in the best interests of children, to promote their rights, to grant them procedural rights and to facilitate the exercise of these rights by ensuring that children are, themselves or through other persons or bodies, informed and allowed to participate in proceedings affecting them before a judicial authority.</p> <p>Article 2</p> <p>Definitions</p> <p>(d) the term “relevant information” means information which is appropriate to the</p>

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age and understanding of the child, and which will be given to enable the child to exercise his or her rights fully unless the provision of such information were contrary to the welfare of the child.

Chapter II – Procedural measures to promote the exercise of children's rights

A. Procedural rights of a child

Article 3

Right to be Informed and to Express his or her Views in Proceedings

A child considered by internal law as having sufficient understanding, in the case of proceedings before a judicial authority affecting him or her, shall be granted, and shall be entitled to request, the following rights:

- (a) to receive all relevant information;
- (b) to be consulted and express his or her views;
- (c) to be informed of the possible consequences of compliance with these views and the possible consequences of any decision.

Article 4

Right to Apply for the Appointment of a Special Representative

1. Subject to Article 9, the child shall have the right to apply, in person or through other persons or bodies, **for a special representative in proceedings before a judicial** authority affecting the child where internal law precludes the holders of parental responsibilities from representing the child as a result of a conflict of interest with the latter.
2. States are free to limit the right in paragraph 1 to children who are considered by internal law to have sufficient understanding.

B. Role of judicial authorities

Article 6

Decision-Making Process

In proceedings affecting a child, the judicial authority, before taking a decision, shall:

- (a) consider whether it has sufficient information at its disposal in order to take a decision in the best interests of the child and, where necessary it shall obtain further information, in particular from the holders of parental responsibilities;
- (b) in a case where the child is considered by internal law as having sufficient understanding: **ensure that the child has received all relevant information**; consult the child in person in appropriate cases, if necessary privately, itself or through other persons or bodies, in a manner appropriate to his or her understanding, unless this would be manifestly contrary to the best interests of the child; allow the child to express his or her views;
- (c) give due weight to the views expressed by the child.

C. Role of representatives

Article 10

1. In the case of proceedings before a judicial authority affecting a child the representative shall, unless this would be manifestly contrary to the best interests of the child:
 - (a) **provide all relevant information to the child**, if the child is considered by internal law as having sufficient understanding;

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	<p>(b) provide explanations to the child if the child is considered by internal law as having sufficient understanding, concerning the possible consequences of compliance with his or her views and the possible consequences of any action by the representative;</p> <p>(c) determine the views of the child and present these views to the judicial authority.</p> <p>2. Parties shall consider extending the provisions of paragraph 1 to the holders of parental responsibilities.</p>
<p>European Convention for the Protection of Human Rights and Fundamental Freedoms</p> <p>ETS No. 005 of November 4, 1950</p> <p>Entry into force September 3, 1953</p> <p>(1950 / 1993)</p>	<p>Article 6 - Right to a fair trial</p> <p>3. Everyone charged with a criminal offence has the following minimum:</p> <p>(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;</p> <p>(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.</p>
<p>Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters</p> <p>ETS. No. 182 of November 8, 2001</p> <p>entry into force February 1, 2004</p> <p>(2001)</p>	<p>Article 9</p> <p>Hearing by video conference</p> <p>5. With reference to hearing by video conference, the following rules shall apply:</p> <p>(a) a judicial authority of the requested Party shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identification of the person to be heard and respect for the fundamental principles of the law of the requested Party. If the judicial authority of the requested Party is of the view that during the hearing the fundamental principles of the law of the requested Party are being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with the said principles.</p>
NON-BINDING INSTRUMENTS	
	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
<p>Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice</p> <p>Annex to Crime Prevention and Criminal Justice Measures to Eliminate Violence Against Women</p> <p>General Assembly resolution 52/86 of December 12, 1997</p> <p>(1997)</p>	<p>V. VICTIM SUPPORT AND ASSISTANCE</p> <p>Article 10</p> <p>Member States are Urged, as appropriate:</p> <p>a) To make available to women who have been subjected to violence information on rights and remedies and on how to obtain them, in addition to information about participating in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings.</p>

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Basic Principles of Justice for Victims of Crime and Abuse of Power

General Assembly resolution 40/34 of November 29, 1985
(1985)

Principle 5

Judicial and administrative mechanisms should be established and strengthened where necessary to **enable victims to obtain redress** through formal or informal procedures that are expeditious, fair, inexpensive and accessible. **Victims should be informed of their rights** in seeking redress through such mechanisms.

Principle 6

The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims of their role and the scope, **timing and progress of the proceedings** and of the **disposition of their cases**, especially where serious crimes are involved and where they have requested such information;

Principle 15

Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.

UN Organs – Economic and Social Council (ECOSOC)

Guidelines for Action on Children in the Criminal Justice System

Annex to Administration of Juvenile Justice
Economic and Social Council resolution 1997/30 of July 21, 1997
(1997)

Article 11

Measures relating to policy, decision-making, leadership and reform should be taken, with the goal of ensuring that:

(a) The relevant contents of the above-mentioned instruments are made **widely known to children in language accessible to children**. In addition, if necessary, procedures should be established to ensure that each and **every child is provided with the relevant information** on his or her rights set out in those instruments, at least from his or her first contact with the criminal justice system, and is reminded of his or her obligation to obey the law.

Article 16

Priority should be given to setting up agencies and programmes to provide legal and other assistance to children, if needed free of charge, such as **interpretation services**, and, in particular, to ensure that the right of every child to have access to such assistance from the moment that the child is detained is respected in practice.

Article 47

Judicial and administrative mechanisms should be established and strengthened where necessary to enable child victims to obtain redress through formal or informal procedures that are prompt, fair and accessible. **Child victims and/or their legal representatives should be informed accordingly.**

Article 48

Access should be allowed to fair and adequate compensation for all child victims of violations of human rights, specifically torture and other cruel, inhuman or degrading treatment or punishment, including rape and sexual abuse, unlawful or arbitrary deprivation of liberty, unjustifiable detention and miscarriage of justice. Necessary legal representation to bring an action within an appropriate court or tribunal, as **well as interpretation into the native language of the child, if necessary, should be available.**

Article 51

The responsiveness of judicial and administrative processes to the needs of child victims and witnesses should be facilitated by:

(a) Informing child victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved;

(b) Encouraging the development of child witness **preparation schemes to familiarize children** with the criminal justice process prior to giving evidence. Appropriate assistance should be provided to child victims and witnesses throughout the legal process;

Right to be informed

	UN Organs – Secretariat UN Office on Drugs and Crime (UNODC) Congress on Crime Prevention and Criminal Justice
Resolutions adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders Cairo, April 29 - May 8, 1995 U.N. Doc. A/CONF.169/16 May 12, 1995 (1995)	I. Resolutions adopted by the Congress 7. Children as victims and perpetrators of crime and the United Nations criminal justice programme: from standard setting towards implementation and action 8. Recommends that States, in a manner consistent with the procedural rules of national law and the administration of justice, with regard to children, should enable children to participate, as appropriate, in criminal justice proceedings , including the investigative stage and throughout the trial and post-trial process period, to be heard and given information about their status and any proceedings that might subsequently take place.
Guidelines on the Role of Prosecutors Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders August 27 -September 7, 1990 U.N. Doc. A/CONF.144/28/Rev.1 at 189 welcomed by General Assembly resolution 45/121 of December 18, 1990 (1990)	13. In the performance of their duties, prosecutors shall: (d) Consider the views and concerns of victims when their personal interests are affected and ensure that victims are informed of their rights in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.
	UN Organs – Secretariat UN Office on Drugs and Crime (UNODC) Commission on Crime Prevention and Criminal Justice
Basic principles on the use of Restorative Justice Programmes in Criminal Matters Draft resolutions for the adoption by the Economic and social Council Eleventh Session of the Commission on Crime Prevention and Criminal Justice April 16-25, 2002 E/CN.15/2002/14 welcomed by Economic and Social Council resolution 2002/30 of July 24, 2002 (2002)	13. Fundamental procedural safeguards should be applied to restorative justice programmes and in particular to restorative processes: (a) The parties should have the right to legal advice before and after the restorative process and, where necessary, to translation and/or interpretation. Minors should, in addition, have the right to parental assistance.

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	Regional Instruments
	European Instruments
	Council of Europe – Committee of Ministers
Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation Recommendation No. R (2000) 11 of May 19, 2000 (2000)	<p>26. Encourage the establishment or development of reception centres or other facilities where the victims of human trafficking can benefit from information on their rights, as well as psychological, medical, social and administrative support with a view to their reintegration into their country of origin or the host country.</p> <p>27. In particular, ensure that the victims have the opportunity, for example through the reception centres or other facilities, to benefit from legal assistance in their own language.</p>
On Children Participation in Family Life and Social Life Recommendation No. R. (98) 8 of September 18, 1998 Appendix to Recommendation No. R (98) 8: Measures for the Promotion of Children's Participation in Family and Social Life (1998)	<p>Principle I Every child should have the opportunity to participate without any kind of discrimination;</p> <p>Principle V Participation of children is crucial in influencing the conditions of their own lives, in that participation is not only involvement in institutions and decision making but above all a general pattern of democracy relevant to all areas of family and social life</p> <p>Principle XI. The participation of the child should not serve as a pretext for crushing the child with burdens and responsibilities it cannot assume because of its age;</p> <p>Appendix: Information 3. Make information available in a form, which is related to the children's age and capacity to understand.</p>
Concerning Intimidation of Witnesses and the Rights of the Defence Recommendation No. R (97) 13 of September 10, 1997 Appendix to Recommendation No. R (97) 13 Concerning Intimidation of Witnesses and the Rights of the Defence (1997)	<p>IV. Measures to be taken in relation to vulnerable witnesses, especially in cases of crime within the family</p> <p>19. Special protection should be made available to children together with support against any abuse of authority in the family. Children should be made aware of their rights, in particular, the right to report crime.</p>
On the Medico-Social Aspects of Child Abuse Recommendation No. R (93) 2 of March 22, 1993 (1993)	<p>3.2 Ensure that in intervention in all cases of child abuse the best interests of the child shall be the primary consideration and that when services are made available to abused children and their families, they are sensitive to the child's age, wishes, understanding, gender and to his/her ethnic, cultural, religious and linguistic background, and to special needs, such as disability.</p> <p>3.4 See to it that children are informed of the nature of concerns about them, of their rights and of the actions which will be taken to investigate the concerns.</p>

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On the Position of the Victim in the Framework of Criminal Law and Procedure

Recommendation No. R (85) 11 of June 28, 1985
(1985)

I. Recommends the governments of member states to review their legislation and practice in accordance with the following guidelines:

A. At police level

2. The **police should inform the victim** about the possibilities of obtaining assistance, practical and legal advice, compensation from the offender and state compensation;

3. The **victim should be able to obtain information on the outcome of the police investigation;**

B. In respect of prosecution

6. The **victim should be informed of the final decision concerning prosecution**, unless he indicates that he does not want this information;

D. Court proceedings

9. The victim **should be informed of:**

(a) the date and place of a hearing concerning an offence which caused him suffering;

(b) his opportunities of obtaining restitution and compensation within the criminal justice process, legal assistance and advice;

(c) how he can find out the outcome of the case.

Council of Europe - Parliamentary Assembly

On a European Strategy for Children

Recommendation 1286 (1996) of January 24, 1996
(1996)

8. The Committee of Ministers should strongly urge these states:

(v) to **inform children about the means and remedies available** to them in the event of violation of their fundamental rights and, for example, to extend the provision of free help-lines, specialist advocates and child friendly judicial and administrative systems which recognise the claims of individual children for protection against all forms of abuse;

On the Rights of the Child

Recommendation 1121 (1990) of February 1, 1990
(1990)

5. Considering that, in addition to the right to be protected, children have rights they may independently exercise themselves - even against opposing adults.



4.

The right to
express views
and concerns
and to be
heard

Right to express views and concerns and to be heard

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Convention on the Rights of the Child General Assembly resolution 44/25 of November 20, 1989 Entry into force September 2, 1990 (1989/1990)	Article 12 <p>1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.</p> <p>2. For this purpose, the child shall in particular be provided the opportunity 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.</p>
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography General Assembly resolution 54/263 of May 25, 2000 Entry into force January 18, 2002 (2000/2002)	Article 8 <p>1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:</p> <p>(c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law.</p>
Rome Statute of the International Criminal Court Doc. A/CONF.183/9 of July 17, 1998 Entry into force July 1, 2002 (1998/2002)	Article 75 Reparations to Victims <p>3. Before making an order under this article, the Court may invite and shall take account of representations from or on behalf of the convicted person, victims, other interested persons or interested States.</p>
Convention Against Transnational Organized Crime General Assembly resolution 55/25 of November 15, 2000. Entry into force September 29, 2003 (2000-2003)	Article 25 Assistance to and Protection of Victims <p>3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.</p>

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Rules of Procedures and Evidence of the International Criminal Court

Adopted by the assembly of states, first session New York,

September 3-10 2002

ICC-ASP/1/3

Entry into force:2002

(2002)

Rule 17

Function of the Unit

2. The Victims and Witnesses Unit shall, *inter alia*, perform the following functions, in accordance with the Statute and the Rules, and in consultation with the Chamber, the Prosecutor and the defence, as appropriate:

(b) With respect to witnesses:

(ii) **Assisting them when they are called to testify** before the Court;

(iii) Taking gender-sensitive measures to **facilitate the testimony** of victims of sexual violence at all stages of the proceedings.

3. In performing its functions, the Unit shall give due regard to the particular needs of children, elderly persons and persons with disabilities. **In order to facilitate the participation and protection of children as witnesses,** the Unit may assign, as appropriate, and with the agreement of the parents or the legal guardian, **a child-support person to assist a child** through all stages of the proceedings.

Rule 75

Incrimination by Family Members

1. A witness appearing before the Court, who is a spouse, child or parent of an accused person, shall not be required by a Chamber to make any statement that might tend to incriminate that accused person. However, the **witness may choose** to make such a statement.

Rule 87

Protective Measures

1. Upon the motion of the Prosecutor or the defence or upon the request of a witness or a victim or his or her legal representative, if any, or on its own motion, and after having consulted with the Victims and Witnesses Unit, as appropriate, a Chamber may order measures to protect a victim, a witness or another person at risk on account of testimony given by a witness pursuant to article 68, paragraphs 1 and 2 [Rome Statute of the International Criminal Court]. **The Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the protective measure** is sought prior to ordering the protective measure.

Rule 88

Special measures

1. Upon the motion of the Prosecutor or the defence, or upon the request of a witness or a victim or his or her legal representative, if any, or on its own motion, and after having consulted with the Victims and Witnesses Unit, as appropriate, a Chamber may, **taking into account the views of the victim or witness**, order special measures such as, but not limited to, measures to facilitate the testimony of a traumatized victim or witness, a child, an elderly person or a victim of sexual violence, pursuant to article 68, paragraphs 1 and 2 [Rome Statute of the International Criminal Court]. **The Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the special measure is sought prior to ordering that measure.**

Rule 89

Application for Participation of Victims in the Proceedings

1. In order to present their views and concerns, victims shall make written application to the Registrar, who shall transmit the application to the relevant Chamber. Subject to the provisions of the Statute, in particular article 68, paragraph 1 [Rome Statute of the International Criminal Court], the Registrar shall provide a copy of the application to

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the Prosecutor and the defence, who shall be entitled to reply within a time limit to be set by the Chamber. Subject to the provisions of sub-rule 2, the Chamber shall then **specify the proceedings and manner in which participation is considered appropriate**, which may include making opening and closing statements.

3. An application referred to in this rule may also be **made by a person acting with the consent of the victim**, or a person acting on behalf of a victim, in the case of a victim who is a child or, when necessary, a victim who is disable.

Rule 92

Notification to Victims and their Legal Representatives

1. This rule on notification to victims and their legal representatives shall apply to all proceedings before the Court, except in proceedings provided for in Part 2.

2. In order to allow **victims to apply for participation** in the proceedings in accordance with rule 89, the **Court shall notify victims concerning the decision of the Prosecutor** not to initiate an investigation or not to prosecute pursuant to article 53. Such a notification shall be given to victims or their legal representatives who have already participated in the proceedings or, as far as possible, to those who have communicated with the Court in respect of the situation or case in question. The Chamber may order the measures outlined in sub-rule 8 if it considers it appropriate in the particular circumstances.

3. In order to allow victims to apply for participation in the proceedings in accordance with rule 89, the **Court shall notify victims regarding its decision to hold a hearing to confirm charges** pursuant to article 61. Such a notification shall be given to victims or their legal representatives who have already participated in the proceedings or, as far as possible, to those who have communicated with the Court in respect of the case in question.

5. In a manner consistent with the ruling made under rules 89 to 91, victims or their legal representatives participating in proceedings shall, in respect of those proceedings, be **notified by the Registrar in a timely manner** of:

(a) Proceedings before the Court, including the date of hearings and any postponements thereof, and the date of delivery of the decision;

(b) Requests, submissions, motions and other documents relating to such requests, submissions or motions.

Rule 93

Views of Victims or their Legal Representatives

A Chamber may seek the **views of victims or their legal representatives** participating pursuant to rules 89 to 91 on any issue, *inter alia*, in relation to issues referred to in rules 107, 109, 125, 128, 136, 139 and 191. In addition, **a Chamber may seek the views of other victims, as appropriate.**

Rule 97

Assessment of Reparations

2. At the request of victims or their legal representatives, or at the request of the convicted person, or on its own motion, the Court may appoint appropriate experts to assist it in determining the scope, extent of any damage, loss and injury to, or in respect of victims and to suggest various options concerning the appropriate types and modalities of reparations. **The Court shall invite, as appropriate, victims or their legal representatives**, the convicted person as well as interested persons and interested States **to make observations on the reports of the experts.**

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	Regional Instruments
	African Instruments
	African Union
African Charter on the Rights and Welfare of the Child OAU Doc. CAB/LEG/24.9/49 of July 1990 Entry into force November 29, 1999. (1990/1999)	<p>Article 4</p> <p>Best Interests of the Child</p> <p>2. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, and opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.</p> <p>Article 7</p> <p>Freedom of Expression</p> <p>Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.</p> <p>Article 17</p> <p>Administration of Juvenile Justice</p> <p>1. Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.</p>
	European Instruments
	Council of Europe
European Convention on the Exercise of Children's Rights ETS No. 160 of January 25, 1996 Entry into force July 1, 2000 (1996/2000)	<p>Chapter I – Scope and object of the Convention and definitions</p> <p>Article 1</p> <p>Scope and Object of the Convention</p> <p>This Convention shall apply to children who have not reached the age of 18 years.</p> <p>The object of the present Convention is, in the best interests of children, to promote their rights, to grant them procedural rights and to facilitate the exercise of these rights by ensuring that children are, themselves or through other persons or bodies, informed and allowed to participate in proceedings affecting them before a judicial authority.</p> <p>Chapter II – Procedural measures to promote the exercise of children's rights</p> <p>A. Procedural rights of a child</p> <p>Article 3</p> <p>Right to be Informed and to Express his or her Views in Proceedings</p> <p>A child considered by internal law as having sufficient understanding, in the case of proceedings before a judicial authority affecting him or her, shall be granted, and shall</p>

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be entitled to request, the following rights:

(a) to receive all relevant information;

(b) to be consulted and express his or her views;

(c) to be informed of the possible consequences of compliance with these views and the possible consequences of any decision.

Article 5

Other Possible Procedural Rights

Parties shall consider granting children additional procedural rights in relation to proceedings before a judicial authority affecting them, in particular:

(a) the right to apply to be assisted by an appropriate person of their choice in order to help them express their views;

(b) the right to apply themselves, or through other persons or bodies, for the appointment of a separate representative, in appropriate cases a lawyer;

(c) the right to appoint their own representative;

(d) the right to exercise some or all of the rights of parties to such proceedings.

B. Role of judicial authorities

Article 6

Decision-Making Process

In proceedings affecting a child, the judicial authority, before taking a decision, shall:

(a) consider whether it has sufficient information at its disposal in order to take a decision in the best interests of the child and, where necessary it shall obtain further information, in particular from the holders of parental responsibilities;

(b) in a case where the child is considered by internal law as having sufficient understanding: ensure that the child has received all relevant information; consult the child in person in appropriate cases, if necessary privately, itself or through other persons or bodies, in a manner appropriate to his or her understanding, unless this would be manifestly contrary to the best interests of the child; allow the child to express his or her views;

(c) give due weight to the views expressed by the child.

Article 9

Appointment of a Representative

1. In proceedings affecting a child where, by internal law, the holders of parental responsibilities are precluded from representing the child as a result of a conflict of interest between them and the child, the judicial authority shall have the power to appoint a **special representative** for the child in those proceedings.

2. Parties shall consider providing that, in proceedings affecting a child, the judicial authority shall have the power to appoint a separate representative, in appropriate cases a lawyer, to represent the child.

C. Role of representatives

Article 10

1. In the case of proceedings before a judicial authority affecting a child the representative

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	<p>shall, unless this would be manifestly contrary to the best interests of the child:</p> <p>(a) provide all relevant information to the child, if the child is considered by internal law as having sufficient understanding;</p> <p>(b) provide explanations to the child if the child is considered by internal law as having sufficient understanding, concerning the possible consequences of compliance with his or her views and the possible consequences of any action by the representative;</p> <p>(c) determine the views of the child and present these views to the judicial authority.</p> <p>2. Parties shall consider extending the provisions of paragraph 1 to the holders of parental responsibilities.</p>
<p>European Convention for the Protection of Human Rights and Fundamental Freedoms</p> <p>ETS No. 005 of November 4, 1950</p> <p>Entry into force September 3, 1953</p> <p>(1950 / 1993)</p>	<p>Article 6</p> <p>3. (e) Everyone charged with a criminal offence has the following minimum: to have the free assistance of an interpreter if he cannot understand or speak the language used in court.</p>
<p>Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters</p> <p>ETS. No. 182 of November 8, 2001</p> <p>Entry into force February 1, 2004</p> <p>(2001)</p>	<p>Article 9</p> <p>Hearing by video conference</p> <p>5. With reference to hearing by video conference, the following rules shall apply:</p> <p>a) judicial authority of the requested Party shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identification of the person to be heard and respect for the fundamental principles of the law of the requested Party. If the judicial authority of the requested Party is of the view that during the hearing the fundamental principles of the law of the requested Party are being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with the said principles.</p>
NON-BINDING INSTRUMENTS	
	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
<p>Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice</p> <p>Annex to resolution: <i>Crime Prevention and Criminal Justice</i></p>	<p>II. Criminal procedure</p> <p>7. Member States are urged to review, evaluate and revise their criminal procedure, as appropriate, to ensure that:</p> <p>(c) Women subjected to violence have an opportunity to testify in court proceedings equal to that of other witnesses and that measures are available to facilitate such testimony and to protect their privacy.</p> <p>IV. Sentencing and corrections</p>

Right to express views and concerns and to be heard

measures to eliminate violence against Women

General Assembly resolution 52/86 of December 12, 1997

(1997)

9. Member States are urged, as appropriate:

(a) To review, evaluate and revise sentencing policies and procedures in order to ensure that they meet the goals of:

(iii) **Taking into account the impact on victims** and their family members of sentences imposed on perpetrators who are members of their families;

(c) To take into account in the sentencing process the severity of the physical and psychological harm and the impact of victimization, including **through victim impact statements** where such practices are permitted by law.

Basic Principles of Justice for Victims of Crime and Abuse of Power

General Assembly resolution 40/34 of November 29, 1985

(1985)

Principle 6

The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(b) Allowing the **views and concerns of victims** to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system.

UN Organs – Economic and Social Council (ECOSOC)

Guidelines for Action on Children in the Criminal Justice System

Annex to Administration of Juvenile Justice

Economic and Social Council resolution 1997/30 of July 21, 1997

(1997)

Article 8

In the use of the Guidelines for Action at both the international and national levels, consideration should be given to the following:

(a) Respect for human dignity, compatible with the four general principles underlying the Convention, namely: non-discrimination, including gender-sensitivity; upholding the best interests of the child; the right to life, survival and development; and **respect for the views of the child**;

(e) **Participation of children** and concerned sectors of society.

Article 16

Priority should be given to setting up agencies and programmes to provide legal and other assistance to children, if needed free of charge, such as **interpretation services**, and, in particular, to ensure that the right of every child to have access to such assistance from the moment that the child is detained is respected in practice.

Article 48

Access should be allowed to fair and adequate compensation for all child victims of violations of human rights, specifically torture and other cruel, inhuman or degrading treatment or punishment, including rape and sexual abuse, unlawful or arbitrary deprivation of liberty, unjustifiable detention and miscarriage of justice. Necessary legal representation to bring an action within an appropriate court or tribunal, as **well as interpretation into the native language of the child, if necessary, should be available**.

Article 51

The responsiveness of judicial and administrative processes to the needs of child victims and witnesses should be facilitated by:

(b) Encouraging the development of child witness **preparation schemes to familiarize children** with the criminal justice process prior to giving evidence. Appropriate assistance should be provided to child victims and witnesses throughout the legal process;

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	(c) Allowing the views and concerns of child victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and in accordance with the relevant national criminal justice system.
	UN Organs – Secretariat United Nations Office on Drugs and Crime (UNODC) Congress on Crime Prevention and Criminal Justice
Resolutions adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders Cairo, April 29 - May 8, 1995 U.N. Doc. A/CONF.169/16 May 12, 1995 (1995)	7. Children as victims and perpetrators of crime and the United Nations criminal justice programme: from standard setting towards implementation and action. 8. <i>Recommends</i> that States, in a manner consistent with the procedural rules of national law and the administration of justice, with regard to children, should enable children to participate, as appropriate, in criminal justice proceedings, including the investigative stage and throughout the trial and post-trial process period, to be heard and given information about their status and any proceedings that might subsequently take place.
Guidelines on the Role of Prosecutors Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders August 27 -September 7, 1990 U.N. Doc. A/CONF.144/28/Rev.1 at 189 welcomed by General Assembly resolution 45/121 of December 18, 1990 (1990)	13. In the performance of their duties, prosecutors shall: (d) Consider the views and concerns of victims when their personal interests are affected and ensure that victims are informed of their rights in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.
	UN Organs – Secretariat United Nations Office on Drugs and Crime (UNODC) Commission on Crime Prevention and Criminal Justice
Basic principles on the use of Restorative Justice Programmes in Criminal Matters Draft resolutions for the adoption by the Economic and social Council Eleventh Session of the Commission on Crime Prevention and Criminal Justice	13. Fundamental procedural safeguards should be applied to restorative justice programmes and in particular to restorative processes: (a) The parties should have the right to legal advice before and after the restorative process and, where necessary, to translation and/or interpretation. Minors should, in addition, have the right to parental assistance.

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<p>April 16-25, 2002</p> <p>E/CN.15/2002/14 welcomed by Economic and Social Council resolution 2002/30 of July 24, 2002 (2002)</p>	
	UN Specialized Agency – International Labour Organisation (ILO)
<p>R190 Worst forms of Child Labour Recommendation</p> <p>of June 17, 1999 (1999)</p>	<p>1. Programme of action</p> <p>2. The programme of action referred to in Article 6 of the Convention [C182 Worst Forms of Child Labour Convention - Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour] should be designed and implemented taking into consideration the views of the children directly affected by the worst forms of child labour, their families.</p>
	Regional Instruments
	European Instruments
	European Union
<p>Charter of Fundamental Rights of the European Union</p> <p>(2000/C 364/01)</p> <p>December 7, 2000 (2000)</p>	<p>Article 24</p> <p>1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.</p> <p>Article 41</p> <p>1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.</p> <p>2. This right includes: the right of every person to be heard, before any individual measure which would affect him or her adversely is taken; the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy-- the obligation of the administration to give reasons for its decisions.</p>
	European Union – European Parliament
<p>Sexual Abuse of Children</p> <p>Resolution of the Commission: Communication on Combating Child Sex Tourism (COM(96)0547 - C4-0012/97) and the Aide-Memoire on the European Union's Contribution to Reinforcing the Prevention of the Sexual Abuse and Exploitation of Children (C4-0556/96)</p> <p>of November 6, 1997 (1997)</p>	<p>9. Calls on the Member States to modify their rules of criminal procedure so as to make it easier for children to give evidence to courts without fear, e.g. by making it possible for children not to testify in public, permitting videos of their testimony to be used as evidence instead, and by having psychologists or specially trained officials in attendance whenever children are questioned</p>

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	European Union – Council of the European Union
Resolution of the Council on the Protection of Witnesses in the Fight Against International Organized Crime (95/C 327/04), Official Journal C 327, 07.12.1995 p. 0005 – 0005 (1995)	<p>A. Calls on the Member States to guarantee proper protection of witnesses taking account of the following guidelines:</p> <p>3. Member States must ensure proper and effective protection of witnesses before, during and after trials, where the competent authorities deem this necessary;</p> <p>5. When this protection is instituted, each case will have to be examined individually to determine whether the agreement of the witness and his relatives should be sought;</p> <p>6. The competent authorities should be able to decide, of their own accord or at a witness's request, that the address and identifying particulars (1) of the witness should be known only to those authorities;</p> <p>B. Calls on Member States to facilitate judicial assistance in this field, even in the absence of any such provisions in the legislation of the State to which the request is addressed, save where compliance with the request for assistance would be contrary to the general principles of that State's law. In order to facilitate the use of audiovisual methods, the following points, in particular, should be taken into consideration:</p> <p>2. If the legislation of either State allows for the witness to be assisted by an adviser during the hearing, it should be possible for such assistance to be arranged in the territory of the State in which the witness is situated.</p>
	Council of Europe – Committee of Ministers
On the Protection of Children against Sexual Exploitation Recommendation No. R (2001) 16 of October 31, 2001 (2001)	<p>a. Measures Concerning Victims</p> <p>30. Ensure that the rights and interests of children are safeguarded throughout proceedings, in particular by enabling them to be heard, to be assisted or, where relevant, to be represented, while respecting the rights of the alleged offenders.</p>
On the Role of Public Prosecution in the Criminal Justice System Recommendation No. R (2000) 19 of October 6, 2000 (2000)	<p>33. Public prosecutors should take proper account of the views and concerns of victims when their personal interests are affected and take or promote actions to ensure that victims are informed of both their rights and developments in the procedure.</p>
On Children Participation in Family Life and Social Life Recommendation No. R. (98) 8 of September 18, 1998 Appendix to Recommendation No. R (98) 8: Measures for the Promotion of Children's Participation in Family and Social Life (1998)	<p>Principle I</p> <p>Every child should have the opportunity to participate without any kind of discrimination;</p> <p>Principle V</p> <p>Participation of children is crucial in influencing the conditions of their own lives, in that participation is not only involvement in institutions and decision making but above all a general pattern of democracy relevant to all areas of family and social life</p> <p>Principle XI</p> <p>The participation of the child should not serve as a pretext for crushing the child with burdens and responsibilities it cannot assume because of its age;</p>

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On the Medico-Social Aspects of Child Abuse

Recommendation No. R (93) 2 of March 22, 1993

(1993)

3.7 See to it that **children are appropriately represented and that their views are sought and taken into account, having regard to their age and understanding.**

On the Position of the Victim in the Framework of Criminal Law and Procedure

Recommendation No. R (85) 11 of June 28, 1985

(1985)

I. Recommends the governments of member states to review their legislation and practice in accordance with the following guidelines:

B. In respect of prosecution

7. The victim should have the right to ask for a review by a competent authority of a decision not to prosecute, or the right to institute private proceedings;

C. Questioning of the victim

8. At all stages of the procedure, the victim should be questioned in a manner which gives due consideration to his personal situation, his rights and his dignity. Whenever possible and appropriate, children and the mentally ill or handicapped should be questioned in the presence of their parents or guardians or other persons qualified to assist them.

D. Court proceedings

9. The victim should be informed of:

(a) the date and place of a hearing concerning an offence which caused him suffering;

Council of Europe – Parliamentary Assembly

On a European Strategy for Children

Recommendation 1286 (1996) of January 24, 1996

(1996)

7. The Assembly also recommends that the Committee of Ministers invite the States grouped together in the Council of Europe to make children's rights a political priority by:

(v) ensuring, especially at policy-making level, that **the interests and needs of children are always duly considered and taken into account**, for example by introducing practices such as the **“child impact statement”** which offers a way of determining the probable impact on children of any proposed legislative, regulatory or other measures in whatever field, for example, in the field of legal aid.

8. The Committee of Ministers should strongly urge these states:

(vii) to **enable the views of children to be heard in all decision-making** which affects them, and to **enable them to participate actively**, responsibly and in a manner appropriate to their capacity, at all levels of society - in the family, in local communities, in schools and other institutions, in judicial hearings and in national government.

On the Rights of the Child

Recommendation 1121 (1990) of February 1, 1990

(1990)

5. Considering that, in addition to the right to be protected, children have rights they may independently exercise themselves - even against opposing adults.

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5.

The right to
effective
assistance

Right to effective assistance

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Convention on the Rights of the Child General Assembly resolution 44/25 of November 20, 1989 Entry into force September 2, 1990 (1989/1990)	Article 20 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. Article 24 1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services. 2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care.
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography General Assembly resolution 54/263 of May 25, 2000 Entry into force January 18, 2002 (2000/2002)	Article 8 1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by: (d) Providing appropriate support services to child victims throughout the legal process Article 9 3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences , including their full social reintegration and their full physical and psychological recovery.
International Covenant on Economic, Social and Cultural Rights General Assembly resolution 2200A (XXI) of December 16, 1966 Entry into force on January 3, 1976 (1966/1967)	Article 10 3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation ..[...].
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Supplementing the United Nations Convention Against Transnational Organized Crime General Assembly resolution 55/25, of November 15, 2000	II. Protection of Victims of Trafficking in Persons Article 6 Assistance to and Protection of Victims of Trafficking in Persons 3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of: (a) Appropriate housing; (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

Right to effective assistance

of November 15, 2000
Entry into force December 25, 2003
(2004)

(c) Medical, psychological and material assistance; and employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, **in particular the special needs of children, including appropriate housing, education and care.**

Rules of Procedures and Evidence of the International Criminal Court

Adopted by the assembly of states,
first session New York,
September 3-10 2002
ICC-ASP/1/3
Entry into force: 2002
(2002)

Rule 16

Responsibilities of the Registrar relating to victims and witnesses

1. In relation to victims, the Registrar shall be responsible for the performance of the following functions in accordance with the Statute and these Rules:

- (a) Providing notice or notification to victims or their legal representatives;
- (b) Assisting them in obtaining legal advice and organizing their legal representation, and providing their legal representatives with adequate support, assistance and information, including such facilities as may be necessary for the direct performance of their duty, for the purpose of protecting their rights during all stages of the proceedings in accordance with rules 89 to 91;
- (c) Assisting them in participating in the different phases of the proceedings in accordance with rules 89 to 91;
- (d) Taking gender-sensitive measures to facilitate the participation of victims of sexual violence at all stages of the proceedings.

2. In relation to victims, witnesses and others who are at risk on account of testimony given by such witnesses, the Registrar shall be responsible for the performance of the following functions in accordance with the Statute and these Rules:

- (a) Informing them of their rights under the Statute and the Rules, and of the existence, functions and availability of the Victims and Witnesses Unit;
- (b) Ensuring that they are aware, in a timely manner, of the relevant decisions of the Court that may have an impact on their interests, subject to provisions on confidentiality.

3. For the fulfilment of his or her functions, the Registrar may keep a special register for victims who have expressed their intention to participate in relation to a specific case.

4. Agreements on relocation and provision of support services on the territory of a State of traumatized or threatened victims, witnesses and others who are at risk on account of testimony given by such witnesses may be negotiated with the States by the Registrar on behalf of the Court. Such agreements may remain confidential.

Rule 17

Functions of the Unit

1. The Victims and Witnesses Unit shall exercise its functions in accordance with article 43, paragraph 6.

2. The Victims and Witnesses Unit shall, *inter alia*, perform the following functions, in accordance with the Statute and the Rules, and in consultation with the Chamber, the Prosecutor and the defence, as appropriate:

(a) With respect to all witnesses, victims who appear before the Court, and others who are at risk on account of testimony given by such witnesses, in accordance with their particular needs and circumstances:

- (i) Providing them with adequate protective and security measures and formulating long- and short-term plans for their protection;
- (ii) Recommending to the organs of the Court the adoption of protection measures and also advising relevant States of such measures;
- (iii) Assisting them in obtaining medical, psychological and other appropriate assistance;
- (iv) Making available to the Court and the parties training in issues of trauma, sexual violence, security and confidentiality;

(v) Recommending, in consultation with the Office of the Prosecutor, the elaboration of a code of conduct, emphasizing the vital nature of security and confidentiality for investigators of the Court and of the defence and all intergovernmental and non-governmental organizations acting at the request of the Court, as appropriate;

(vi) Cooperating with States, where necessary, in providing any of the measures stipulated in this

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rule;

(b) With respect to witnesses:

- (i) Advising them where to obtain legal advice for the purpose of protecting their rights, in particular in relation to their testimony;
- (ii) Assisting them when they are called to testify before the Court;
- (iii) Taking gender-sensitive measures to facilitate the testimony of victims of sexual violence at all stages of the proceedings.

3. In performing its functions, the Unit shall give due regard to the particular needs of children, elderly persons and persons with disabilities. In order to facilitate the participation and protection of children as witnesses, the Unit may assign, as appropriate, and with the agreement of the parents or the legal guardian, a child-support person to assist a child through all stages of the proceedings.

Rule 18

Responsibilities of the Unit

For the efficient and effective performance of its work, the Victims and Witnesses Unit shall:

- (c) Have administrative and technical assistance available for witnesses, victims who appear before the Court, and others who are at risk on account of testimony given by such witnesses, during all stages of the proceedings and thereafter, as reasonably appropriate;

Rule 19

Expertise in the Unit

In addition to the staff mentioned in article 43, paragraph 6, and subject to article 44, the Victims and Witnesses Unit may include, as appropriate, persons with expertise, *inter alia*, in the following areas:

- (a) Witness protection and security;
- (b) Legal and administrative matters, including areas of humanitarian and criminal law;
- (c) Logistics administration;
- (d) Psychology in criminal proceedings;
- (e) Gender and cultural diversity;
- (f) Children, in particular traumatized children;
- (g) Elderly persons, in particular in connection with armed conflict and exile trauma;
- (h) Persons with disabilities;
- (i) Social work and counselling;
- (j) Health care;
- (k) Interpretation and translation.

Rule 88

Special measures

1. Upon the motion of the Prosecutor or the defence, or upon the request of a witness or a victim or his or her legal representative, if any, or on its own motion, and after having consulted with the Victims and Witnesses Unit, as appropriate, a Chamber may, taking into account the views of the victim or witness, order special measures such as, but not limited to, measures to facilitate the testimony of a traumatized victim or witness, a child, an elderly person or a victim of sexual violence, pursuant to article 68, paragraphs 1 and 2. The Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the special measure is sought prior to ordering that measure.

2. A Chamber may hold a hearing on a motion or a request under sub-rule 1, if necessary in camera or ex parte, to determine whether to order any such special measure, including but not limited to an order that a counsel, a legal representative, a psychologist or a family member be permitted to attend during the testimony of the victim or the witness.

Subsection 3 Participation of victims in the proceedings

Rule 89 Application for participation of victims in the proceedings

3. An application referred to in this rule may also be made by a person acting with the consent of the victim, or a person acting on behalf of a victim, in the case of a victim who is a child or, when necessary, a victim who is disabled.

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	Regional Instruments
	African Instruments
	African Union
<p>African Charter on the Rights and Welfare of the Child</p> <p>OAU Doc. CAB/LEG/24.9/49 of July 1990</p> <p>Entry into force November 29, 1999 (1990/1999)</p>	<p>Article 13</p> <p>Handicapped Children</p> <p>1. Every child who is mentally or physically disabled shall have the right to special measures of protection in keeping with his physical and moral needs and under conditions which ensure his dignity, promote his self-reliance and active participation in the community.</p> <p>2. States Parties to the present Charter shall ensure, subject to available resources, to a disabled child and to those responsible for his care, of assistance for which application is made and which is appropriate to the child's condition and in particular shall ensure that the disabled child has effective access to training, preparation for employment and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration, individual development and his cultural and moral development.</p> <p>Article 14</p> <p>Health and Health Services</p> <p>1. Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.</p> <p>2. States Parties to the present Charter shall undertake to pursue the full implementation of this right and in particular shall take measures:</p> <p>(b) to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;</p> <p>Article 16</p> <p>Protection Against Child Abuse and Torture</p> <p>1. States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.</p> <p>2. Protective measures under this Article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect.</p> <p>Article 17</p> <p>Administration of Juvenile Justice</p> <p>2. States Parties to the present Charter shall in particular:</p> <p>(c) ensure that every child accused in infringing the penal law:</p> <p>(iii) shall be afforded legal and other appropriate assistance in the preparation and presentation of his defence.</p>

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	European Instruments
	Council of Europe
<p>European Convention on the Exercise of Children's Rights</p> <p>ETS No. 160 of January 25, 1996</p> <p>Entry into force July 1, 2000 (1996/2000)</p>	<p>Article 9</p> <p>Appointment of a representative</p> <p>1. In proceedings affecting a child where, by internal law, the holders of parental responsibilities are precluded from representing the child as a result of a conflict of interest between them and the child, the judicial authority shall have the power to appoint a special representative for the child in those proceedings.</p> <p>2. Parties shall consider providing that, in proceedings affecting a child, the judicial authority shall have the power to appoint a separate representative, in appropriate cases a lawyer, to represent the child.</p> <p>C. Role of representatives</p> <p>Article 10</p> <p>1. In the case of proceedings before a judicial authority affecting a child the representative shall, unless this would be manifestly contrary to the best interests of the child:</p> <p>(a) provide all relevant information to the child, if the child is considered by internal law as having sufficient understanding;</p> <p>(b) provide explanations to the child if the child is considered by internal law as having sufficient understanding, concerning the possible consequences of compliance with his or her views and the possible consequences of any action by the representative;</p> <p>(c) determine the views of the child and present these views to the judicial authority.</p> <p>2. Parties shall consider extending the provisions of paragraph 1 to the holders of parental responsibilities.</p>
<p>Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters</p> <p>ETS. No. 182 of November 8, 2001</p> <p>Entry into force February 1, 2004 (2001)</p>	<p>Article 9</p> <p>Hearing by video conference</p> <p>5. With reference to hearing by video conference, the following rules shall apply:</p> <p>(a) a judicial authority of the requested Party shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identification of the person to be heard and respect for the fundamental principles of the law of the requested Party. If the judicial authority of the requested Party is of the view that during the hearing the fundamental principles of the law of the requested Party are being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with the said principles;</p> <p>(d) at the request of the requesting Party or the person to be heard, the requested Party shall ensure that the person to be heard is assisted by an interpreter, if necessary.</p>
<p>Combating the sexual exploitation of children and child pornography</p> <p>Council framework Decision 2004/68/JHA of 22 December 2003</p> <p>Official Journal L 013, 20/01/2004</p> <p>P. 0044 - 0048 (2004)</p>	<p>Article 9</p> <p>Protection of and assistance to victims</p> <p>1. Member States shall establish that investigations into or prosecution of offences covered by this framework Decision shall not be dependent on the report or accusation made by a person subjected to the offence, at least in cases where Article 8(1)(a) applies.</p> <p>2. Victims of an offence referred to in Article 2 should be considered as particularly vulnerable victims pursuant to Article 2(2), Article 8(4) and Article 14(1) of Council framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings (15).</p> <p>3. Each Member State shall take all measures possible to ensure appropriate assistance for the victim's family. In particular, each Member State shall, where appropriate and possible, apply Article 4 of that framework Decision to the family referred therein.</p>

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Inter-American Instruments	
Organisation of American States (OAS)	
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belem do Para" of June 9, 1994 Entry into force March 5, 1995 (1994/1995)	Article 8 The States Parties agree to undertake progressively specific measures, including programs: (d) to provide appropriate specialized services for women who have been subjected to violence, through public and private sector agencies, including shelters, counseling services for all family members where appropriate, and care and custody of the affected children.
NON-BINDING INSTRUMENTS	
International Instruments	
UN Instruments	
UN Organs – General Assembly	
Source	Texts
Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice Annex to resolution: <i>Crime Prevention and Criminal Justice measures to eliminate violence against Women</i> General Assembly resolution 52/86 of December 12, 1997 (1997)	11. Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate: (f) To establish, where possible, specialized units with persons from relevant disciplines especially trained to deal with the complexities and victim sensitivities involved in cases of violence against women.
Basic Principles of Justice for Victims of Crime and Abuse of Power General Assembly resolution 40/34 of November 29, 1985 (1985)	A. Victims of Crime Access to justice and fair treatment Principle 6 The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by: (c) Providing proper assistance to victims throughout the legal process; Assistance Principle 14 Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

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	<p>Principle 15 Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.</p> <p>Principle 17 In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.</p> <p>B. Victims of Abuse of Power</p> <p>Principle 19 States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.</p>
<p>Domestic Violence General Assembly resolution 40/36 of November 29, 1985 (1985)</p>	<p>7. Invites Member States to adopt specific measures with a view to making the criminal and civil justice system more sensitive in its response to domestic violence, including the following:</p> <ul style="list-style-type: none"> (e) To deliver appropriate, specialized assistance to victims of domestic violence, as an integral part of social policy; (g) To provide specialized training and units for those who deal in some capacity with victims of domestic violence. (j) To ensure that social welfare and health administration systems are more intensely engaged in providing assistance to victims of familial violence and abuses, and to make all efforts to co-ordinate social welfare and criminal justice measures.
	<p>UN Instruments</p>
	<p>UN Organs – Economic and Social Council (ECOSOC)</p>
<p>Guidelines for Action on Children in the Criminal Justice System Annex to Administration of Juvenile Justice Economic and Social Council resolution 1997/30 of July 21, 1997 (1997)</p>	<p>II. Plans for the implementation of the Convention on the Rights of the Child, the pursuit of its goals and the use and application of international standards and norms in juvenile justice</p> <p>B. Specific targets</p> <p>Guideline 16 Priority should be given to setting up agencies and programmes to provide legal and other assistance to children, if needed free of charge, such as interpretation services, and, in particular, to ensure that the right of every child to have access to such assistance from the moment that the child is detained is respected in practice.</p> <p>III. Plans concerned with Child victims and Witnesses</p> <p>Guideline 46 Child victims should have access to assistance that meets their needs, such as advocacy, protection, economic assistance, counselling, health and social services, social reintegration and physical and psychological recovery services. Special assistance should be given to those children who are disabled or ill. Emphasis should be placed upon family and community-based rehabilitation rather than institutionalization.</p>

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Guideline 49

Child witnesses need assistance in the judicial and administrative processes. States should review, evaluate and improve, as necessary, the situation for children as witnesses of crime in their evidential and procedural law to ensure that their rights are fully protected. In accordance with the different law traditions, practices and legal framework, direct contact should be avoided between the child victim and the offender during the process of investigation and prosecution as well as during trial hearings as much as possible. The identification of the child victim in the media should be prohibited, where necessary to protect the privacy of the child. Where prohibition is contrary to the fundamental legal principles of Member States, such identification should be discouraged.

Guideline 51

The responsiveness of judicial and administrative processes to the needs of child victims and witnesses should be facilitated by:

(b) Encouraging the development of child witness preparation schemes to familiarize children with the criminal justice process prior to giving evidence.

Appropriate assistance should be provided to child victims and witnesses throughout the legal process;

Guideline 52

Children displaced illegally or wrongfully retained across borders are as a general principle to be returned to the country of origin. Due attention should be paid to their safety, and they should be treated humanely and **receive necessary assistance**, pending their return. They should be returned promptly to ensure compliance with the Convention on the Rights of the Child. Where the Hague Convention on the Civil Aspects of International Child Abduction of 1980 or the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993, approved by the Hague Conference on Private International Law, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of the Child are applicable, the provisions of these conventions with regard to the return of the child should be promptly applied. Upon the return of the child, the country of origin should treat the children with respect, in accordance with international principles of human rights, and offer adequate family-based rehabilitation measures.

UN Organs – Secretariat

United Nations Office on Drugs and Crime (UNODC)

Congress on Crime Prevention and Criminal Justice

Resolutions adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Cairo, April 29 - May 8, 1995

U.N. Doc. A/CONF.169/16

May 12, 1995

(1995)

I. Resolutions adopted by the Congress

7.Children as victims and perpetrators of crime and the United Nations criminal justice programme: from standard setting towards implementation and action

19. Further urges States, in order to eliminate all forms of violence against children, to adopt, in the absence of existing laws, initiatives including:

(c) Measures to facilitate the in-court proceedings of child victims of violence and provisions for **assistance services for child witnesses and victims;**

20. Further urges States to ensure that children subjected to violence have access to **assistance that meets their needs**, such as, *inter alia*, access to support services, including legal assistance, to economic assistance, to counselling and to health and social services in order to promote their safety and physical and psychological recovery and social reintegration.

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	UN Organs – Secretariat United Nations Office on Drugs and Crime (UNODC) Commission on Crime Prevention and Criminal Justice
Basic principles on the use of Restorative Justice Programmes in Criminal Matters Draft resolutions for the adoption by the Economic and social Council Eleventh Session of the Commission on Crime Prevention and Criminal Justice April 16-25, 2002 E/CN.15/2002/14 welcomed by Economic and Social Council resolution 2002/30 of July 24, 2002 (2002)	13. Fundamental procedural safeguards should be applied to restorative justice programmes and in particular to restorative processes: (a) The parties should have the right to legal advice before and after the restorative process and, where necessary, to translation and/or interpretation. Minors should, in addition, have the right to parental assistance.
United Nations standards and norms in crime prevention and criminal justice Draft resolution VI for the adoption by the ECOSOC Report on the Seventh Session of the Commission on Crime Prevention and Criminal Justice Economic and Social Council (E/1998/30 E/CN.15/1998/11) April 21-30, 1998 (1998)	III VICTIMS OF CRIME AND ABUSE OF POWER ANNEX Plan of action for the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power II. Information-Gathering, Information Exchange and Research 8. Member States and intergovernmental and non-governmental organizations are invited to promote the evaluation of the efficacy of different forms of providing assistance to victims , the evaluation of the extent to which the criminal justice process takes into consideration the legitimate needs and concerns of victims and the evaluation of different forms of ensuring compensation and restitution to victims.
	Regional Instruments
	European Instruments
	European Union - European Parliament
Sexual Abuse of Children Resolution on the Commission: Communication On Combating Child Sex Tourism (COM(96)0547 - C4-0012/97) and the Aide-Memoire on the European Union's Contribution to Reinforcing the Prevention of the Sexual Abuse and Exploitation of Children (C4-0556/96)	7. Calls on those Member States which have not already done so to provide financial support for the setting up of a free round-the-clock telephone help-line to enable children throughout the Union to obtain immediate help and information , and to provide the necessary assistance to publicize it. 9. Calls on the Member States to modify their rules of criminal procedure so as to make it easier for children to give evidence to courts without fear, e.g. by making it possible for children not to testify in public, permitting videos of their testimony to be used as evidence instead, and by having psychologists or specially trained officials in attendance whenever children are questioned ; 33. Calls on the Member States to provide special protection for children who have been subject to sexual abuse.

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Of November 6, 1997 (1997)	<p>been subject to sexual abuse by:</p> <ul style="list-style-type: none"> – setting up structures to provide care and counselling, and preventive structures, – ensuring that children's rights and interests are upheld (confidentiality, privacy), – the implementation of programmes in the field of professional training and social rehabilitation, – protection of the family as the most suitable environment for developing the basic abilities of minors;
	European Union - Council of the European Union
<p>Resolution on the Contribution of Civil Society in Finding Missing or Sexually Exploited Children</p> <p>(2001/C 283/01), Official Journal C 283, 09/10/2001 P. 0001 – 0002 (2001)</p>	<p>2. Member States are invited to encourage cooperation between the competent authorities and civil society, in particular civil society organisations, in finding missing or sexually exploited children. This cooperation does not affect the responsibility of the competent authorities for investigations and prosecutions.</p> <p>Where appropriate such cooperation might take the following forms:</p> <p>2.1. examining the possibility, account being taken of the means already existing at internal level, of providing civil society organisations with an emergency telephone line, or encouraging arrangements whereby such organisations would provide a line of this nature.</p> <p>This telephone line would be intended for the collection of information and evidence on missing or sexually exploited children, and would be available free of charge 24 hours a day.</p>
<p>Resolution of the Council On the Protection of Witnesses in the Fight Against International Organized Crime</p> <p>(95/C 327/04), Official Journal C 327, 07.12.1995 p. 0005 – 0005 (1995)</p>	<p>B. Calls on Member States to facilitate judicial assistance in this field, even in the absence of any such provisions in the legislation of the State to which the request is addressed, save where compliance with the request for assistance would be contrary to the general principles of that State's law. In order to facilitate the use of audiovisual methods, the following points, in particular, should be taken into consideration:</p> <p>2. If the legislation of either State allows for the witness to be assisted by an adviser during the hearing, it should be possible for such assistance to be arranged in the territory of the State in which the witness is situated.</p>
	Council of Europe – Committee of Ministers
<p>On the Protection of Children against Sexual Exploitation</p> <p>Recommendation No. R (2001) 16 of October 31, 2001 (2001)</p>	<p>14. Develop and financially support a multi-agency and multi-disciplinary approach to the prevention and identification of sexual exploitation of children and to provide psychological, legal, social or any other form of appropriate support or treatment to the victims, paying particular attention to high-risk groups.</p> <p>30. Ensure that the rights and interests of children are safeguarded throughout proceedings, in particular by enabling them to be heard, to be assisted or, where relevant, to be represented, while respecting the rights of the alleged offenders.</p> <p>34. Grant victims and their families the possibility, where appropriate, to stay on the territory of the state so that they are able to fully participate in judicial proceedings, provide for measures designed to protect victims, witnesses and their families from intimidation, in particular where there are criminal networks; during this period make sure victims have access to welfare, medical and legal assistance.</p>
<p>Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation</p>	<p>26. Encourage the establishment or development of reception centres or other facilities where the victims of human trafficking can benefit from information on their rights, as well as psychological, medical, social and administrative support with a view to their reintegration into their country of origin or the host country.</p>

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<p>Exploitation</p> <p>Recommendation No. R (2000) 11 of May 19, 2000 (2000)</p>	<p>27. In particular, ensure that the victims have the opportunity, for example through the reception centres or other facilities, to benefit from legal assistance in their own language.</p> <p>34. Grant victims, if necessary, and in accordance with national legislation, a temporary residence status in the country of destination, in order to enable them to act as witnesses during judicial proceedings against offenders; during this time, it is essential to ensure that victims have access to social and medical assistance.</p> <p>36. Encourage and support the establishment of a network of NGOs involved in assistance to victims of trafficking.</p>
<p>On the Role of Public Prosecution in the Criminal Justice System</p> <p>Recommendation No. Rec (2000) 19 of October 6, 2000 (2000)</p>	<p>3. In certain criminal justice systems, public prosecutors also:</p> <ul style="list-style-type: none"> – ensure that victims are effectively assisted.
<p>Concerning Intimidation of Witnesses and the Rights of the Defence</p> <p>Recommendation No. R (97) 13 of September 10, 1997. Appendix to Recommendation No. R (97) 13 Concerning Intimidation of Witnesses and the Rights of the Defence (1997)</p>	<p>IV. Measures to be taken in relation to vulnerable witnesses, especially in cases of crime within the family</p> <p>20. The specific interests of the child should be protected throughout proceedings by a social agency and, if appropriate, through specially trained lawyers.</p> <p>22. Programmes should be set up to assist witnesses in giving evidence against other members of the family. Such programmes could provide a framework for:</p> <ul style="list-style-type: none"> - legal, psychological and social assistance, and, if appropriate, care and financial assistance; <p>24. When a vulnerable witness first reports allegations to the police, there should be immediate access to professional help. Furthermore, the examination of the witness should be conducted by suitably trained staff.</p>
<p>On the Medico-Social Aspects of Child Abuse</p> <p>Recommendation No. R (93) 2 of March 22, 1993 (1993)</p>	<p>3. Investigation and Assessment</p> <p>3.1 Establish at the appropriate level services available 24 hours a day, with powers and resources to provide within an appropriate time-scale for:</p> <ul style="list-style-type: none"> (b) psychosocial assessment of the needs of children and their families for practical assistance and support, therapy, legal measures of protection, etc; (d) emergency or long-term legal measures for the protection of the child if required;
<p>Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in Children and Young Adults</p> <p>Recommendation No. R (91) 11 of September 9, 1991 (1991)</p>	<p>A. General Measures</p> <p>(c). Prevention, detection, assistance</p> <p>10. promote and further the creation and operation of specialised public and private services for the protection of children and young adults at risk in order to prevent and detect all forms of sexual exploitation;</p> <p>11. support public and private initiatives at local level to set up helplines and centres with a view to providing medical, psychological, social or legal assistance to children and young adults who are at risk or who have been victims of sexual exploitation;</p> <p>C. Measures Relating to the Prostitution of Children and Young Adults</p> <p>2. encourage and support the setting up of mobile welfare units for the surveillance of, or establishment of contact with, children at risk, particularly street children, in order to assist them to return to their families, if possible, and, if necessary, direct them to the appropriate agencies for health care, training or education;</p> <p>D. Measures relating to the trafficking in children and young adults;</p> <p>3. set up facilities and support those existing, in order to protect and assist the victims of traffic in children and young adults.</p>

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On Social Measures Concerning Violence within the Family

Appendix to Recommendation No. R (90) 2 of January 15, 1990 (1990)

Section B: Specific measures

III. Reporting Violence

7. Whenever the social services are not informed, for example because of professional secrecy, this should not suppress the need to **assist individuals in danger**.

IV. Help and therapy for the whole family

9. Practical services that should be available for all members of the family include, apart from social welfare services in general:

- telephone lines (**for emergency calls and for counselling**).

V. Measures for children

19. A wide spectrum of treatment offers should be developed:

- emotional support for child as well as parents;
- help with socio-economic stress factors;
- treatment of parent/child interaction and marital relationships;
- - work with improving the family's social network.

Council of Europe – Parliamentary Assembly

Campaign against Trafficking in Women

Recommendation 1545 (2002) of January 21, 2002 (2002)

10. The Assembly therefore urges the governments of member states:

(viii) to take the following steps regarding the prevention of trafficking in women:

(a) establish bilateral agreements between destination countries and the countries of origin of victims which should cover legal and police co-operation and humanitarian aspects of this problem, including information and prevention campaigns, and training and **assistance programmes** for the rehabilitation of victims;

(ix) to adopt the following measures regarding victims of trafficking:

(f) increase the state financing of the social services **specialised in assistance** to the victims of trafficking and prostitution;

(x) to introduce effective punishment of traffickers by:

(e) providing **legal assistance to victims** of trafficking and considering the introduction of special rules in civil proceedings engaged by victims against their traffickers, such as lightening the burden of proof with regard to the use of force.

11. The Assembly recommends that the Committee of Ministers:

(ii) elaborate a European convention on trafficking in women, open to non-member states, based on the definition of trafficking in women included in Committee of Ministers Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation. This convention should:

(a) **focus on assistance** to and the protection of victims of trafficking, by obliging the states parties to grant **legal, medical and psychological assistance** to such victims, by ensuring their physical safety and that of their families, and by granting special residence permits to victims on humanitarian grounds, and permanent residence permits to those willing to testify in court and in need of witness protection;

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On Traffic in Women and Forced Prostitution in Council of Europe Member States

Recommendation 1325 (1997) of April 23, 1997
(1997)

Paragraph 6

The Assembly further recommends that the Committee of Ministers urges member states to:

- (vi) organise **legal, medical and psychological assistance for victims** of traffic and forced prostitution, especially those willing to testify in court;
- (xi) make free telephone **help-lines for women victims widely available**
- (xii) support the setting up of **reception centres and increased temporary accommodation for victims, and grant victims the minimum rate of social assistance and access to health care during their stay.**

Domestic Slavery

Recommendation 1523 (2001) of June 26, 2001
(2001)

10. It accordingly recommends that the Committee of Ministers ask the governments of member states to:

- (vi) protect the rights of victims of domestic slavery by:
 - (b) taking steps to provide them with protection and with **social, administrative and legal assistance.**

Abuse and Neglect of Children

Recommendation 1371 (1998) of April 23, 1998
(1998)

13. The Assembly therefore recommends that the Committee of Ministers ask the member states of the Council of Europe:

- (c) to combat child prostitution
- (iii) by running training programmes for the social services, the police and the courts so that they **can provide assistance** and physical, psychological and occupational rehabilitation of the young victim;

On the Rights of the Child

Recommendation 1121 (1990) of February 1, 1990
(1990)

2. Considering that children, that is human beings who have not attained their majority, are in **need of special assistance**, care and protection, and considering that the parents' primary responsibility needs to be reasserted and cannot be called into question.

On Family Policy

Recommendation 1074 (1988) of May 3, 1988
(1988)

17. Recommends that the Committee of Ministers invite the governments of the member states to base their preparation of family policy on the following proposals:

A. Legislation

- v. To revise criminal and civil legislation concerning violence in the family, and to **encourage psychological and other measures of assistance to the victims** and perpetrators of violence, without prejudice to the legal procedures concerning the latter.



6.

The right to privacy

Right to privacy

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Convention on the Rights of the Child General Assembly resolution 44/25 of November 20, 1989 Entry into force September 2, 1990 (1989/1990)	Article 16 <ol style="list-style-type: none"> 1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. 2. The child has the right to the protection of the law against such interference or attacks.
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography General Assembly resolution 54/263 of May 25, 2000 Entry into force January 18, 2002 (2000/2002)	Article 8 <ol style="list-style-type: none"> 1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by: (e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims.
International Covenant on Civil and Political Rights General Assembly resolution 2200A (XXI) of December 16, 1966 Entry into force March 23, 1976 (1966/1976)	Article 14 <ol style="list-style-type: none"> 1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children. Article 17 <ol style="list-style-type: none"> 1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.

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Rome Statute of the International Criminal Court

Doc. A/CONF.183/9 of July 17, 1998

Entry into force July 1, 2002
(1998/2002)

Article 54

Duties and Powers of the Prosecutor with Respect to Investigations

3. The Prosecutor may:

(f) Take necessary measures, or request that necessary measures be taken, to ensure the **confidentiality of information**, the protection of any person or the preservation of evidence.

(e) Agree **not to disclose, at any stage of the proceedings, documents or information** that the Prosecutor obtains on the condition of confidentiality and solely for the purpose of generating new evidence, unless the provider of the information consents.

Article 57

Functions and Powers of the Pre-Trial Chamber

3. In addition to its other functions under this Statute, the Pre-Trial Chamber may:

(c) Where necessary, provide for the **protection and privacy of victims and witnesses**, the preservation of evidence, the protection of persons who have been arrested or appeared in response to a summons, and the protection of national security information

Article 68

Protection of the victims and witnesses and their participation in the proceedings

1. The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and **privacy of victims and witnesses**. In so doing, the Court shall have regard to all relevant factors, including age, gender as defined in article 7, paragraph 3 [For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above], and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The Prosecutor shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

Rules of Procedures and Evidence of the International Criminal Court

Adopted by the assembly of states,
first session New York,
September 3-10 2002

ICC-ASP/1/3

Entry into force: 2002
(2002)

Rule 15

Records

1. The Registrar shall keep a database containing all the particulars of each case brought before the Court, subject to any order of a judge or Chamber providing for the non-disclosure of any document or information, and to the protection of sensitive personal data. Information on the database shall be available to the public in the working languages of the Court.

Rule 49

Decision and notice under article 15, paragraph 6

1. Where a decision under article 15, paragraph 6, is taken, the Prosecutor shall promptly ensure that notice is provided, including reasons for his or her decision, in a manner that prevents any danger to the safety, well-being and privacy of those who provided information to him or her under article 15, paragraphs 1 and 2, or the integrity of investigations or proceedings.

Rule 67

Live Testimony by Means of Audio or Video-Link Technology

3. The Chamber, with the assistance of the Registry, shall ensure that the venue chosen for the conduct of the audio or video-link testimony is conducive to the giving of truthful and open testimony and to the safety, physical and psychological well-being, dignity and **privacy of the witness**.

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Rule 73

Privileged Communications and Information

1. Without prejudice to article 67, paragraph 1 (b) [Rome Statute of the International Criminal Court], communications made in the context of the professional relationship between a person and his or her legal counsel shall be regarded as privileged, and consequently **not subject to disclosure**, unless:

(a) The person consents in writing to such disclosure; or

(b) The person voluntarily disclosed the content of the communication to a third party, and that third party then gives evidence of that disclosure.

2. Having regard to rule 63, sub-rule 5, communications made in the context of a class of professional or other confidential relationships shall be regarded as privileged, and consequently **not subject to disclosure**, under the same terms as in sub-rules 1 (a) and 1 (b) if a Chamber decides in respect of that class that:

(a) Communications occurring within that class of relationship are made in the course of a confidential relationship producing a reasonable expectation of privacy and non-disclosure;

(b) **Confidentiality is essential** to the nature and type of relationship between the person and the confidant; and

(c) Recognition of the privilege would further the objectives of the Statute and the Rules.

3. In making a decision under sub-rule 2, the Court shall give particular regard to recognizing as privileged those communications made in the context of the professional relationship between a person and his or her medical doctor, psychiatrist, psychologist or counsellor, in particular those related to or involving victims, or between a person and a member of a religious clergy; and in the latter case, the Court shall recognize as privileged those communications made in the context of a sacred confession where it is an integral part of the practice of that religion.

Rule 76

Pre-Trial Disclosure Relating to Prosecution Witnesses

1. The Prosecutor shall provide the defence with the names of witnesses whom the Prosecutor intends to call to testify and copies of any prior statements made by those witnesses. This shall be done sufficiently in advance to enable the adequate preparation of the defence.

2. The Prosecutor shall subsequently advise the defence of the names of any additional prosecution witnesses and provide copies of their statements when the decision is made to call those witnesses.

3. The statements of prosecution witnesses shall be made available in original and in a language which the accused fully understands and speaks.

4. This rule is subject to the **protection and privacy of victims and witnesses** and the **protection of confidential information** as provided for in the Statute [Rome Statute of the International Criminal Court] and rules 81 and 82.

Rule 82

Restrictions on Disclosure of Material and Information Protected under Article 54, Paragraph 3 (e)

3. If the Prosecutor calls a witness to introduce in evidence any material or information which has been protected under article 54, paragraph 3 (e) [Rome Statute of the International Criminal Court], a **Chamber may not compel that witness to answer any question** relating to the material or information or its origin, if the witness declines to answer on grounds of **confidentiality**.

Rule 87

Protective Measures

3. A Chamber may, on a motion or request under sub-rule 1, hold a hearing, which shall be conducted in camera, to determine whether to order measures to prevent the release to the public

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	<p>or press and information agencies, of the identity or the location of a victim, a witness or other person at risk on account of testimony given by a witness by ordering, <i>inter alia</i>:</p> <p>(a) That the name of the victim, witness or other person at risk on account of testimony given by a witness or any information which could lead to his or her identification, be expunged from the public records of the Chamber;</p> <p>(b) That the Prosecutor, the defence or any other participant in the proceedings be prohibited from disclosing such information to a third party;</p> <p>(c) That testimony be presented by electronic or other special means, including the use of technical means enabling the alteration of pictures or voice, the use of audio-visual technology, in particular videoconferencing and closed-circuit television, and the exclusive use of the sound media;</p> <p>(d) That a pseudonym be used for a victim, a witness or other person at risk on account of testimony given by a witness; or</p> <p>(e) That a Chamber conduct part of its proceedings in camera.</p> <p>Rule 88</p> <p>5. Taking into consideration that violations of the privacy of a witness or victim may create risk to his or her security, a Chamber shall be vigilant in controlling the manner of questioning a witness or victim so as to avoid any harassment or intimidation, paying particular attention to attacks on victims of crimes of sexual violence.</p>
<p>Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children</p> <p>Supplementing the United Nations Convention Against Transnational Organized Crime</p> <p>General Assembly resolution 55/25 of November 15, 2000</p> <p>Entry into force December 25, 2003</p> <p>(2000)</p>	<p>Article 6</p> <p>Assistance to and Protection of Victims of Trafficking in Persons</p> <p>1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, <i>inter alia</i>, by making legal proceedings relating to such trafficking confidential.</p>
	Regional Instruments
	African Instruments
	African Union
<p>African Charter on the Rights and Welfare of the Child</p> <p>OAU Doc. CAB/LEG/24.9/49 of July 1990</p> <p>Entry into force November 29, 1999.</p> <p>(1990/1999)</p>	<p>Article 10</p> <p>Protection of Privacy</p> <p>No child shall be subject to arbitrary or unlawful interference with his privacy, family home or correspondence, or to the attacks upon his honour or reputation, provided that parents or legal guardians shall have the right to exercise reasonable supervision over the conduct of their children. The child has the right to the protection of the law against such interference or attacks.</p> <p>Article 17</p> <p>Administration of Juvenile Justice</p>

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	<p>2. States Parties to the present Charter shall in particular:</p> <p>(c) ensure that every child accused in infringing the penal law:</p> <p>(iii) prohibit the press and the public from trial.</p>
	<p>Inter-American Instruments</p> <p>Organisation of American States (OAS)</p>
<p>American Convention on Human Rights</p> <p>"Pact of San José, Costa Rica " of November 22, 1969</p> <p>Entry into force July 18, 1978</p> <p>(1969/1978)</p>	<p>Article 11</p> <p>Right to Privacy</p> <p>1. Everyone has the right to have his honor respected and his dignity recognized.</p> <p>2. No one may be the object of arbitrary or abusive interference with his private life, his family, his home, or his correspondence, or of unlawful attacks on his honor or reputation.</p> <p>3. Everyone has the right to the protection of the law against such interference or attacks.</p>
	<p>Fifth Inter-American Specialized Conference on Private International Law</p>
<p>Inter-American Convention on "International Traffic in Minors" of March 18, 1994</p> <p>Entry into force August 15, 1997</p> <p>(1994/1997)</p>	<p>Article 6</p> <p>States Parties shall protect the minor's interests with a view to ensuring that all procedures applied pursuant to the present Convention shall remain confidential.</p>
	<p>European Instruments</p> <p>Council of Europe</p>
<p>Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters</p> <p>ETS. No. 182 of November 8, 2001</p> <p>Not in force</p> <p>(2001)</p>	<p>Article 25</p> <p>Confidentiality</p> <p>The requesting Party may require that the requested Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.</p> <p>Article 26</p> <p>Data protection</p> <p>1. Personal data transferred from one Party to another as a result of the execution of a request made under the Convention or any of its Protocols, may be used by the Party to which such data have been transferred, only:</p> <p>(b) for other judicial and administrative proceedings directly related to the proceedings mentioned under (a);</p> <p>(c) for preventing an immediate and serious threat to public security.</p>

Right to privacy

NON-BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
<p>Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice</p> <p>Annex to resolution: <i>Crime Prevention and Criminal Justice measures to eliminate violence against Women</i></p> <p>General Assembly resolution 52/86 of December 12, 1997 (1997)</p>	<p>Article 7</p> <p>(c) Women subjected to violence have an opportunity to testify in court proceedings equal to that of other witnesses and that measures are available to facilitate such testimony and to protect their privacy.</p>
<p>Interim report prepared by the Special Rapporteur of the Commission on Human Rights on the sale of children, child prostitution and child pornography,</p> <p>Annex to Promotion and Protection of the Rights of Children</p> <p>General Assembly A/51/456 of October 7, 1996. (1996)</p>	<p>Recommendation 80</p> <p>The confidentiality of records and the respect for the fundamental right of the child victim to privacy must be ensured by avoiding the disclosure of any information that could lead to their identification. Some of the measures to protect the identity of the child are as follows:</p> <p>(a) The court should give the child victims pseudonyms to conceal their identity;</p> <p>(b) Records such as negatives, audio tapes and photographs should, as a general rule, be destroyed, subject only to certain exceptions as the court may determine, in which case, those not destroyed should be sealed and should not be available without the permission of the Court.</p>
<p>United Nations Rules for the Protection of Juveniles Deprived of Liberty</p> <p>General Assembly resolution 45/113 of December 14, 1990 (1990)</p>	<p>IV. The Management of Juvenile Facilities</p> <p>A. Records</p> <p>Article 19</p> <p>All reports, including legal records, medical records and records of disciplinary proceedings, and all other documents relating to the form, content and details of treatment, should be placed in a confidential individual file, which should be kept up to date, accessible only to authorized persons and classified in such a way as to be easily understood. Where possible, every juvenile should have the right to contest any fact or opinion contained in his or her file so as to permit rectification of inaccurate, unfounded or unfair statements. In order to exercise this right, there should be procedures that allow an appropriate third party to have access to and to consult the file on request. Upon release, the records of juveniles shall be sealed, and, at an appropriate time, expunged.</p>

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<p>United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)</p> <p>General Assembly resolution 40/33 of November 29, 1985 (1985)</p>	<p>Article 8</p> <p>1. The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labelling.</p> <p>Article 21</p> <p>1. Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand and other duly authorized persons.</p>
<p>Basic Principles of Justice for Victims of Crime and Abuse of Power</p> <p>General Assembly resolution 40/34 of November 29, 1985 (1985)</p>	<p>Article 6</p> <p>(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation</p>
<p>Domestic Violence</p> <p>General Assembly resolution 40/36 of November 29, 1985 (1985)</p>	<p>7. Invites Member States to adopt specific measures with a view to making the criminal and civil justice system more sensitive in its response to domestic violence, including the following:</p> <p>(i) To make legal remedies to domestic violence more accessible and, in view of the criminogenic effects of the phenomenon, in particular on young victims, to give due consideration to the interests of society by maintaining a balance between intervention and the protection of privacy.</p>
<p>Universal Declaration of Human Rights</p> <p>General Assembly resolution 217 A (III) of December 10, 1948 (1948)</p>	<p>Article 12</p> <p>No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.</p>
	<p>UN Organs – Economic and Social Council (ECOSOC)</p>
<p>Guidelines for Action on Children in the Criminal Justice System</p> <p>Annex to Administration of Juvenile Justice</p> <p>Economic and Social Council resolution 1997/30 of July 21, 1997 (1997)</p>	<p>49. Child witnesses need assistance in the judicial and administrative processes. States should review, evaluate and improve, as necessary, the situation for children as witnesses of crime in their evidential and procedural law to ensure that their rights are fully protected. In accordance with the different law traditions, practices and legal framework, direct contact should be avoided between the child victim and the offender during the process of investigation and prosecution as well as during trial hearings as much as possible. The identification of the child victim in the media should be prohibited, where necessary to protect the privacy of the child. Where prohibition is contrary to the fundamental legal principles of Member States, such identification should be discouraged.</p> <p>51. The responsiveness of judicial and administrative processes to the needs of child victims and witnesses should be facilitated by:</p> <p>(d) Taking measures to minimize delays in the criminal justice process, protecting the privacy of child victims and witnesses and, when necessary, ensuring their safety from intimidation and retaliation.</p>

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	UN Organs – Secretariat United Nations Office on Drugs and Crime (UNODC) Commission on Crime Prevention and Criminal Justice
Basic principles on the use of Restorative Justice Programmes in Criminal Matters Draft resolutions for the adoption by the Economic and social Council Eleventh Session of the Commission on Crime Prevention and Criminal Justice, April 16-25, 2002 E/CN.15/2002/L.2/Rev.1 welcomed by Economic and Social Council resolution 2002/12 of July 24, 2002 (2002)	13. Discussions in restorative processes should be confidential and should not be disclosed subsequently, except with the agreement of the parties.
	Regional Instruments
	European Instruments
	European Union – European Parliament
Sexual Abuse of Children Resolution on the Commission Communication On Combating Child Sex Tourism (COM(96)0547 - C4-0012/97) and the Aide-Memoire on the European Union's Contribution to Reinforcing the Prevention of the Sexual Abuse and Exploitation of Children (C4-0556/96) November 6, 1997 (1997)	33. Calls on the Member States to provide special protection for children who have been subject to sexual abuse by: <ul style="list-style-type: none"> - setting up structures to provide care and counselling, and preventive structures, - ensuring that children's rights and interests are upheld (confidentiality, privacy), - the implementation of programmes in the field of professional training and social rehabilitation, - protection of the family as the most suitable environment for developing the basic abilities of minors.
	Council of Europe – Committee of Ministers
On the Protection of Children against Sexual Exploitation Recommendation No. R (2001) 16 of October 31, 2001 (2001)	32. Ensure throughout judicial, mediation or administrative proceedings the confidentiality of records and respect for the privacy of children who have been victims of sexual exploitation.

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<p>On the Role of Public Prosecution in the Criminal Justice System</p> <p>Recommendation No. R (2000) 19 of October 6, 2000 (2000)</p>	<p>32. Public prosecutors should take proper account of the interests of the witnesses, especially take or promote measures to protect their life, safety and privacy, or see to it that such measures have been taken.</p>
<p>Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation</p> <p>Recommendation No. R (2000) 11 of May 19, 2000 (2000)</p>	<p>28. Provide, where possible, victims of trafficking, particularly children and witnesses, with special (audio or video) facilities to report and file complaints, and which are designed to protect their private lives and their dignity and reduce the number of official procedures and their traumatising effects.</p>
<p>Concerning Intimidation of Witnesses and the Rights of the Defence</p> <p>Recommendation No. R (97) 13 of September 10, 1997.</p> <p>Appendix to Recommendation No. R (97) 13 Concerning Intimidation of Witnesses and the Rights of the Defence (1997)</p>	<p>9. While ensuring that the defence has adequate opportunity to challenge the evidence given by a witness, the following measures should, inter alia, be considered :</p> <ul style="list-style-type: none"> - using pre-trial statements given before a judicial authority as evidence in court when it is not possible for witnesses to appear before the court or when appearing in court might result in great and actual danger to the life and security of witnesses, their relatives or other persons close to them; - revealing the identity of witnesses at the latest possible stage of the proceedings and/or releasing only selected details; - excluding the media and/or the public from all or part of the trial. <p>10. Where available and in accordance with domestic law, anonymity of persons who might give evidence should be an exceptional measure. Where the guarantee of anonymity has been requested by such persons and/or temporarily granted by the competent authorities, criminal procedural law should provide for a verification procedure to maintain a fair balance between the needs of criminal proceedings and the rights of the defence. The defence should, through this procedure, have the opportunity to challenge the alleged need for anonymity of the witness, his credibility and the origin of his knowledge.</p>
<p>Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in Children and Young Adults</p> <p>Recommendation No. R (91) 11 of September 9, 1991 (1991)</p>	<p>d. Criminal law and criminal procedure</p> <p>13. ensure throughout judicial and administrative proceedings confidentiality of record and the respect for privacy rights of children and young adults who have been victims of sexual exploitation by avoiding, in particular, the disclosure of any information that could lead to their identification;</p>
<p>On the Position of the Victim In the Framework of Criminal Law and Procedure</p> <p>Recommendation No. R (85) 11 of June 28, 1985 (1985)</p>	<p>I. Recommends the governments of member states to review their legislation and practice in accordance with the following guidelines:</p> <p>F. Protection of privacy</p> <p>15. Information and public relations policies in connection with the investigation and trial of offences should give due consideration to the need to protect the victim from any publicity which will unduly affect his private life or dignity. If the type of offence or the particular status or personal situation and safety of the victim make such special protection necessary, either the trial before the judgment should be held in camera or disclosure or publication of personal information should be restricted to whatever extent is appropriate.</p>

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Inter-American Instruments

Organisation of American States (OAS)

American Declaration of the Rights and Duties of Man

O.A.S. Res. XXX of 1948
(1948)

Article V

Every person has the right to the protection of the law against abusive attacks upon his **honor, his reputation, and his private and family life.**



7.

The right to be
protected from
justice process
hardship

Right to be protected from justice process hardship

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
<p>Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography</p> <p>General Assembly resolution 54/263 of May 25, 2000</p> <p>Entry into force January 18, 2002 (2000/2002)</p>	<p>Article 8</p> <p>1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:</p> <p>(a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses.</p> <p>(g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims</p>
<p>Rome Statute of the International Criminal Court</p> <p>Doc. A/CONF.183/9 of July 17, 1998</p> <p>Entry into force July 1, 2002 (1998/2002)</p>	<p>Article 61</p> <p>Confirmation of the charges before trial</p> <p>5. At the hearing, the Prosecutor shall support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged. The Prosecutor may rely on documentary or summary evidence and need not call the witnesses expected to testify at the trial.</p> <p>Article 64</p> <p>Functions and Powers of the Trial Chamber</p> <p>2. The Trial Chamber shall ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses.</p> <p>3. Upon assignment of a case for trial in accordance with this Statute, the Trial Chamber assigned to deal with the case shall:</p> <p>(a) Confer with the parties and adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the proceedings.</p> <p>Article 68</p> <p>Protection of the victims and witnesses and their participation in the proceedings</p> <p>1. The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the Court shall have regard to all relevant factors, including age, gender as defined in article 7, paragraph 3, and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The Prosecutor shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.</p>

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Article 69

Evidence

2. The testimony of a witness at trial shall be given in person, except to the extent provided by the measures set forth in article 68 or in the Rules of Procedure and Evidence. The Court may also permit the giving of **viva voce (oral) or recorded testimony of a witness by means of video or audio technology, as well as the introduction of documents or written transcripts**, subject to this Statute and in accordance with the Rules of Procedure and Evidence. These measures shall not be prejudicial to or inconsistent with the rights of the accused.
4. The Court may rule on the relevance or admissibility of any evidence, taking into account, **inter alia**, the probative value of the evidence and any prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness, in accordance with the Rules of Procedure and Evidence.
8. When deciding on the relevance or admissibility of evidence collected by a State, the Court shall not rule on the application of the State's national law.

Article 87

Requests for cooperation: general provisions

4. In relation to any request for assistance presented under this Part, the Court may take such measures, including measures related to the **protection of information**, as may be necessary to ensure the safety or **physical or psychological well-being of any victims**, potential witnesses and their families. The Court may request that any information that is made available under this Part shall be provided and handled in a manner that protects the safety and **physical or psychological well-being** of any victims, potential witnesses and their families.

Rules of Procedures and Evidence of the International Criminal Court

Adopted by the assembly of states, first session New York, September 3-10 2002
ICC-ASP/1/3
Entry into force: 2002
(2002)

Rule 67

Live testimony by means of audio or video-link technology

1. In accordance with article 69, paragraph 2 [Rome Statute of the International Criminal Court], a Chamber may allow a witness to give viva voce (oral) testimony before the Chamber **by means of audio or video technology, provided that such technology permits the witness to be examined** by the Prosecutor, the defence, and by the Chamber itself, at the time that the witness so testifies.
2. The examination of a witness under this rule shall be conducted in accordance with the relevant rules of this chapter.
3. The Chamber, with the assistance of the Registry, shall ensure that the venue chosen for the **conduct of the audio or video-link testimony is conducive to the giving of truthful and open testimony and to the safety, physical and psychological well-being, dignity and privacy of the witness**.

Rule 68

Prior recorded testimony

- When the Pre-Trial Chamber has not taken measures under article 56 [Rome Statute of the International Criminal Court], the Trial Chamber may, in accordance with article 69, paragraph 2 [Rome Statute of the International Criminal Court], allow the **introduction of previously recorded audio or video testimony of a witness, or the transcript or other documented evidence** of such testimony, provided that:
- (a) If the witness who gave the previously recorded testimony is not present before the Trial Chamber, both the Prosecutor and the defence had the opportunity to examine the witness during the recording; or
- (b) If the witness who gave the previously recorded testimony is present before the Trial Chamber, he or she does not object to the submission of the previously recorded testimony and the Prosecutor, the defence and the Chamber have the opportunity to examine the witness during the proceedings.

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Rule 72

In camera procedure to consider relevance or admissibility of evidence

1. Where there is an intention to introduce or elicit, including by means of the questioning of a victim or witness, evidence that the victim consented to an alleged crime of sexual violence, or evidence of the words, conduct, silence or lack of resistance of a victim or witness as referred to in principles (a) through (d) of rule 70, notification shall be provided to the Court which shall describe the substance of the evidence intended to be introduced or elicited and the relevance of the evidence to the issues in the case.
2. In deciding whether the evidence referred to in sub-rule 1 is relevant or admissible, a Chamber shall **hear in camera** the views of the Prosecutor, the defence, the witness and the victim or his or her legal representative, if any, and shall take into account whether that evidence has a sufficient degree of probative value to an issue in the case and the prejudice that such evidence may cause, in accordance with article 69, paragraph 4 [Rome Statute of the International Criminal Court]. For this purpose, the Chamber shall have regard to article 21, paragraph 3, and articles 67 and 68 [Rome Statute of the International Criminal Court], and shall be guided by principles (a) to (d) of rule 70, especially with respect to the proposed questioning of a victim.

Rule 73

Privileged Communications and Information

1. Without prejudice to article 67, paragraph 1 (b) [Rome Statute of the International Criminal Court], communications made in the context of the professional relationship between a person and his or her legal counsel shall be regarded as privileged, and consequently **not subject to disclosure**, unless:
 - (a) The person consents in writing to such disclosure; or
 - (b) The person voluntarily disclosed the content of the communication to a third party, and that third party then gives evidence of that disclosure.
2. Having regard to rule 63, sub-rule 5, communications made in the context of a class of professional or other confidential relationships shall be regarded as privileged, and consequently **not subject to disclosure**, under the same terms as in sub-rules 1 (a) and 1 (b) if a Chamber decides in respect of that class that:
 - (a) Communications occurring within that class of relationship are made in the course of a confidential relationship producing a reasonable expectation of privacy and non-disclosure;
 - (b) **Confidentiality is essential** to the nature and type of relationship between the person and the confidant; and
 - (c) Recognition of the privilege would further the objectives of the Statute [Rome Statute of the International Criminal Court] and the Rules.
3. In making a decision under sub-rule 2, the Court shall give particular regard to recognizing as privileged those communications made in the context of the professional relationship between a person and his or her medical doctor, psychiatrist, psychologist or counsellor, in particular those related to or involving victims, or between a person and a member of a religious clergy; and in the latter case, the Court shall recognize as privileged those communications made in the context of a sacred confession where it is an integral part of the practice of that religion.

Rule 84

Disclosure and Additional Evidence for Trial

In order to enable the parties to prepare for trial and to facilitate the fair and **expeditious** conduct of the proceedings, the Trial Chamber shall, in accordance with article 64, paragraphs 3 (c) and 6 (d), and article 67, paragraph (2), and subject to article 68, paragraph 5, make any necessary orders for the disclosure of documents or information not previously disclosed and for the production of additional evidence. **To avoid delay and to ensure that the trial commences on the set date**, any such orders shall include strict time limits which shall be kept under review by the Trial Chamber.

Rule 87

Protective Measures

1. Upon the motion of the **Prosecutor or the defence or upon the request of a witness or a victim or his or her legal representative, if any, or on its own motion**, and after having consulted with the **Victims and Witnesses Unit**, as appropriate, a Chamber may order measures to protect a victim, a

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witness or another person at risk on account of testimony given by a witness pursuant to article 68, paragraphs 1 and 2 [Rome Statute of the International Criminal Court]. The Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the protective measure is sought prior to ordering the **protective measure**.

3. A Chamber may, on a motion or request under sub-rule 1, hold a hearing, which shall be **conducted in camera**, to determine whether to order measures to prevent the release to the public or press and information agencies, of **the identity or the location of a victim, a witness or other person at risk on account of testimony given by a witness** by ordering, *inter alia*:

(a) That the name of the victim, witness or other person at risk on account of testimony given by a witness or any information which could lead to his or her identification, **be expunged from the public records** of the Chamber;

(b) That the Prosecutor, the defence or any other participant in the proceedings be **prohibited from disclosing such information to a third party**;

(c) That testimony be presented by electronic or other special means, including the use of technical means enabling the **alteration of pictures or voice, the use of audio-visual technology, in particular videoconferencing and closed-circuit television**, and the exclusive use of the sound media;

(d) That a **pseudonym** be used for a victim, a witness or other person at risk on account of testimony given by a witness; or

(e) That a Chamber conduct part of **its proceedings in camera**.

Rule 88

Special measures

1. Upon the motion of the Prosecutor or the defence, or upon the request of a witness or a victim or his or her legal representative, if any, or on its own motion, and after having consulted with the Victims and Witnesses Unit, as appropriate, a Chamber may, taking into account the views of the victim or witness, order special measures such as, but not limited to, measures to **facilitate the testimony of a traumatized victim or witness**, a child, an elderly person or a victim of sexual violence, pursuant to article 68, paragraphs 1 and 2 [Rome Statute of the International Criminal Court]. The Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the special measure is sought prior to ordering that measure.

5. Taking into consideration that violations of the privacy of a witness or victim may create risk to his or her security, a Chamber shall be vigilant in controlling the manner of questioning a witness or victim so as **to avoid any harassment or intimidation**, paying particular attention to attacks on victims of crimes of sexual violence.

Rule 101

Time Limits

1. In making any order setting **time limits** regarding the conduct of any proceedings, the Court shall have regard to the need to **facilitate fair and expeditious proceedings**, bearing in mind in particular the rights of the defence and the victims.

2. Taking into account the rights of the accused, in particular under article 67, paragraph (1) (c), all those participating in the proceedings to whom any order is directed shall endeavour **to act as expeditiously as possible, within the time limit ordered by the Court**.

Rule 112

Recording of questioning in particular cases

1. Whenever the Prosecutor questions a person to whom article 55, paragraph 2 [Rome Statute of the International Criminal Court], applies, or for whom a warrant of arrest or a summons to appear has been issued under article 58, paragraph 7 [Rome Statute of the International Criminal Court], the questioning shall be audio- or video-recorded, in accordance with the following procedure:

4. The Prosecutor may choose to follow the procedure in this rule when questioning other persons than those mentioned in sub-rule 1, in particular where **the use of such procedures could assist in reducing any subsequent traumatization of a victim of sexual or gender violence, a child or a person with disabilities** in providing their evidence. The Prosecutor may make an application to the relevant Chamber.

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<p>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</p> <p>General Assembly resolution 39/46 of December 10, 1984</p> <p>Entry into force June 26, 1987 (1984/1987)</p>	<p>Article 12</p> <p>Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.</p> <p>Article 13</p> <p>Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.</p>
<p>International Covenant on Civil and Political Rights</p> <p>General Assembly resolution 2200A (XXI) of December 16, 1966</p> <p>Entry into force March 23, 1976 (1966/1976)</p>	<p>Article 14</p> <p>1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.</p>
	<p>Regional Instruments</p>
	<p>African Instruments</p>
	<p>African Union</p>
<p>African Charter on the Rights and Welfare of the Child</p> <p>OAU Doc. CAB/LEG/24.9/49 of July 1990</p> <p>Entry into force November 29, 1999. (1990/1999)</p>	<p>Article 17</p> <p>Administration of Juvenile Justice</p> <p>2. States Parties to the present Charter shall in particular:</p> <p>(c) ensure that every child accused in infringing the penal law:</p> <p>(iv) shall have the matter determined as speedily as possible by an impartial tribunal and if found guilty, be entitled to an appeal by a higher tribunal.</p>
	<p>European Instruments</p>
	<p>European Union – Council of the European Union</p>
<p>To Combat Child Pornography on the Internet</p> <p>Council Decision (2000/375/JAI) of May 29, 2000</p> <p>Entry into force May 29, 2000 (2000)</p>	<p>Article 1</p> <p>2. Where necessary, and taking account of the administrative structure of each Member State, measures for the promotion of effective investigation and prosecution of offences in this area may be the setting-up of specialized units within law enforcement authorities with the necessary expertise and resources to be able to deal swiftly with information on suspected production, processing, distribution and possession of child pornography.</p>

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	<p>3. Member States shall ensure that the law enforcement authorities act swiftly when they have received information on suspected production, processing, possession and distribution of child pornography material. Law enforcement authorities may defer taking action if and as long as tactically necessary, for instance with a view to getting at those behind the criminal operations, or at networks (child pornography rings).</p> <p>Article 2</p> <p>1. Member States shall ensure the widest and speediest possible cooperation to facilitate an effective investigation and prosecution of offences concerning child pornography on the Internet in accordance with existing arrangements and agreements.</p> <p>2. To ensure a timely and effective response to these offences, Member States shall communicate already established points of contact, which are set up on a 24-hour basis and consist of knowledgeable personnel, as well as the specialized units which are referred to in Article 1(2) and which can be used for exchange of information and for further contacts between Member States. Points of contact, which Member States have already set up for other duties, may also be used for these purposes. Likewise, existing channels for communication, such as Europol and Interpol shall be used.</p>
<p>Combating the sexual exploitation of children and child pornography</p> <p>Council framework Decision 2004/68/JHA of 22 December 2003 Official Journal L 013, 20/01/2004 P. 0044 - 0048 (2004)</p>	<p>Article 9 Protection of and assistance to victims</p> <p>1. Member States shall establish that investigations into or prosecution of offences covered by this framework Decision shall not be dependent on the report or accusation made by a person subjected to the offence, at least in cases where Article 8(1)(a) applies.</p> <p>2. Victims of an offence referred to in Article 2 should be considered as particularly vulnerable victims pursuant to Article 2(2), Article 8(4) and Article 14(1) of Council framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings(15).</p> <p>3. Each Member State shall take all measures possible to ensure appropriate assistance for the victim's family. In particular, each Member State shall, where appropriate and possible, apply Article 4 of that framework Decision to the family referred therein.</p>
	<p>Council of Europe</p>
<p>European Convention on the Exercise of Children's Rights</p> <p>ETS No. 160 of January 25, 1996 Entry into force July 1, 2000 (1996/2000)</p>	<p>Article 7 Duty to Act Speedily</p> <p>In proceedings affecting a child the judicial authority shall act speedily to avoid any unnecessary delay and procedures shall be available to ensure that its decisions are rapidly enforced. In urgent cases the judicial authority shall have the power, where appropriate, to take decisions which are immediately enforceable.</p>
<p>European Social Charter</p> <p>ETS. No. 035 of October 18, 1961 Entry into force February 26, 1965 (1961/1965)</p>	<p>7. Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.</p>

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Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters

ETS. No. 182 of November 8, 2001

Entry into force December 25, 2003
(2001)

Article 9

Hearing by video conference

1. If a person is in one Party's territory and has to be heard as a witness or expert by the judicial authorities of another Party, the latter may, **where it is not desirable or possible for the person to be heard to appear in its territory in person**, request that the hearing take place by **video conference**, as provided for in paragraphs 2 to 7.

2. The requested Party shall agree to the hearing by video conference provided that the use of the video conference is not contrary to fundamental principles of its law and on condition that it has the technical means to carry out the hearing. If the requested Party has no access to the technical means for video conferencing, such means may be made available to it by the requesting Party by mutual agreement.

3. Requests for a hearing by video conference shall contain, in addition to the information referred to in Article 14 of the Convention, the reason why it is not desirable or possible for the witness or expert to attend in person, the name of the judicial authority and of the persons who will be conducting the hearing.

5. With reference to hearing by video conference, the following rules shall apply:

(b) measures for the protection of the person to be heard shall be agreed, where necessary, between the competent authorities of the requesting and the requested Parties;

(c) the hearing shall be conducted directly by, or **under the direction of, the judicial authority** of the requesting Party in accordance with its own laws;

(e) the person to be heard may claim the right not to testify which would accrue to him or her under the law of either the requested or the requesting Party.

Article 10

Hearing by telephone conference

1. If a person is in one Party's territory and has to be heard as a witness or expert by judicial authorities of another Party, the latter may, where its national law so provides, request the assistance of the former Party to enable the hearing to take place by telephone conference, as provided for in paragraphs 2 to 6.

2. A hearing may be conducted by telephone conference only if the witness or expert agrees that the hearing take place by that method.

3. The requested Party shall agree to the hearing by telephone conference where this is not contrary to fundamental principles of its law.

Article 26

Data protection

1. Personal data transferred from one Party to another as a result of the execution of a request made under the Convention or any of its Protocols, may be used by the Party to which such data have been transferred, only:

- (a) for the purpose of proceedings to which the Convention or any of its Protocols apply.

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	Inter-American Instruments
	Organisation of American States (OAS)
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belem do Para" of June 9, 1994 Entry into force March 5, 1995 (1994/1995)	Article 4 (g) The right to simple and prompt recourse to a competent court for protection against acts that violate her rights; Article 7 The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay , policies to prevent, punish and eradicate such violence and undertake to: (f) establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures; (g) establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies.
Inter-American Convention to Prevent and Punish Torture Adopted December 9, 1985 Entry into force February 28, 1987 (1985 /1987)	Article 8 The States Parties shall guarantee that any person making an accusation of having been subjected to torture within their jurisdiction shall have the right to an impartial examination of his case. Likewise, if there is an accusation or well-grounded reason to believe that an act of torture has been committed within their jurisdiction, the States Parties shall guarantee that their respective authorities will proceed properly and immediately to conduct an investigation into the case and to initiate, whenever appropriate, the corresponding criminal process.
American Convention on Human Rights "Pact of San José, Costa Rica " of November 22, 1969 Entry into force July 18, 1978 (1969/1978)	Article 5 Right to Humane Treatment 5. Minors while subject to criminal proceedings shall be separated from adults and brought before specialized tribunals, as speedily as possible , so that they may be treated in accordance with their status as minors Article 19 Rights of the Child Every minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state.
	Fifth Inter-American Specialized Conference on Private International Law
Inter-American Convention on "International traffic in Minors" March 18, 1994 Entry into force August 15, 1997	Article 14 The request for locating and returning shall not require authentication and shall be processed through the Central Authorities or directly through the competent authorities referred to in Article 13 of the present Convention. The requested authorities shall decide upon the most expeditious procedures for effecting it. After receiving the request, the requested authorities shall order the necessary steps

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(1994/1997)	<p>taken in accordance with their domestic laws to initiate, facilitate, and assist the judicial and administrative procedures involved in locating and returning the minor. In addition, steps shall be taken to ensure the immediate return of the minor, and where necessary, to ensure his or her care, custody or provisional guardianship, depending on the circumstances, and, as a preventive measure, to bar the minor from being wrongfully removed to another State.</p> <p>The request, stating grounds for location and return of the minor, shall be lodged within one hundred and twenty days after the wrongful removal or retention of the minor has been detected. If the request for location and return is lodged by a State Party, the latter shall do so within one hundred and eighty days.</p> <p>Article 16</p> <p>Having confirmed that a victim of traffic in minors is present within their jurisdiction, the competent authorities of a State Party shall take such immediate measures as may be necessary for the minor's protection, including those of a preventive nature to ensure that the minor is not improperly removed to another State.</p>
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NON-BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
<p>The Rights of the Child</p> <p>General Assembly resolution 55/79 of February 22, 2001</p> <p>(2001)</p>	<p>8. Also calls upon States to criminalize and to penalize effectively all forms of sexual exploitation and abuse of children, including within the family or for commercial purposes, paedophilia, child pornography and child prostitution, including child sex tourism, while ensuring that the children who are victims of such practices are not penalized, and to take effective measures to ensure the prosecution of offenders, whether local or foreign, by the competent national authorities, either in the country of origin of the offender or in the country in which the abuse takes place, in accordance with due process of law.</p>
<p>Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice</p> <p>Annex to resolution: <i>Crime Prevention and Criminal Justice measures to eliminate violence against Women</i></p> <p>General Assembly resolution 52/86 of December 12, 1997</p> <p>(1997)</p>	<p>7. Member States are urged to review, evaluate and revise their criminal procedure, as appropriate, in order to ensure that:</p> <p>(c) Women subjected to violence have an opportunity to testify in court proceedings equal to that of other witnesses and that measures are available to facilitate such testimony and to protect their privacy.</p> <p>8. Member States are urged, within the framework of their national legal systems:</p> <p>(b) To develop investigative techniques that do not degrade women subjected to violence and minimize intrusion, while maintaining standards for the collection of the best evidence.</p> <p>(d) To empower the police to respond promptly to incidents of violence against women.</p> <p>10. Member States are urged, as appropriate:</p> <p>(c) To ensure that women subjected to violence receive, through formal and informal procedures, prompt and fair redress for the harm that they have suffered, including</p>

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	<p>the right to seek restitution or compensation from the offenders or the State.</p> <p>(d) To provide for court mechanisms and procedures that are accessible and sensitive to the needs of women subjected to violence and that ensure the fair processing of cases.</p> <p>11. Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate:</p> <p>(c) To establish, fund and coordinate services such as toll-free information lines, professional multi-disciplinary counselling and crisis intervention services and support groups in order to benefit women who are victims of violence and their children.</p>
<p>United Nations Rules for the Protection of Juveniles Deprived of Liberty</p> <p>General Assembly resolution 45/113 of December 14, 1990</p> <p>(1990)</p>	<p>Article 19</p> <p>All reports, including legal records, medical records and records of disciplinary proceeding, and all other documents relating to the form, content and other details of treatment, should be placed in a confidential individual file, which should be kept up to date, accessible only to authorized persons.</p>
<p>Basic Principles of Justice for Victims of Crime and Abuse of Power</p> <p>General Assembly resolution 40/34 of November 29, 1985</p> <p>(1985)</p>	<p>A. Victims of Crime</p> <p>Access to justice and fair treatment</p> <p>Principle 4</p> <p>Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.</p> <p>Principle 5</p> <p>Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.</p> <p>Principle 6</p> <p>The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:</p> <p>(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation.</p> <p>(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.</p> <p>Assistance</p> <p>Principle 16</p> <p>Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.</p>

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<p>Domestic Violence</p> <p>General Assembly resolution 40/36 of November 29, 1985 (1985)</p>	<p>7. Invites Member States to adopt specific measures with a view to making the criminal and civil justice system more sensitive in its response to domestic violence, including the following:</p> <p>(b) To respect, in all instances of the criminal proceeding, starting with the police investigation, the special and sometimes delicate position of the victim, in particular in the manner in which the victim is treated.</p>
<p>Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</p> <p>General Assembly resolution 3452 (XXX) Of December 9, 1975 (1975)</p>	<p>Article 9</p> <p>Wherever there is reasonable ground to believe that an act of torture as defined in article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint.</p>
	<p>UN Organs – Economic and Social Council (ECOSOC)</p>
<p>Guidelines for Action on Children in the Criminal Justice System</p> <p>Annex to Administration of Juvenile Justice Economic and Social Council resolution 1997/30 July 21, 1997 (1997)</p>	<p>25. In the light of existing international standards, States should establish mechanisms to ensure a prompt, thorough and impartial investigation into allegations against officials of deliberate violation of the fundamental rights and freedoms of children. States should equally ensure that those found responsible are duly sanctioned</p> <p>45. Child victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm they have suffered.</p> <p>47. Judicial and administrative mechanisms should be established and strengthened where necessary to enable child victims to obtain redress through formal or informal procedures that are prompt, fair and accessible. Child victims and/or their legal representatives should be informed accordingly.</p> <p>49. Child witnesses need assistance in the judicial and administrative processes. States should review, evaluate and improve, as necessary, the situation for children as witnesses of crime in their evidential and procedural law to ensure that their rights are fully protected. In accordance with the different law traditions, practices and legal framework, direct contact should be avoided between the child victim and the offender during the process of investigation and prosecution as well as during trial hearings as much as possible. The identification of the child victim in the media should be prohibited, where necessary to protect the privacy of the child. Where prohibition is contrary to the fundamental legal principles of Member States, such identification should be discouraged.</p> <p>50. States should consider, if necessary, amendments of their penal procedural codes to allow for, <i>inter alia</i>, videotaping of the child's testimony and its presentation in court as official pieces of evidence. In particular, police, prosecutors, judges and magistrates should apply more child-friendly practices, for example, in police operations and interviews of child witnesses.</p> <p>51. The responsiveness of judicial and administrative processes to the needs of child victims and witnesses should be facilitated by:</p> <p>(d) Taking measures to minimize delays in the criminal justice process, protecting the privacy of child victims and witnesses and, when necessary, ensuring their safety</p>

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	<p>from intimidation and retaliation.</p> <p>52. Children displaced illegally or wrongfully retained across borders are as a general principle to be returned to the country of origin. Due attention should be paid to their safety, and they should be treated humanely and receive necessary assistance, pending their return. They should be returned promptly to ensure compliance with the Convention on the Rights of the Child. Where the Hague Convention on the Civil Aspects of International Child Abduction of 1980 14/ or the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993, approved by the Hague Conference on Private International Law, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of the Child are applicable, the provisions of these conventions with regard to the return of the child should be promptly applied. Upon the return of the child, the country of origin should treat the child with respect, in accordance with international principles of human rights, and offer adequate family-based rehabilitation measures.</p>
	<p>UN Organs – Secretariat</p> <p>United Nations Office on Drugs and Crime (UNODC) – Congress on Crime Prevention and Criminal Justice</p>
<p>Basic Principles on the Role of Lawyers</p> <p>Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, August 27 -September 7, 1990</p> <p>U.N. Doc. A/CONF.144/28/Rev.1 at 118 welcomed by General Assembly resolution 45/121 of December 18, 1990</p> <p>(1990)</p>	<p>Principle 7</p> <p>Governments shall further ensure that all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer and in any case not later than forty-eight hours from the time of arrest or detention.</p> <p>Principle 8</p> <p>All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials.</p>
	<p>UN Organs – Secretariat</p> <p>United Nations Office on Drugs and Crime (UNODC) – Commission on Crime Prevention and Criminal Justice</p>
<p>Basic principles on the use of Restorative Justice Programmes in Criminal Matters</p> <p>Draft resolutions for the adoption by the Economic and social Council</p> <p>Eleventh Session of the Commission on Crime Prevention and Criminal Justice, April 16-25, 2002</p> <p>E/CN.15/2002/L.2/Rev.1 welcomed by Economic and Social Council resolution 2002/12 of July 24, 2002</p> <p>(2002)</p>	<p>19. Facilitators should be responsible for providing a safe and appropriate environment for the restorative process. They should be sensitive to any vulnerability of the parties.</p>

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Follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime

Annex I P8—Senior Expert Group Recommendations

To combat Transnational Organized Crime efficiently

Draft resolutions to be recommended by the Economic and Social Council for adoption by the General Assembly

Report on the Sixth Session of the Commission on Crime Prevention and Criminal Justice

Economic and Social Council (E/CN.15/1997/21) of April 28- May 9, 1997

(1997)

15. States should consider adopting appropriate measures to ensure the protection of witnesses during criminal proceedings. These might include **such methods as testifying by telecommunications or limiting the disclosure of the address and identifying particulars of witnesses.**

Consideration should be given to the temporary transfer as witnesses of persons in custody, enlargement of the admissibility of written statements, and the use of modern technology, such as video links, to overcome some of the current difficulties with obtaining the testimony of witnesses located outside the prosecuting State.

Regional Instruments

European Instruments

European Union

Charter of Fundamental Rights of the European Union

(2000/C 364/01) of December 7, 2000

(2000)

Article 24

1. Children shall have the right to such **protection and care** as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.

European Union – European Parliament

Sexual Abuse of Children

Resolution on the Commission: Communication On Combating Child Sex Tourism (COM(96)0547 - C4-0012/97) and the Aide-Memoire on the European Union's Contribution to Reinforcing the Prevention of the Sexual Abuse and Exploitation of Children (C4-0556/96)

of November 6, 1997

(1997)

9. Calls on the Member States to modify their rules of criminal procedure so as to **make it easier for children to give evidence to courts without fear**, e.g. by making it possible for children not to testify in public, permitting videos of their testimony to be used as evidence instead, and by having psychologists or specially trained officials in attendance whenever children are questioned.

31. Recommends Member States not to isolate a child during an investigation, leaving it for weeks in a psychiatric clinic; if someone has to move away from the home and family, it should not always be the child.

33. Calls on the Member States to provide **special protection for children** who have been subject to sexual abuse by:

- setting up structures to provide care and counselling, and preventive structures,

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	<ul style="list-style-type: none"> - ensuring that children's rights and interests are upheld (confidentiality, privacy), - the implementation of programmes in the field of professional training and social rehabilitation, - protection of the family as the most suitable environment for developing the basic abilities of minors.
	European Union – Council of the European Union
Resolution of the Council On the Protection of Witnesses in the Fight Against International Organized Crime (95/C 327/04) (1995)	<p>A. Calls on the Member States to guarantee proper protection of witnesses taking account of the following guidelines:</p> <ol style="list-style-type: none"> 1. for the purposes of this Resolution, 'witness' means any person, whatever his legal status, who possesses intelligence or information regarded by the competent authority as being material to criminal proceedings and liable to endanger that person if divulged; 2. such witnesses should be protected against all forms of direct or indirect threat, pressure or intimidation; 8. one of the forms of protection to be envisaged is the possibility of giving evidence in a place other than that in which the person being prosecuted is situated through the use, if necessary, of audiovisual methods, subject to observance of the adversary principle as interpreted in the case law of the European Court of Human Rights; <p>B. Calls on Member States to facilitate judicial assistance in this field, even in the absence of any such provisions in the legislation of the State to which the request is addressed, save where compliance with the request for assistance would be contrary to the general principles of that State's law. In order to facilitate the use of audiovisual methods, the following points, in particular, should be taken into consideration:</p> <ol style="list-style-type: none"> 3. Translation costs and the cost of using audiovisual methods should be borne by the requesting State, unless otherwise arranged with the State to which the request is addressed.
	Council of Europe – Committee of Ministers
On the Protection of Children against Sexual Exploitation Recommendation No. R (2001) 16 of October 31, 2001 (2001)	<p>(a) Measures Concerning Victims</p> <ol style="list-style-type: none"> 31. Invite the relevant judicial authorities to give priority to cases involving sexual exploitation of children and to ensure that these cases are dealt with as quickly as possible. 33. Provide special conditions for the taking of evidence from children who are victims of or witnesses to sexual exploitation, in order to reduce the number of statements and hearings of the child and thus minimise the harm caused to the victims, witnesses and their families and increase the credibility of their statements while respecting their dignity. 34. Grant victims and their families the possibility, where appropriate, to stay on the territory of the state so that they are able to fully participate in judicial proceedings, provide for measures designed to protect victims, witnesses and their families from intimidation, in particular where there are criminal networks; during this period make sure victims have access to welfare, medical and legal assistance.

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On the Role of Public Prosecution in the Criminal Justice System

Recommendation No. R (2000) 19 of October 6, 2000
(2000)

24. In the performance of their duties, public prosecutors should in particular:
(c) seek to ensure that the criminal justice system operates **as expeditiously as possible**.

Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation

Recommendation No. R (2000) 11 of May 19, 2000
(2000)

28. Provide, where possible, victims of trafficking, particularly children and witnesses, with special (audio or video) facilities to report and file complaints, and which are designed to protect their private lives and their dignity and **reduce the number of official procedures and their traumatising effects**.

29. If necessary, and particularly in the case of criminal networks, take steps to **protect victims, witnesses and their families to avoid acts of intimidation and reprisals**.

Concerning Intimidation of Witnesses and the Rights of the Defence

Recommendation No. R (97) 13 of September 10, 1997.

Appendix to Recommendation No. R (97) 13 Concerning Intimidation of Witnesses and the Rights of the Defence

(1997)

Bearing in mind the provisions of the European Convention of Human Rights and the case-law of its organs, which recognize the rights of the defence to examine the witness and to challenge his testimony but **do not provide for a face to face confrontation between the witness and the alleged offender**.

II. General Principles

1. Appropriate legislative and practical measures should be taken to ensure that witnesses may testify freely and **without intimidation**.

3. **Acts of intimidation of witnesses should be made punishable** either as separate criminal offences or as part of the offence of using illegal threats.

6. While respecting the rights of the defence, witnesses should be provided with alternative methods of giving evidence which **protect them from intimidation** resulting from face to face confrontation with the accused, e.g. by allowing witnesses to give evidence in a separate room.

9. While ensuring that the defence has adequate opportunity to challenge the evidence given by a witness, the following measures should, inter alia, be considered :

- **recording by audio-visual** means of statements made by witnesses during pre-trial examination;
- using **pre-trial statements** given before a judicial authority as evidence in court when it is not possible for witnesses to appear before the court or when appearing in court might result in great and actual danger to the life and security of witnesses, their relatives or other persons close to them;
- **revealing the identity of witnesses at the latest possible stage of the proceedings** and/or releasing only selected details;
- **excluding the media and/or the public** from all or part of the trial.

III. Measures to be taken in relation to organised crime

8. When designing a framework of measures to combat organised crime, specific **rules of procedure should be adopted to cope with intimidation**. These measures may also be applicable to other serious offences. Such rules shall ensure the necessary balance in a democratic society between the prevention of disorder or crime and the safeguarding of the right of the accused to a fair trial.

12. Where appropriate, further measures should be available to protect witnesses giving

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	<p>evidence, including preventing identification of the witness by the defence e.g. by using screens, disguising his face or distorting his voice.</p> <p>13. When anonymity has been granted, the conviction shall not be based solely or to a decisive extent on the evidence of such persons.</p> <p>IV. Measures to be taken in relation to vulnerable witnesses, especially in cases of crime within the family</p> <p>17. Adequate legislative and practical measures should be taken to ensure protection against intimidation, and to relieve pressure on witnesses giving evidence against family members in criminal cases.</p> <p>22. Programmes should be set up to assist witnesses in giving evidence against other members of the family. Such programmes could provide a framework for:</p> <ul style="list-style-type: none"> -measures to remove the accused from the vicinity of the witness in order to avoid further intimidation; alternatively measures to remove the witness. <p>23. The different institutions within the criminal justice system should be made aware that they can have a traumatic effect on witnesses; they should strive to counter that effect.</p> <p>25. Vulnerable witnesses should, whenever possible, be examined at the earliest stage of the criminal proceedings, as soon as possible after the facts have been reported. Such examination should be carried out in a particularly careful, respectful and thorough manner.</p> <p>26. Such examination should not be repeated. The examination should be conducted by or in the presence of a judicial authority, and the defence should have sufficient opportunity to challenge this testimony.</p> <p>27. If appropriate, statements made at the pre-trial stage should be recorded by video to avoid face to face confrontation and unnecessary repetitive examinations that may cause trauma. During the trial, audio-visual techniques may be used in order to enable the competent authority to hear the persons concerned out of each other's physical presence.</p> <p>28. At the court hearing, examination of the witness should be closely supervised by the judge. Where cross-examination, especially in cases concerning allegations of sexual offences, might have an unduly traumatic effect on the witness, the judge should consider taking appropriate measures to control the manner of questioning.</p>
<p>On the Medico-Social Aspects of Child Abuse</p> <p>Recommendation No. R (93) 2 of March 22, 1993</p> <p>(1993)</p>	<p>3. Investigation and Assessment</p> <p>3.1 Establish at the appropriate level services available 24 hours a day, with powers and resources to provide within an appropriate time-scale for:</p> <ul style="list-style-type: none"> (a) the multidisciplinary investigation of notifications of child abuse; (b) psychosocial assessment of the needs of children and their families for practical assistance and support, therapy, legal measures of protection, etc; (c) medical assessment, psychosomatic and physical of the child as required according to the nature of the concerns and the type of abuse; (d) emergency or long-term legal measures for the protection of the child if required; (e) the taking at any moment of urgent measures including placement in sheltered homes. <p>3.9 Restrict any medical examinations to the minimum number and the least intrusive approach required to help establish whether child abuse has occurred, to secure the requisite treatment and, where necessary, to document clinical evidence</p>

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	<p>which may be used, as appropriate, in legal proceedings for the protection of the child or the prosecution of abusers.</p> <p>3.10 Ensure that in any police investigations and subsequent criminal proceedings the welfare and interests of the child are paramount. This includes sensitivity to the child's needs in interviews and in the courts when children are called as witnesses, and ensuring that any delays are kept to a minimum and do not prejudice the child's right to receive help.</p>
<p>Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in Children and Young Adults</p> <p>Recommendation No. R (91) 11 of September 9, 1991 (1991)</p>	<p>d. Criminal law and criminal procedure</p> <p>14. Provide for special conditions at hearings involving children who are victims or witnesses of sexual exploitation, in order to diminish the traumatising effects of such hearings and to increase the credibility of their statements while respecting their dignity;</p>
<p>On Social Measures Concerning Violence within the Family</p> <p>Recommendation No. R (90) 2 of January 15, 1990 (1990)</p>	<p>Appendix to Recommendation No R (90)2</p> <p>Section B : Specific measures</p> <p>8. The conditions in which victims of violence within their family disclose their painful experiences, whether to social, medical, or judicial authorities, should be improved. Facilities should exist for victims to be given support by a social worker or a confidant in addition to any legal representation that might be appropriate.</p>
	<p>Council of Europe – Parliamentary Assembly</p>
<p>International Abduction of Children by One of the Parents</p> <p>Resolution 1291 (2002) of June 26, 2002 (2002)</p>	<p>5. It urges each Council of Europe member state to:</p> <p>(iv) at national level, give only a small number of specialised courts, and perhaps only one, jurisdiction to deal with cases of parental child abduction in order to ensure that such cases are concentrated and dealt with more rapidly by a smaller number of well-informed judges and that decisions are consistent.</p>
<p>Violence against Women in Europe</p> <p>Recommendation 1450 (2000) of April 3, 2000 (2000)</p>	<p>10. The Assembly therefore recommends that the Committee of Ministers:</p> <p>(e) ensuring greater flexibility as regards both access to justice and the availability of various procedures, with provision for <i>ex officio</i> action by the authorities, in camera hearings and court benches made up equally of female and male judges;</p>
<p>Abuse and Neglect of Children</p> <p>Recommendation 1371 (1998) of April 23, 1998 (1998)</p>	<p>13. The Assembly therefore recommends that the Committee of Ministers ask the member states of the Council of Europe:</p> <p>(f) to arrange for non-traumatising criminal proceedings, and appropriate time-limits for bringing legal proceedings:</p> <p>(i) by establishing procedures restricting questioning of young victims to the absolute minimum and by arranging for such questioning to take place in conditions which reassure children and do not on any account induce in them feelings of guilt;</p> <p>(ii) by ensuring that periods of statutory limitation for reporting any offence by the victims should be long enough to enable victims to take legal action after</p>

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	<p>reaching the age of majority;</p> <p>(iii) by allowing child protection organisations to bring an action in all cases of sexual offences against minors;</p>
<p>On the Rights of the Child</p> <p>Recommendation 1121 (1990) of February 1, 1990</p> <p>(1990)</p>	<p>The Assembly,</p> <ol style="list-style-type: none"> 1. Recalling that a society's vitality depends on the opportunities it offers its younger generation for growth and development in safety, self-realisation, solidarity and peace ; 2. Considering that children, that is human beings who have not attained their majority, are in need of special assistance, care and protection, and considering that the parents' primary responsibility needs to be reasserted and cannot be called into question; 4. Considering that the right of children to special protection imposes obligations on society and on the adults normally dealing with them such as parents, teachers, social workers, doctors and others ; 5. Considering that, in addition to the right to be protected, children have rights they may independently exercise themselves - even against opposing adults.



8.

The right to
safety

Right to safety

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
<p>Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography</p> <p>General Assembly resolution 54/263 of May 25, 2000</p> <p>Entry into force January 18, 2002 (2000/2002)</p>	<p>Article 8</p> <p>1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:</p> <p>(f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation.</p>
<p>Rome Statute of the International Criminal Court</p> <p>Doc. A/CONF.183/9</p> <p>July 17, 1998</p> <p>Entry into force July 1, 2002 (1998/2002)</p>	<p>Article 43</p> <p>The Registry</p> <p>6. The Registrar shall set up a Victims and Witnesses Unit within the Registry. This Unit shall provide, in consultation with the Office of the Prosecutor, protective measures and security arrangements, counselling and other appropriate assistance for witnesses, victims who appear before the Court, and others who are at risk on account of testimony given by such witnesses. The Unit shall include staff with expertise in trauma, including trauma related to crimes of sexual violence.</p> <p>Article 54</p> <p>Duties and powers of the Prosecutor with respect to investigations</p> <p>3. The Prosecutor may:</p> <p>(f) Take necessary measures, or request that necessary measures be taken, to ensure the confidentiality of information, the protection of any person or the preservation of evidence.</p> <p>Article 57</p> <p>Functions and powers of the Pre-Trial Chamber</p> <p>3. In addition to its other functions under this Statute, the Pre-Trial Chamber may:</p> <p>(c) Where necessary, provide for the protection and privacy of victims and witnesses, the preservation of evidence, the protection of persons who have been arrested or appeared in response to a summons, and the protection of national security information.</p> <p>Article 64</p> <p>Functions and powers of the Trial Chamber</p> <p>2. The Trial Chamber shall ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses.</p>

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6. In performing its functions prior to trial or during the course of a trial, the Trial Chamber may, as necessary:

(e) Provide for the **protection** of the accused, witnesses and victims.

Article 68

Protection of the victims and witnesses and their participation in the proceedings

1. The Court shall take appropriate measures to protect the **safety**, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the Court shall have regard to all relevant factors, including age, gender as defined in article 7, paragraph 3, and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The Prosecutor shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

4. The Victims and Witnesses Unit may advise the Prosecutor and the Court on appropriate **protective measures, security arrangements**, counselling and assistance as referred to in article 43, paragraph 6.

5. Where the disclosure of evidence or information pursuant to this Statute may lead to the grave endangerment of the **security of a witness** or his or her family, the Prosecutor may, for the purposes of any proceedings conducted prior to the commencement of the trial, withhold such evidence or information and instead submit a summary thereof. Such measures shall be exercised in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

Article 87

Requests for cooperation: general provisions

4. In relation to any request for assistance presented under this Part, the Court may take such measures, including measures related to the **protection of information**, as may be necessary to ensure the **safety** or physical or psychological well-being of any victims, potential witnesses and their families. The Court may request that any information that is made available under this Part shall be provided and handled in a manner that protects the **safety** and physical or psychological well-being of any victims, potential witnesses and their families.

Rules of Procedures and Evidence of the International Criminal Court

Adopted by the assembly of states, first session New York,

September 3-10 2002

ICC-ASP/1/3

Entry into force: 2002

(2002)

Rule 17

Function of the Unit

2. The Victims and Witnesses Unit shall, *inter alia*, perform the following functions, in accordance with the Statute and the Rules, and in consultation with the Chamber, the Prosecutor and the defence, as appropriate:

(a) With respect to all witnesses, victims who appear before the Court, and others who are at risk on account of testimony given by such witnesses, in accordance with their particular needs and circumstances:

(i) Providing them with adequate protective and **security measures** and formulating long- and short-term plans for their protection;

(ii) **Recommending to the organs of the Court the adoption of protection measures and also advising relevant States of such measures;**

Rule 67

Live testimony by means of audio or video-link technology

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3. The Chamber, with the assistance of the Registry, shall ensure that the venue chosen for the conduct of the audio or video-link testimony is conducive to the giving of truthful and open testimony and to the **safety**, physical and psychological well-being, dignity and privacy of the witness.

Rule 81

Restrictions on disclosure

4. **The Chamber dealing with the matter shall, on its own motion or at the request of the Prosecutor, the accused or any State, take the necessary steps to ensure the confidentiality of information, in accordance with articles 54, 72 and 93 [Rome Statute of the International Criminal Court] , and, in accordance with article 68 [Rome Statute of the International Criminal Court], to protect the safety of witnesses and victims and members of their families, including by authorizing the non-disclosure of their identity prior to the commencement of the trial.**

Rule 87

Protective measures

1. Upon the motion of the Prosecutor or the defence or upon the request of a witness or a victim or his or her legal representative, if any, or on its own motion, and after having consulted with the Victims and Witnesses Unit, as appropriate, a Chamber may order measures to protect a victim, a witness or another person at risk on account of testimony given by a witness pursuant to article 68, paragraphs 1 and 2 [Rome Statute of the International Criminal Court]. The Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the protective measure is sought prior to ordering the **protective measure**.

Rule 88

Special measures

5. Taking into consideration that violations of the privacy of a witness or victim may create risk to his or her **security**, a Chamber shall be vigilant in controlling the manner of questioning a witness or victim so as to avoid any harassment or intimidation, paying particular attention to attacks on victims of crimes of sexual violence.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

General Assembly resolution 39/46 of December 10, 1984

Entry into force June 26, 1987

(1984/1987)

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are **protected against all ill-treatment or intimidation** as a consequence of his complaint or any evidence given.

United Nations Convention Against Transnational Organized Crime

General Assembly resolution 55/25 of November 15, 2000

Entry into force September 29, 2003

Article 24

Protection of witnesses

1. Each State Party shall take appropriate measures within its means to provide effective **protection from potential retaliation or intimidation** for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, for their relatives and other persons close to them.

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

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(2000-2003)	<p>(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;</p> <p>(b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means.</p> <p>3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.</p> <p>4. The provisions of this article shall also apply to victims insofar as they are witnesses.</p> <p>Article 25</p> <p>Assistance to and protection of victims</p> <p>1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention, in particular in cases of threat of retaliation or intimidation.</p>
<p>Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children</p> <p>Supplementing the United Nations Convention Against Transnational Organized Crime</p> <p>General Assembly resolution 55/25, of November 15, 2000</p> <p>Entry into force December 25, 2003</p> <p>(2003)</p>	<p>Article 6</p> <p>Assistance to and protection of victims of trafficking in persons</p> <p>5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.</p>
	<p>Regional Instruments</p>
	<p>African Instruments</p>
	<p>African Union</p>
<p>African Charter on the Rights and Welfare of the Child</p> <p>OAU Doc. CAB/LEG/24.9/49 of July 1990</p> <p>Entry into force November 29, 1999.</p> <p>(1990/1999)</p>	<p>Article 16</p> <p>Protection Against Child Abuse and Torture</p> <p>2. Protective measures under this Article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect.</p>

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European Instruments	
Council of Europe	
Second Additional Protocol of the European Convention on Mutual Assistance in Criminal Matters ETS. No. 182 of November 8, 2001 Entry into force February 1, 2004 (2004)	<p>Article 23</p> <p>Protection of witnesses</p> <p>Where a Party requests assistance under the Convention or one of its Protocols in respect of a witness at risk of intimidation or in need of protection, the competent authorities of the requesting and requested Parties shall endeavour to agree on measures for the protection of the person concerned, in accordance with their national law.</p> <p>Article 25</p> <p>Confidentiality</p> <p>The requesting Party may require that the requested Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.</p> <p>Article 26</p> <p>Data protection</p> <p>1. Personal data transferred from one Party to another as a result of the execution of a request made under the Convention or any of its Protocols, may be used by the Party to which such data have been transferred, only:</p> <p>(b) for other judicial and administrative proceedings directly related to the proceedings mentioned under (a);</p> <p>(c) for preventing an immediate and serious threat to public security.</p>
Organisation for Security and Co-operation in Europe (OSCE)	
Charter for European Security Sum.Doc/1/99 of November 19, 1999 (1999)	<p>24. We will undertake measures to eliminate all forms of discrimination against women, and to end violence against women and children as well as sexual exploitation and all forms of trafficking in human beings. In order to prevent such crimes we will, among other means, promote the adoption or strengthening of legislation to hold accountable persons responsible for these acts and strengthen the protection of victims. We will also develop and implement measures to promote the rights and interests of children in armed conflict and post-conflict situations, including refugees and internally displaced children. We will look at ways of preventing forced or compulsory recruitment for use in armed conflict of persons under 18 years of age.</p>
Inter-American Instruments	
Organization of American States (OAS)	
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belem do Para" of June 9, 1994 Entry into force March 5, 1995	<p>Article 7</p> <p>The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to:</p> <p>(f) establish fair and effective legal procedures for women who have been subjected to violence which include, among others, protective measures, a timely hearing and effective access to such procedures.</p>

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NON-BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
<p>Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice</p> <p>Annex to resolution: <i>Crime Prevention and Criminal Justice measures to eliminate violence against Women</i></p> <p>General Assembly resolution 52/86 of December 12, 1997 (1997)</p>	<p>II. CRIMINAL PROCEDURE</p> <p>7. Member States are urged to review, evaluate and revise their criminal procedure, as appropriate, in order to ensure that:</p> <p>(g) The courts, subject to the national constitution of their State, have the authority to issue protection and restraining orders in cases of violence against women, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties, inside and outside the domicile, and to impose penalties for breaches of these orders;</p> <p>(h) Measures can be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation;</p> <p>(i) Safety risks are taken into account in decisions concerning non-custodial or quasi-custodial sentences, the granting of bail, conditional release, parole or probation.</p> <p>III. POLICE</p> <p>8. Member States are urged, within the framework of their national legal systems:</p> <p>(c) To ensure that police procedures, including decisions on the arrest, detention and terms of any form of release of the perpetrator, take into account the need for the safety of the victim and others related through family, socially or otherwise and that these procedures also prevent further acts of violence.</p> <p>IV. SENTENCING AND CORRECTIONS</p> <p>9. Member States are urged, as appropriate:</p> <p>(b) To ensure that a woman subjected to violence is notified of any release of the offender from detention or imprisonment where the safety of the victim in such disclosure outweighs invasion of the offender's privacy;</p> <p>(d) To make available to the courts through legislation a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence;</p> <p>(h) To protect the safety of victims and witnesses before, during and after criminal proceedings.</p> <p>V. VICTIM SUPPORT AND ASSISTANCE</p> <p>10. Member States are urged, as appropriate:</p> <p>(e) To establish a registration system for judicial protection and restraining orders, where such orders are permitted by national law, so that police or criminal justice officials can quickly determine whether such an order is in force.</p>

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<p>Basic Principles of Justice for Victims of Crime and Abuse of Power</p> <p>General Assembly resolution 40/34 of November 29, 1985 (1985)</p>	<p>A. Victims of Crime</p> <p>Access to justice and fair treatment</p> <p>Principle 6</p> <p>The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:</p> <p>(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation.</p>
<p>Domestic Violence</p> <p>General Assembly resolution 40/36 of November 29, 1985 (1985)</p>	<p>7. Invites Member States to adopt specific measures with a view to making the criminal and civil justice system more sensitive in its response to domestic violence, including the following:</p> <p>(f) To provide, as a temporary solution, shelters and other facilities and services for the safety of victims of domestic violence.</p>
<p>UN Organs – Economic and Social Council (ECOSOC)</p>	
<p>Guidelines for Action on Children in the Criminal Justice System</p> <p>Annex to Administration of Juvenile Justice</p> <p>Economic and Social Council resolution 1997/30 of July 21, 1997 (1997)</p>	<p>46. Child victims should have access to assistance that meets their needs, such as advocacy, protection, economic assistance, counseling, health and social services, social reintegration and physical and psychological recovery services. Special assistance should be given to those children who are disabled or ill. Emphasis should be placed upon family and community-based rehabilitation rather than institutionalization.</p> <p>51. The responsiveness of judicial and administrative processes to the needs of child victims and witnesses should be facilitated by:</p> <p>(d) Taking measures to minimize delays in the criminal justice process, protecting the privacy of child victims and witnesses and, when necessary, ensuring their safety from intimidation and retaliation.</p> <p>52. Children displaced illegally or wrongfully retained across borders are as a general principle to be returned to the country of origin. Due attention should be paid to their safety, and they should be treated humanely and receive necessary assistance, pending their return. They should be returned promptly to ensure compliance with the Convention on the Rights of the Child. Where the Hague Convention on the Civil Aspects of International Child Abduction of 1980 14/ or the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993, approved by the Hague Conference on Private International Law, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of the Child are applicable, the provisions of these conventions with regard to the return of the child should be promptly applied. Upon the return of the child, the country of origin should treat the child with respect, in accordance with international principles of human rights, and offer adequate family-based rehabilitation measures.</p>
<p>UN Organs – Secretariat</p> <p>United Nations Office on Drugs and Crime (UNODC)</p> <p>Congress on Crime Prevention and Criminal Justice</p>	
<p>Resolutions adopted by the Ninth United Nations Congress on the Prevention of Crime and</p>	<p>7.Children as victims and perpetrators of crime and the United Nations criminal justice programme: from standard setting towards implementation and action</p> <p>20. Further urges States to ensure that children subjected to violence have access to assistance that meets their needs, such as, <i>inter alia</i>, access to support services, including</p>

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the Treatment of Offenders

Cairo, April 29 - May 8, 1995

U.N. Doc. A/CONF.169/16

May 12, 1995

(1995)

legal assistance, to economic assistance, to counselling and to health and social services in order to **promote their safety** and physical and psychological recovery and social reintegration.

UN Organs – Secretariat

United Nations Office on Drugs and Crime (UNODC)

Commission on Crime Prevention and Criminal Justice

Basic principles on the use of Restorative Justice Programmes in Criminal Matters

Draft resolutions for the adoption by the Economic and social Council

Eleventh Session of the Commission on Crime Prevention and Criminal Justice, April 16-25, 2002

E/CN.15/2002/L.2/Rev.1 welcomed by Economic and Social Council resolution 2002/12 of July 24, 2002

(2002)

19. Facilitators should be responsible for providing a **safe and appropriate environment for the restorative process**. They should be sensitive to any vulnerability of the parties.

Follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime

Annex I P8—Senior Expert Group Recommendations

To combat Transnational Organized Crime efficiently

Draft resolutions to be recommended by the Economic and Social Council for

adoption by the General Assembly

Report on the Sixth Session of the Commission on Crime Prevention and Criminal Justice

Economic and Social Council (E/CN.15/1997/21) of April 28- May 9, 1997

(1997)

13. States should provide **effective protection for individuals** who have given or agreed to give information or evidence, or who participate or who have agreed to participate in an investigation or prosecution of an offence, and for the relatives and associates of those individuals who require protection, because of risk to the security of the person.

14. States should consider, as appropriate, **reciprocal arrangements for the protection of witnesses** and other endangered persons.

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	UN Specialized Agency International Labour Organisation
R190 Worst forms of Child Labour Recommendation June 17, 1999 (1999)	I. Programmes of action <p>2. The programmes of action referred to in Article 6 of the Convention [C182 Worst Forms of Child Labour Convention - Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour] should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such programmes should aim at, inter alia:</p> <p>(b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs.</p>
	Regional Instruments
	European Instruments
	European Union – European Parliament
Sexual Abuse of Children Resolution on the Commission: Communication On Combating Child Sex Tourism (COM(96)0547 - C4-0012/97) and the Aide-Memoire on the European Union's Contribution to Reinforcing the Prevention of the Sexual Abuse and Exploitation of Children (C4-0556/96) Of November 6, 1997 (1997)	<p>21. Observes that, in some third countries, the phenomenon of child prostitution is directly linked to poverty and therefore calls on the Community, as part of its policy to support development, and in cooperation with the authorities of the countries concerned, to make a contribution to the emergence of a healthier alternative form of tourism and sponsor actions for the protection and rehabilitation of the victims of child prostitution.</p> <p>32. Stresses that although the reintegration of offenders into society is unquestionably the very essence of prison law in the European Union Member States, the fundamental principle of the protection of minors must always take precedence; appeals, therefore, to all those who have to take decisions which may affect the safety or well-being of children to exercise the greatest possible care and take the maximum precautions so that protection of the legally protected interest constituted by childhood takes precedence over all other interests, however legitimate or important they may be.</p>
	European Union – Council of the European Union
Resolution of the Council On the Protection of Witnesses in the Fight Against International Organized Crime 95/C 327/04 (1995)	<p>A. Calls on the Member States to guarantee proper protection of witnesses taking account of the following guidelines:</p> <ol style="list-style-type: none"> 1. for the purposes of this Resolution, 'witness' means any person, whatever his legal status, who possesses intelligence or information regarded by the competent authority as being material to criminal proceedings and liable to endanger that person if divulged; 2. such witnesses should be protected against all forms of direct or indirect threat, pressure or intimidation; 3. Member States must ensure proper and effective protection of witnesses before, during and after trials, where the competent authorities deem this necessary; 4. such protection must also be extended to the parents, children and other close relatives of witnesses if necessary in order to avoid any form of indirect pressure;

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	<p>5. when this protection is instituted, each case will have to be examined individually to determine whether the agreement of the witness and his relatives should be sought;</p> <p>6. the competent authorities should be able to decide, of their own accord or at a witness's request, that the address and identifying particulars (1) of the witness should be known only to those authorities;</p> <p>7. if the threat is extremely serious, a change of identity for the witness and, if necessary, for members of his immediate family, may be allowed;</p> <p>8. one of the forms of protection to be envisaged is the possibility of giving evidence in a place other than that in which the person being prosecuted is situated through the use, if necessary, of audiovisual methods, subject to observance of the adversary principle as interpreted in the case law of the European Court of Human Rights.</p>
	Council of Europe – Committee of Ministers
<p>On the Protection of Women against Violence</p> <p>Recommendation No. Rec (2002)</p> <p>5 of April 20, 2002</p> <p>(2002)</p>	<p>Recommends that the governments of member states:</p> <p>II. Recognise that states have an obligation to exercise due diligence to prevent, investigate and punish acts of violence, whether those acts are perpetrated by the state or private persons, and provide protection to victims;</p> <p>IV. Encourage all relevant institutions dealing with violence against women (police, medical and social professions) to draw up medium- and long-term co-ordinated action plans, which provide activities for the prevention of violence and the protection of victims.</p>
<p>On the Protection of Children against Sexual Exploitation</p> <p>Recommendation No. R (2001) 16 of October 31, 2001</p> <p>(2001)</p>	<p>34. Grant victims and their families the possibility, where appropriate, to stay on the territory of the state so that they are able to fully participate in judicial proceedings, provide for measures designed to protect victims, witnesses and their families from intimidation, in particular where there are criminal networks; during this period make sure victims have access to welfare, medical and legal assistance.</p>
<p>Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation</p> <p>Recommendation No. R (2000) 11</p> <p>May 19, 2000</p> <p>(2000)</p>	<p>2. Take appropriate legislative and practical measures to ensure the protection of the rights and the interests of the victims of trafficking, in particular the most vulnerable and most affected groups: women, adolescents and children.</p> <p>3. Give absolute priority to assisting the victims of trafficking through rehabilitation programmes, where applicable, and to protecting them from traffickers.</p> <p>29. If necessary, and particularly in the case of criminal networks, take steps to protect victims, witnesses and their families to avoid acts of intimidation and reprisals.</p> <p>30. Establish victim protection systems which offer effective means to combat intimidation as well as real threats to the physical security of the victims and their families both in countries of destination and countries of origin.</p> <p>31. Provide protection when needed in the country of origin for the families of victims of trafficking when the latter bring legal proceedings in the country of destination.</p> <p>32. Extend, where appropriate, this protection to members of associations or organisations assisting the victims during civil and penal proceedings.</p> <p>34. Grant victims, if necessary, and in accordance with national legislation, a temporary residence status in the country of destination, in order to enable them to act as witnesses during judicial proceedings against offenders; during this time, it is essential to ensure that victims have access to social and medical assistance.</p> <p>35. Consider providing, if necessary, a temporary residence status on humanitarian grounds.</p>

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On the Role of Public Prosecution in the Criminal Justice System

Recommendation No. R (2000) 19 of October 6, 2000
(2000)

32. Public prosecutors should take proper account of the interests of the witnesses, especially take or promote measures to protect their life, **safety** and privacy, or see to it that such measures have been taken.

Concerning Intimidation of Witnesses and the Rights of the Defence

Recommendation No. R (97) 13 of September 10, 1997.

Appendix to Recommendation No. R (97) 13 Concerning Intimidation of Witnesses and the Rights of the Defence

(1997)

II. General Principles

1. **Appropriate legislative and practical measures should be taken to ensure that witnesses may testify freely and** without intimidation.

2. **While respecting the rights of the defence, the protection of witnesses, their relatives and other persons close to them should be organised, where necessary, including the protection of their life and personal security before, during and after trial.**

3. **Acts of intimidation of witnesses should be made punishable either as separate criminal offences or as part of the offence of using illegal threats.**

III. Measures to be taken in relation to organised crime

8. When designing a framework of measures to combat organised crime, specific **rules of procedure should be adopted to cope with intimidation**. These measures may also be applicable to other serious offences. Such rules shall ensure the necessary balance in a democratic society between the prevention of disorder or crime and the safeguarding of the right of the accused to a fair trial.

10. Where available and in accordance with domestic law, **anonymity** of persons who might give evidence should be an exceptional measure. Where the guarantee of anonymity has been requested by such persons and/or temporarily granted by the competent authorities, criminal procedural law should provide for a verification procedure to maintain a fair balance between the needs of criminal proceedings and the rights of the defence. The defence should, through this procedure, have the opportunity to challenge the alleged need for anonymity of the witness, his credibility and the origin of his knowledge.

11. **Anonymity** should only be granted when the competent judicial authority, after hearing the parties, finds that:

(i) the life or freedom of the person involved is seriously threatened or, in the case of an undercover agent, his potential to work in the future is seriously threatened; and

(ii) the evidence is likely to be significant and the person appears to be credible.

12. Where appropriate, further measures should be available to **protect witnesses** giving evidence, including preventing identification of the witness by the defence e.g. by using screens, disguising his face or distorting his voice.

13. When **anonymity** has been granted, the conviction shall not be based solely or to a decisive extent on the evidence of such persons.

14. Where appropriate, special programmes, such as **witness protection programmes**, should be set up and made available to witnesses who need protection. The main objective of these programmes should be to **safeguard the life and personal security of witnesses**, their relatives and other persons close to them.

15. **Witness protection programmes** should offer various methods of protection; this may include giving witnesses and their relatives and other persons close to them an identity change, relocation, assistance in obtaining new jobs, providing them with body-

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	<p>guards and other physical protection.</p> <p>IV. Measures to be taken in relation to vulnerable witnesses, especially in cases of crime within the family</p> <p>17. Adequate legislative and practical measures should be taken to ensure protection against intimidation, and to relieve pressure on witnesses giving evidence against family members in criminal cases.</p> <p>18. Such measures should be designed for different categories of vulnerable witnesses. They should take into account that in the family environment intimidation is often latent and usually affects the witness' psychological and/or emotional well-being. In the absence of overt acts of intimidation, preference should therefore be given to non-criminal law measures.</p> <p>19. Special protection should be made available to children together with support against any abuse of authority in the family. Children should be made aware of their rights, in particular, the right to report crime.</p> <p>22. Programmes should be set up to assist witnesses in giving evidence against other members of the family. Such programmes could provide a framework for:</p> <ul style="list-style-type: none"> - measures to remove the accused from the vicinity of the witness in order to avoid further intimidation; alternatively measures to remove the witness.
<p>On Crime Policy in Europe in a Time of Change</p> <p>Recommendation No. R (96) 8 of September 5, 1996</p> <p>(1996)</p>	<p>25. Adequate protection for witnesses and other participants in proceedings relating to the fight against organised crime should be provided for.</p>
<p>On the Medico-Social Aspects of Child Abuse</p> <p>Recommendation No. R (93) 2 March 22, 1993</p> <p>(1993)</p>	<p>2. Detection and notification</p> <p>2.1 Designate an agency (or agencies) or any individual at the appropriate level, available 24 hours a day, to receive notifications of abuse.</p> <p>2.2 Encourage professionals (for example, teachers, doctors, social workers, nurses and others in contact with children) to notify the designated agency if they have reasonable grounds to believe that a child has been abused, is being abused or where there is a strong suspicion of abuse, or clear grounds for believing that it is likely to occur.</p> <p>2.3 Advise professionals that in respecting ethical codes and legal rules of confidentiality account should be taken of the fact that in such circumstances, the designated agency should be notified.</p> <p>2.4 Consider indemnity from legal proceedings to persons summoned as witnesses who, bona fide and with care, report abuse or a reasonable suspicion of child abuse.</p> <p>2.5 Take measures to advise members of the community, for example, of the existence and signs of child abuse and of the availability of services to help children and families through public information campaigns in the media, and the distribution of leaflets, etc. in health clinics, libraries, etc.</p> <p>2.6 Take steps to promote the responsible reporting of lay concerns that a child may be being abused with safeguards where required for the anonymity of those making such reports.</p> <p>2.7 Ensure that the person who has reported is informed of the appropriate steps taken as far as legal and moral codes of confidentiality permit.</p> <p>2.8 Establish services (such as telephone helplines) for victims of abuse and other persons wishing to report their concerns.</p>

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	<p>3. Investigation and Assessment</p> <p>3.1 Establish at the appropriate level services available 24 hours a day, with powers and resources to provide within an appropriate time-scale for:</p> <p>(b) psychosocial assessment of the needs of children and their families for practical assistance and support, therapy, legal measures of protection, etc;</p> <p>(e) the taking at any moment of urgent measures including placement in sheltered homes.</p>
<p>Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in Children and Young Adults</p> <p>Recommendation No. R (91) 11 of September 9, 1991 (1991)</p>	<p>B. Measures relating to pornography involving children</p> <p>4. envisage informing the public, in order to raise awareness, of the implementation of penal policy, the number of prosecutions and convictions in cases involving child pornography, while ensuring the anonymity of the children concerned and of the alleged offenders.</p> <p>D. Measures relating to the trafficking in children and young adults ;</p> <p>3. set up facilities and support those existing, in order to protect and assist the victims of traffic in children and young adults.</p>
<p>On Social Measures Concerning Violence within the Family</p> <p>Recommendation No. R (90) 2 of January 15, 1990 (1990)</p>	<p>9. Practical services that should be available for all members of the family include, apart from social welfare services in general:</p> <ul style="list-style-type: none"> - telephone lines (for emergency calls and for counselling), - crisis services where possible with a 24-hour service, - counselling centres. <p>Steps should be taken to co-ordinate these various services.</p>
<p>On the Position of the Victim In the Framework of Criminal Law and Procedure</p> <p>Recommendation No. R (85) 11 June 28, 1985 (1985)</p>	<p>I. Recommends the governments of member states to review their legislation and practice in accordance with the following guidelines:</p> <p>F. Protection of privacy</p> <p>15. Information and public relations policies in connection with the investigation and trial of offences should give due consideration to the need to protect the victim from any publicity which will unduly affect his private life or dignity. If the type of offence or the particular status or personal situation and safety of the victim make such special protection necessary, either the trial before the judgment should be held in camera or disclosure or publication of personal information should be restricted to whatever extent is appropriate.</p> <p>G. Special protection of the victim</p> <p>16. Whenever this appears necessary, and especially when organised crime is involved, the victim and his family should be given effective protection against intimidation and the risk of retaliation by the offender.</p>
	<p>Council of Europe – Parliamentary Assembly</p>
<p>Campaign against Trafficking in Women</p> <p>Recommendation 1545 (2002) January 21, 2002 (2002)</p>	<p>10. The Assembly therefore urges the governments of member states:</p> <p>(ix) to adopt the following measures regarding victims of trafficking:</p> <ul style="list-style-type: none"> (a) give specific protection to victims; (b) set up shelters for trafficking victims modelled on those already functioning in Italy, Belgium and Austria; (c) establish telephone hotlines in capital cities and in different regions of each country providing information to potential trafficking victims and their families and

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	<p>assisting those who have fallen victims to trafficking;</p> <p>(e) take all necessary measures to protect victims and witnesses wishing to testify, and assuring protection for their families in their countries of origin;</p> <p>(g) grant residence permits of a permanent nature to victims of trafficking for those who are willing to testify in court and need protection, and of a temporary but renewable nature for all others on humanitarian grounds.</p> <p>11. The Assembly recommends that the Committee of Ministers:</p> <p>(ii) elaborate a European convention on trafficking in women, open to non-member states, based on the definition of trafficking in women included in Committee of Ministers Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation. This convention should:</p> <p>(a) focus on assistance to and the protection of victims of trafficking, by obliging the states parties to grant legal, medical and psychological assistance to such victims, by ensuring their physical safety and that of their families, and by granting special residence permits to victims on humanitarian grounds, and permanent residence permits to those willing to testify in court and in need of witness protection.</p>
<p>Domestic Slavery</p> <p>Recommendation 1523 (2001)</p> <p>June 26, 2001</p> <p>(2001)</p>	<p>10. It accordingly recommends that the Committee of Ministers ask the governments of member states to:</p> <p>(vi) protect the rights of victims of domestic slavery by:</p> <p>(a) generalising the issuing of temporary and renewable residence permits on humanitarian grounds;</p> <p>(b) taking steps to provide them with protection and with social, administrative and legal assistance;</p> <p>(c) taking steps for their rehabilitation and their reintegration, including the creation of centres to assist, among others, victims of domestic slavery;</p> <p>(d) developing specific programmes for their protection.</p>
<p>On Traffic in Women and Forced Prostitution in Council of Europe Member States</p> <p>Recommendation 1325 (1997)</p> <p>April 23, 1997</p> <p>(1997)</p>	<p>4. The Assembly recommends that the Committee of Ministers elaborate a convention on traffic in women and forced prostitution, which would also be open for signature by states not members of the Council of Europe. The scope of the convention should be limited to adult women, and based on the Assembly's definition in paragraph 2 above. It should focus on human rights, stipulating repressive measures to combat trafficking through harmonisation of laws especially in the penal field, opening new channels for improved police and judicial communication, co-ordination and co-operation, and organising a certain degree of assistance and protection for victims of trafficking, especially those willing to testify in court. This should also include physical protection if necessary, and in any case the granting of temporary residence permits as well as legal, medical and psychological assistance. The convention should establish a control-mechanism to monitor compliance with its provisions and to co-ordinate further action at the pan-European level to combat trafficking in women and forced prostitution. The Committee of Ministers is asked to submit the draft convention to the Assembly for opinion before its adoption.</p> <p>6. The Assembly further recommends that the Committee of Ministers urges member states to:</p> <p>(v) grant residence permits to victims of traffic and forced prostitution who are willing to testify in court, and include them in witness protection programmes if necessary.</p>

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On the Rights of the Child

Recommendation 1121 (1990) of
February 1, 1990

(1990)

4. Considering that the right of children to **special protection** imposes obligations on society and on the adults normally dealing with them such as parents, teachers, social workers, doctors and others.

On the Traffic in Children and other Forms of Child Exploitation

Recommendation 1065 (1987) of
October 6, 1987

(1987)

4. Considering that children have the same right as all human beings to enjoy an environment which affords them security, health and physical integrity, and that they must be treated humanely, that **society has a duty to provide them with protection**, to monitor observance of their rights and to afford them equality of opportunity.



9.

The right to reparation

Right to Reparation

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Convention on the Rights of the Child General Assembly resolution 44/25 of November 20, 1989 Entry into force September 2, 1990 (1989/1990)	Article 39 States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography General Assembly resolution 54/263 of May 25, 2000 Entry into force January 18, 2002 (2000/2002)	Article 8 1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by: (a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses ; (g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims . Article 9 3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery . 4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible. Article 10 2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery , social reintegration and repatriation.

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Rome Statute of the International Criminal Court

Doc. A/CONF.183/9 of July 17, 1998

Entry into force July 1, 2002
(1998/2002)

Article 75

Reparations to Victims

1. The Court shall establish principles relating to reparations to, or in respect of, victims, **including restitution, compensation** and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and will state the principles on which it is acting.

2. The Court may **make an order directly against a convicted person specifying appropriate reparations** to, or in respect of, victims, **including restitution, compensation** and rehabilitation.

Where appropriate, the Court may order that the award for reparations be made through the Trust Fund provided for in article 79.

3. Before making an order under this article, the Court may invite and shall take account of representations from or on behalf of the convicted person, victims, other interested persons or interested States.

6. Nothing in this article shall be interpreted as prejudicing the rights of victims under national or international law.

Rules of Procedures and Evidence of the International Criminal Court

Adopted by the assembly of states, first session New York, September 3-10 2002

ICC-ASP/1/3

Entry into force: 2002
(2002)

Rule 97

Assessment of Reparations

1. Taking into account the scope and extent of any damage, loss or injury, the Court may award **reparations** on an individualized basis or, where it deems it appropriate, on a collective basis or both.

2. At the request of victims or their legal representatives, or at the request of the convicted person, or on its own motion, the Court may appoint appropriate experts to assist it in determining the scope, extent of any damage, loss and injury to, or in respect of victims and to suggest various options concerning the appropriate types and modalities of **reparations**. The Court shall invite, as appropriate, victims or their legal representatives, the convicted person as well as interested persons and interested States to make observations on the reports of the experts.

3. In all cases, the Court shall respect the rights of victims and the convicted person.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

General Assembly resolution 39/46 of December 10, 1984

Entry into force June 26, 1987
(1984/1987)

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has **an enforceable right to fair and adequate compensation**, including the **means for as full rehabilitation** as possible. In the event of the death of the victim as a result of an act of torture, his **dependants shall be entitled to compensation**.

2. Nothing in this article shall affect any right of the victim or other persons to **compensation** which may exist under national law.

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United Nations Convention Against Transnational Organized Crime

General Assembly resolution 55/25 of November 15, 2000

Entry into force 29 September 2003

(2003)

Article 14

Disposal of Confiscated Proceeds of Crime or Property

1. **Proceeds of crime or property confiscated** by a State Party pursuant to articles 12 or 13, paragraph 1, of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures.
2. When acting on the request made by another State Party in accordance with article 13 of this Convention, States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give **compensation** to the victims of the crime or return such proceeds of crime or property to their legitimate owners.

Article 25

Assistance to and Protection of Victims

2. Each State Party shall establish appropriate procedures to provide access to **compensation and restitution for victims** of offences covered by this Convention.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

Supplementing the United Nations Convention Against Transnational Organized Crime

General Assembly resolution 55/25, of November 15, 2000

Entry into force December 25, 2003
(2003)

II. Protection of Victims of Trafficking in Persons

Article 6

Assistance to and Protection of Victims of Trafficking in Persons

3. Each State Party shall consider implementing measures to provide for the **physical, psychological and social recovery of victims** of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- (a) Appropriate housing;
- (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- (c) Medical, psychological and material assistance; and Employment, educational and training opportunities.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining **compensation** for damage suffered.

UN Specialized Agency – International Labour Organisation (ILO)

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

Convention 182 of June 17, 1999

Entry into force November 19, 2000
(2000)

Article 7

2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:

- (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for **their rehabilitation and social integration**.

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	Regional Instruments
	African Instruments
	African Union
Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa adopted in Maputo, July 11 th , 2003 Not in force	Article 4 The Rights to Life, Integrity and Security of Person 2. State Parties shall take appropriate and effective measures to: (e) punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims (f) establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women and girls.
	European Instruments
	Council of Europe
European Convention on the Compensation of Victims of Violent Crimes ETS No. 116 of November 24, 1983 Entry into force January 1, 1988 (1983/1988)	Article 2 1. When compensation is not fully available from other sources the State shall contribute to compensate : (a) those who have sustained serious bodily injury or impairment of health directly attributable to an international crime of violence; (b) the dependants of persons who have died as a result of such crime. 2. Compensation shall be awarded in the above cases even if the offender cannot be prosecuted or punished. Article 3 Compensation shall be paid by the State on whose territory the crime was committed: (a) to nationals of the States party to this Convention; (b) to nationals of all member States of the Council of Europe who are permanent residents in the State on whose territory the crime was committed. Article 4 Compensation shall cover , according to the case under consideration, at least the following items: loss of earnings, medical and hospitalisation expenses and funeral expenses, and, as regards dependants, loss of maintenance.
	Inter-American Instruments
	Organization of American States (OAS)
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belem do Para" of June 9, 1994 Entry into force March 5, 1995 (1994/1995)	Article 7 The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to: (g) establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies.

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NON-BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
The Rights of the Child General Assembly resolution 55/79 of February 22, 2001 (2001)	15. Invites States and relevant United Nations bodies and agencies to allocate appropriate resources for the rehabilitation of child victims of sexual exploitation and abuse and to take all appropriate measures to promote their full recovery and social reintegration.
Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice Annex to resolution: <i>Crime Prevention and Criminal Justice measures to eliminate violence against Women</i> General Assembly resolution 52/86 of December 12, 1997 (1997)	Article 10 (c) To ensure that women subjected to violence receive, through formal and informal procedures, prompt and fair redress for the harm that they have suffered, including the right to seek restitution or compensation from the offenders or the State. Article 11 Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate: (a) To establish, fund and coordinate a sustainable network of accessible facilities and services for emergency and temporary residential accommodation for women and their children who are at risk of becoming or who have been victims of violence; (b) To establish, fund and coordinate services such as toll-free information lines, professional multi-disciplinary counselling and crisis intervention services and support groups in order to benefit women who are victims of violence and their children.
Basic Principles of Justice for Victims of Crime and Abuse of Power General Assembly resolution 40/34 November 29, 1985 (1985)	A. Victims of Crime Access to justice and fair treatment Principle 7 Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims Restitution Principle 8 Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims , their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights. Principle 9 Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

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Principle 11

Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, **the victims should receive restitution from the State** whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

Compensation

Principle 12

When **compensation** is not fully available from the offender or other sources, States should endeavour to provide **financial compensation** to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

B. Victims of Abuse of Power

Principle 19

States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or **compensation**, and **necessary material, medical, psychological and social assistance and support**.

Universal Declaration of Human Rights

General Assembly Resolution 217 A (III) of December 10, 1948
(1948)

Article 8

Everyone has the right to **an effective remedy** by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

UN Organs – Economic and Social Council (ECOSOC)

Guidelines for Action on Children in the Criminal Justice System

Annex to Administration of Juvenile Justice

Economic and Social Council resolution 1997/30

July 21, 1997
(1997)

III. Plans concerned with Child victims and Witnesses

Guideline 43

In accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, States should undertake to ensure that child victims and witnesses are provided with appropriate access to justice and fair treatment, **restitution, compensation and social assistance**. If applicable, measures should be taken to prevent the settling of penal matters through **compensation** outside the justice system, when doing so is not in the best interests of the child.

Guideline 45

Child victims should be treated with compassion and respect for their dignity. They are entitled to **access to the mechanisms of justice and to prompt redress**, as provided for by national legislation, for the harm they have suffered.

46. Child victims should have access to assistance that meets their needs, such as advocacy, protection, economic assistance, counselling, health and social services, **social reintegration**

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and physical and psychological recovery services. Special assistance should be given to those children who are disabled or ill. Emphasis should be placed upon family- **and community-based rehabilitation** rather than institutionalization.

Guideline 47

Judicial and administrative mechanisms should be established and strengthened where necessary to enable child victims to obtain **redress through formal or informal procedures that are prompt, fair and accessible.** Child victims and/or their legal representatives should be informed accordingly.

Guideline 48

Access should be allowed to **fair and adequate compensation for all child victims** of violations of human rights, specifically torture and other cruel, inhuman or degrading treatment or punishment, including rape and sexual abuse, unlawful or arbitrary deprivation of liberty, unjustifiable detention and miscarriage of justice. Necessary legal representation to bring an action within an appropriate court or tribunal, as well as interpretation into the native language of the child, if necessary, should be available.

52. Children displaced illegally or wrongfully retained across borders are as a general principle to be returned to the country of origin. Due attention should be paid to their safety, and they should be treated humanely and receive necessary assistance, pending their return. They should be returned promptly to ensure compliance with the Convention on the Rights of the Child. Where the Hague Convention on the Civil Aspects of International Child Abduction of 1980 14/ or the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993, approved by the Hague Conference on Private International Law, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of the Child are applicable, the provisions of these conventions with regard to the return of the child should be promptly applied. Upon the return of the child, the country of origin should treat the child with respect, in accordance with international principles of human rights, **and offer adequate family-based rehabilitation measures.**

UN Organs – Secretariat

United Nations Office on Drugs and Crime (UNODC)

Congress on Crime Prevention and Criminal Justice

Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century

Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Vienna, April 10-17, 2000,

U.N. Doc. A/CONF.187/4/Rev.3 welcomed by General Assembly resolution 55/59 of January 17, 2001

(2000)

27. We decide to introduce, where appropriate, national, regional and international action plans in support of victims of crime, such as mechanisms for mediation and restorative justice, and we establish 2002 as a target date for States to review their relevant practices, to develop further victim support services and awareness campaigns on the rights of victims and to consider the **establishment of funds for victims**, in addition to developing and implementing witness protection policies.

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Resolutions adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Cairo, April 29 - May 8, 1995
U.N. Doc. A/CONF.169/16
May 12, 1995
(1995)

7.Children as victims and perpetrators of crime and the United Nations criminal justice programme: from standard setting towards implementation and action

12. *Recommends* that States ensure that all structures, procedures and programmes in the administration of justice with regard to child offenders should promote assistance to allow children to take responsibility for their actions and to encourage, *inter alia*, **reparation, mediation and restitution, especially for the direct victims of the crime;**

20. Further urges States to ensure that children subjected to violence have access to assistance that meets their needs, such as, *inter alia*, access to support services, including legal assistance, to economic assistance, to counseling and to health and social services in order to promote their safety and **physical and psychological recovery and social reintegration.**

UN Organs – Secretariat

**United Nations Office on Drugs and Crime (UNODC)
Commission in Crime Prevention and Criminal Justice**

United Nations standards and norms in crime prevention and criminal justice*

Draft resolutions for adoption by the Economic and Social Council
Report on the Seventh Session of the Commission on Crime Prevention and Criminal Justice, Economic and Social Council
(E/CN.15/1998/11) of April 21-30, 1998
(1998)

III Victims of crime and abuse of power

ANNEX Plan of action for the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

II. Information-gathering, information exchange and research

8. Member States and intergovernmental and non-governmental organizations are invited to promote the evaluation of the efficacy of different forms of providing assistance to victims, the evaluation of the extent to which the criminal justice process takes into consideration the legitimate needs and concerns of victims and the evaluation of different forms of **ensuring compensation and restitution to victims.**

UN Specialized Agency – International Labour Organisation

R190 Worst forms of Child Labour Recommendation

of June 17, 1999
(1999)

2. The programmes of action referred to in Article 6 of the Convention [C182 Worst Forms of Child Labour Convention - Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour] should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such programmes should aim at, *inter alia*:

(b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and **providing for their rehabilitation and social integration** through measures which address their educational, physical and psychological needs.

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	Regional Instruments
	European Instruments
	European Union – European Parliament
European Parliament Resolution on Child Trafficking in Africa (B5-0359, 0365, 0372, 0379 and 0389/2001) of May 17, 2001 (2001)	6. Calls on the Council to help countries involved in child trafficking fight against this phenomenon and assist with the organisation of rehabilitation programmes for rescued or escaped child slaves.
Sexual Abuse of Children Resolution on the Commission: Communication On Combating Child Sex Tourism (COM(96)0547 - C4-0012/97) and the Aide-Memoire on the European Union's Contribution to Reinforcing the Prevention of the Sexual Abuse and Exploitation of Children (C4-0556/96) Of November 6, 1997 (1997)	21. Observes that, in some third countries, the phenomenon of child prostitution is directly linked to poverty and therefore calls on the Community, as part of its policy to support development, and in cooperation with the authorities of the countries concerned, to make a contribution to the emergence of a healthier alternative form of tourism and sponsor actions for the protection and rehabilitation of the victims of child prostitution. 22. Calls on the Member States to ensure that the range of preventive measures to be deployed against the perpetrators of any crimes involving child prostitution and child pornography includes major financial penalties, such as confiscation of the proceeds of criminal activities and the use thereof to support child protection organizations or to care for victims. 33. Calls on the Member States to provide special protection for children who have been subject to sexual abuse by: <ul style="list-style-type: none"> – setting up structures to provide care and counselling, and preventive structures, – ensuring that children's rights and interests are upheld (confidentiality, privacy), – the implementation of programmes in the field of professional training and social rehabilitation, – protection of the family as the most suitable environment for developing the basic abilities of minors.
	Council of Europe – Committee of Ministers
On the Protection of Children against Sexual Exploitation Recommendation No. R (2001) 16 of October 31, 2001 (2001)	14. Develop and financially support a multi-agency and multi-disciplinary approach to the prevention and identification of sexual exploitation of children and to provide psychological, legal, social or any other form of appropriate support or treatment to the victims, paying particular attention to high-risk groups 35. Establish a scheme to fully repair any damage suffered by children victims of sexual exploitation and provide mechanisms to assist them to come to terms with their experiences.
Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation Recommendation No. R (2000) 11 of May 19, 2000 (2000)	3. Give absolute priority to assisting the victims of trafficking through <u>rehabilitation</u> programmes, where applicable, and to protecting them from traffickers. 26. Encourage the establishment or development of reception centres or other facilities where the victims of human trafficking can benefit from information on their rights, as well as psychological, medical, social and administrative support with a view to their reintegration into their country of origin or the host country. 33. Enable the relevant courts to order offenders to pay compensation to victims. 37. Promote co-operation between reception facilities and NGOs in countries of origin to

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	assist the return and reintegration of victims.
On the Medico-Social Aspects of Child Abuse Recommendation No. R (93) 2 March 22, 1993 (1993)	<p>3. Investigation and Assessment</p> <p>3.1 Establish at the appropriate level services available 24 hours a day, with powers and resources to provide within an appropriate time-scale for:</p> <p>(b) psychosocial assessment of the needs of children and their families for practical assistance and support, therapy, legal measures of protection, etc;</p> <p>(c) medical assessment, psychosomatic and physical of the child as required according to the nature of the concerns and the type of abuse;</p> <p>4.1 Following investigation and assessment, to base all help, intervention and treatment for abused children upon a written plan designed to meet the needs of the child and her/his family, including any siblings, in the short, medium or long term.</p> <p>The plan may include, inter alia, the provision of financial and material aid, services such as day care, respite care or rehousing, therapy, counselling or support for the child and for her/his family. The need for services for children and their families should be assessed whether the child is maintained at home or whether separation is deemed to be necessary.</p> <p>4.2 Appoint a key worker for each case to consult with and co-ordinate all services or institutions involved with the child and the family and to ensure the implementation of the plan for the welfare and protection of the child and her/his family.</p> <p>4.4 Establish procedures at the appropriate level for the periodic review and follow-up of cases of abuse to monitor the implementation of the plans for the welfare and protection of the children and of their families. Central to such procedures is the involvement of a person (who may be the key worker or an independent advocate) whose role is to represent the child's interests and to act as advocate or guardian of the child's welfare, having regard to the child's needs, wishes and feelings.</p> <p>4.6 Implement measures in respect of those who abuse children, whether through criminal prosecutions, therapy or a combination of treatment programmes with legal sanctions. Responses to abusers will be affected by consideration of, inter alia, the needs of the children concerned, the nature of the abuse, assessment of the abusers, their reactions and attitude to the abuse, the opportunities and prospects for treatment and rehabilitation as well as the requirements of the criminal justice system.</p>
Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in Children and Young Adults Recommendation No. R (91) 11 of September 9, 1991 (1991)	<p>A. General measures</p> <p>c. Prevention, detection, assistance</p> <p>11. support public and private initiatives at local level to set up helplines and centres with a view to providing medical, psychological, social or legal assistance to children and young adults who are at risk or who have been victims of sexual exploitation.</p> <p>d. Criminal law and criminal procedure</p> <p>15. provide under an appropriate scheme for compensation of children and young adults who have been victims of sexual exploitation.</p> <p>C. Measures relating to prostitution of children and young adults</p> <p>6. give priority to vocational training and reintegration programmes involving children and young adults who are occasionally or habitually prostituting themselves;</p>
On Social Measures Concerning Violence within the Family Recommendation No. R (90) January 15, 1990 (1990)	<p>9. Practical services that should be available for all members of the family include, apart from social welfare services in general:</p> <ul style="list-style-type: none"> - telephone lines (for emergency calls and for counselling), - crisis services where possible with a 24-hour service, - counselling centres. <p>Steps should be taken to co-ordinate these various services.</p>

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	<p>10. The therapy adopted for the treatment of victims of violence, especially sexual abuse, whether individual therapy or therapy for the family as a whole, should be adapted to each case.</p> <p>11. Self-help groups for victims, and self-help groups for perpetrators, should both be widely encouraged and supported.</p> <p>12. A combination of professional individual therapy and self-help groups should be used wherever possible, since experience shows such a combination to be effective.</p>
<p>On the Position of the Victim in the Framework of Criminal Law and Procedure</p> <p>Recommendation No. R (85) 11</p> <p>June 28, 1985</p> <p>(1985)</p>	<p>I. Recommends the governments of member states to review their legislation and practice in accordance with the following guidelines:</p> <p>A. At Police Level</p> <p>4. In any report to the prosecuting authorities, the police should give as clear and complete a statement as possible of the injuries and losses suffered by the victim;</p> <p>B. In respect of Prosecution</p> <p>5. A discretionary decision whether to prosecute the offender should not be taken without due consideration of the question of compensation of the victim, including any serious effort made to that end by the offender;</p> <p>D. Court Proceedings</p> <p>9. The victim should be informed of:</p> <p>(b) his opportunities of obtaining restitution and compensation within the criminal justice process, legal assistance and advice;</p> <p>10. It should be possible for a criminal court to order compensation by the offender to the victim. To that end, existing limitations, restrictions or technical impediments which prevent such a possibility from being generally realised should be abolished;</p> <p>11. Legislation should provide that compensation may either be a penal sanction, or a substitute for a penal sanction or be awarded in addition to a penal sanction;</p> <p>12. All relevant information concerning the injuries and losses suffered by the victim should be made available to the court in order that it may, when deciding upon the form and the quantum of the sentence, take into account:</p> <p>(a) the victim's need for compensation;</p> <p>(b) any compensation or restitution made by the offender or any genuine effort to that end;</p> <p>13. In cases where the possibilities open to a court include attaching financial conditions to the award of a deferred or suspended sentence, of a probation order or of any other measure, great importance should be given-among these conditions-to compensation by the offender to the victim.</p> <p>E. At Enforcement Stage</p> <p>14. If compensation is a penal sanction, it should be collected in the same way as fines and take priority over any other financial sanction imposed on the offender. In all other cases, the victim should be assisted in the collection of the money as much as possible.</p>

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	Council of Europe – Parliamentary Assembly
Campaign against Trafficking in Women Recommendation 1545 (2002) January 21, 2002 (2002)	<p>10. The Assembly therefore urges the governments of member states:</p> <p>(vi) to create a legislative framework for voluntary organisations which defend victims of trafficking allowing them to take legal action against traffickers, either in conjunction with the victims or on their behalf, with the aim of obtaining damages;</p> <p>(viii) to take the following steps regarding the prevention of trafficking in women:</p> <p>(a) establish bilateral agreements between destination countries and the countries of origin of victims which should cover legal and police co-operation and humanitarian aspects of this problem, including information and prevention campaigns, and training and assistance programmes for the rehabilitation of victims</p> <p>(ix) to adopt the following measures regarding victims of trafficking:</p> <p>(d) introduce a right to compensation, insertion and rehabilitation for victims and set up a support body to help their voluntary return to their countries of origin or allow them to stay in the host countries, if they so wish.</p> <p>11. The Assembly recommends that the Committee of Ministers:</p> <p>(ii) elaborate a European convention on trafficking in women, open to non-member states, based on the definition of trafficking in women included in Committee of Ministers Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation. This convention should:</p> <p>(a) focus on assistance to and the protection of victims of trafficking, by obliging the states parties to grant legal, medical and psychological assistance to such victims, by ensuring their physical safety and that of their families, and by granting special residence permits to victims on humanitarian grounds, and permanent residence permits to those willing to testify in court and in need of witness protection.</p>
Domestic Slavery Recommendation 1523 (2001) of June 26, 2001 (2001)	<p>10. It accordingly recommends that the Committee of Ministers ask the governments of member states to:</p> <p>(vi) protect the rights of victims of domestic slavery by:</p> <p>(c) taking steps for their rehabilitation and their reintegration, including the creation of centres to assist, among others, victims of domestic slavery</p> <p>(f) establishing compensation funds for the victims of slavery.</p>
Abuse and Neglect of Children Recommendation 1371 (1998) of April 23, 1998 (1998)	<p>13. The Assembly therefore recommends that the Committee of Ministers ask the member states of the Council of Europe:</p> <p>(c) to combat child prostitution</p> <p>(iii) by running training programmes for the social services, the police and the courts so that they can provide assistance and physical, psychological and occupational rehabilitation of the young victim.</p>
On Traffic in Women and Forced Prostitution in Council of Europe Member States Recommendation 1325 (1997) of April 23, 1997 (1997)	<p>6. The Assembly further recommends that the Committee of Ministers urges member states to:</p> <p>(vi) organise legal, medical and psychological assistance for victims of traffic and forced prostitution, especially those willing to testify in court;</p> <p>(ix) help the women who are victims of traffic to reintegrate into the society of their country of origin upon their return;</p> <p>(xii) support the setting up of reception centres and increased temporary accommodation for victims, and grant victims the minimum rate of social assistance and access to health care during their stay.</p>

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On the Sexual Exploitation of Children

Resolution 1099 (1996) of
September 25, 1996
(1996)

11. The Assembly recalls the need, stated in its Recommendations 1121 (1990) and 1286 (1996), to develop information programmes and preventive measures, and in particular:

ii. to promote information campaigns for children and their parents, and also provide educational and **psychological care for children who are victims of sexual exploitation**.

On a European Strategy for Children

Recommendation 1286 (1996) of
January 24, 1996
(1996)

8. The Committee of Ministers should strongly urge these states:

(v) to inform children about the means and **remedies available** to them in the event of violation of their fundamental rights and, for example, to extend the provision of free help-lines, specialist advocates and child friendly judicial and administrative systems which recognise the claims of individual children for protection against all forms of abuse.



10.

The right to
special
preventive
measures

Right to special preventive measures

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Convention on the Rights of the Child General Assembly resolution 44/25 of November 20, 1989 Entry into force September 2, 1990 (1989/1990)	Article 34 States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: (a) The inducement or coercion of a child to engage in any unlawful sexual activity; (b) The exploitive use of children in prostitution or other unlawful sexual practices; (c) The exploitive use of children in pornographic performances and materials Article 35 States parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, sale of or traffic in children for any purpose or in any form.
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography General Assembly resolution 54/263 May 25, 2000 Entry into force January 18, 2002 (2000/2002)	Article 8 States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by: (a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses; (f) Providing, in appropriate cases, for the safety of child victims as well as that of their families and witnesses on their behalf, from intimidation and retaliation. Article 9 1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such offences. 2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment General Assembly resolution 39/36 of December 10, 1984 Entry into force June 26, 1987 (1984-1987)	Article 13 Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill treatment or intimidation as a consequence of his complaint or any evidence given.

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International Covenant on Economic, Social and Cultural Rights

General Assembly resolution 2200A (XXI) of December 16, 1966
Entry into force on January 3, 1976
(1966/1967)

Article 10

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation.

United Nations Convention against Transnational Organized Crime

General Assembly resolution 55/25 of November 15, 2000
Entry into force September 29, 2003
(2000-2003)

Article 25

Assistance to and protection of victims

1. Each State Party shall take **appropriate measures** within its means to provide assistance and **protection to victims of offences covered by this Convention**, in particular in cases of threat of retaliation or intimidation.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

Supplementing the United Nations Convention Against Transnational Organized Crime

General Assembly resolution 55/25 November 15, 2000
Entry into force December 25, 2003
(2003)

Preamble

The States Parties to this Protocol

Declaring that effective action to prevent and combat trafficking in persons especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers **and to protect the victims of such trafficking**, including by protecting their internationally recognize human rights.

III. Prevention, cooperation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:

b) To protect victims of trafficking in persons, especially women and children, from revictimization.

Article 10

Information exchange and training

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including **protecting the victims from the traffickers**. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

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	Regional Instruments
	Inter-American Instruments
	Organisation of American States (OAS)
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belem do Para" of June 9, 1994 Entry into force March 5, 1995 (1994/1995)	Article 7 The States Parties condemn all forms of violence against women and agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake to: d) adopt legal measures to require the perpetrator to refrain from harassing intimidating or threatening the woman or using any method that harms or endangers her life or integrity, or damages her property;
	Fifth Inter-American Specialized Conference on Private International Law
Inter-American Convention on "International Traffic of Minors" Adopted March 18, 1994 Entry into force August 15, 1997 (1994-1997)	Article 16 Having confirmed that a victim of traffic in minors is present within their jurisdiction, the competent authorities of a State Party shall take such immediate measures as may be necessary for the minor's protection, including those of a preventive nature to ensure that the minor is not improperly removed to another State. The Central Authorities shall inform the competent authorities of the State of the minor's previous habitual residence of all such measures. The intervening authorities shall take such steps as may be necessary to keep the persons or authorities seeking the minor's location and return duly informed of the measures adopted.
NON-BINDING INSTRUMENTS	
	International Instruments
	UN Instruments
	UN Organs – General Assembly
Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice Annex to resolution: <i>Crime Prevention and Criminal Justice measures to eliminate violence against Women</i> General Assembly resolution 52/86 of December 12, 1997	II. CRIMINAL PROCEDURE 7. Member States are urged to review, evaluate and revise their criminal procedure, as appropriate, in order to ensure that: (g) The courts have, subject to the national constitution of their State, the authority to issue protection and restraining orders in cases of violence against women, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties, inside and outside of the domicile, and to impose penalties for breaches of these orders.; (h) Measures can be taken when necessary to ensure the safety of the victims and their families and to protect them from intimidation and retaliation;

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(1997)	<p>IV. SENTENCING AND CORRECTION</p> <p>9. Member States are urged, as appropriate:</p> <p>(b) To ensure that a woman subjected to violence is notified of any release of the offender from detention or imprisonment where the safety of the victim in such disclosure outweighs invasion of the offender's privacy</p> <p>(d) To make available to the courts through legislation a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence.</p>
<p>Basic Principles of Justice for Victims of Crime and Abuse of Power</p> <p>General Assembly resolution 40/34 November 29, 1985 (1985)</p>	<p>A. Victims of Crime</p> <p>Access to justice and fair treatment</p> <p>Principle 6</p> <p>The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:</p> <p>(c) Providing proper assistance to victims throughout the legal process;</p> <p>Assistance</p> <p>Principle 14</p> <p>Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.</p> <p>Principle 15</p> <p>Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.</p> <p>Principle 17</p> <p>In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.</p> <p>B. Victims of Abuse of Power</p> <p>Principle 19</p> <p>States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.</p>
<p>Domestic Violence</p> <p>General Assembly resolution 40/36 November 29, 1985 (1985)</p>	<p>7. Invites Member States to adopt specific measures with a view to making the criminal and civil justice system more sensitive in its response to domestic violence, including the following:</p> <p>(e) To deliver appropriate, specialized assistance to victims of domestic violence, as an integral part of social policy;</p> <p>(g) To provide specialized training and units for those who deal in some capacity with victims of domestic violence.</p> <p>(j) To ensure that social welfare and health administration systems are more intensely engaged in providing assistance to victims of familial violence and abuses, and to make all efforts to co-ordinate social welfare and criminal justice measures.</p>

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	UN Organs – Economic and Social Council (ECOSOC)
<p>Guidelines for Action on Children in the Criminal Justice System</p> <p>Annex to Administration of Juvenile Justice</p> <p>Economic and Social Council resolution 1997/30</p> <p>July 21, 1997</p> <p>(1997)</p>	<p>II. Plans for the implementation of the Convention on the Rights of the Child, the pursuit of its goals and the use and application of international standards and norms in juvenile justice</p> <p>B. Specific targets</p> <p>Guideline 16</p> <p>Priority should be given to setting up agencies and programmes to provide legal and other assistance to children, if needed free of charge, such as interpretation services, and, in particular, to ensure that the right of every child to have access to such assistance from the moment that the child is detained is respected in practice.</p> <p>III. Plans concerned with Child victims and Witnesses</p> <p>Guideline 46</p> <p>Child victims should have access to assistance that meets their needs, such as advocacy, protection, economic assistance, counselling, health and social services, social reintegration and physical and psychological recovery services. Special assistance should be given to those children who are disabled or ill. Emphasis should be placed upon family and community-based rehabilitation rather than institutionalization.</p> <p>Guideline 49</p> <p>Child witnesses need assistance in the judicial and administrative processes. States should review, evaluate and improve, as necessary, the situation for children as witnesses of crime in their evidential and procedural law to ensure that their rights are fully protected. In accordance with the different law traditions, practices and legal framework, direct contact should be avoided between the child victim and the offender during the process of investigation and prosecution as well as during trial hearings as much as possible. The identification of the child victim in the media should be prohibited, where necessary to protect the privacy of the child. Where prohibition is contrary to the fundamental legal principles of Member States, such identification should be discouraged.</p> <p>Guideline 51</p> <p>The responsiveness of judicial and administrative processes to the needs of child victims and witnesses should be facilitated by:</p> <p>(b) Encouraging the development of child witness preparation schemes to familiarize children with the criminal justice process prior to giving evidence. Appropriate assistance should be provided to child victims and witnesses throughout the legal process;</p> <p>Guideline 52</p> <p>Children displaced illegally or wrongfully retained across borders are as a general principle to be returned to the country of origin. Due attention should be paid to their safety, and they should be treated humanely and receive necessary assistance, pending their return. They should be returned promptly to ensure compliance with the Convention on the Rights of the Child. Where the Hague Convention on the Civil Aspects of International Child Abduction of 1980 or the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993, approved by the Hague Conference on Private International Law, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental</p>

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	<p>Responsibility and Measures for the Protection of the Child are applicable, the provisions of these conventions with regard to the return of the child should be promptly applied. Upon the return of the child, the country of origin should treat the children with respect, in accordance with international principles of human rights, and offer adequate family-based rehabilitation measures.</p>
	<p>UN Organs – Secretariat</p> <p>United Nations Office on Drugs and Crime (UNODC)</p> <p>Congress on Crime Prevention and Criminal Justice</p>
<p>Resolutions adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders</p> <p>Cairo, April 29 - May 8, 1995</p> <p>U.N. Doc. A/CONF.169/16</p> <p>May 12, 1995</p> <p>(1995)</p>	<p>I. Resolutions adopted by the Congress</p> <p>7.Children as victims and perpetrators of crime and the United Nations criminal justice programme: from standard setting towards implementation and action</p> <p>19. Further urges States, in order to eliminate all forms of violence against children, to adopt, in the absence of existing laws, initiatives including:</p> <p>(c) Measures to facilitate the in-court proceedings of child victims of violence and provisions for assistance services for child witnesses and victims;</p> <p>20. Further urges States to ensure that children subjected to violence have access to assistance that meets their needs, such as, <i>inter alia</i>, access to support services, including legal assistance, to economic assistance, to counselling and to health and social services in order to promote their safety and physical and psychological recovery and social reintegration.</p>
	<p>UN Organs – Secretariat</p> <p>United Nations Office on Drugs and Crime (UNODC)</p> <p>Commission on Crime prevention and Criminal Justice</p>
<p>Basic principles on the use of Restorative Justice Programmes in Criminal Matters</p> <p>Draft resolutions for the adoption by the Economic and social Council</p> <p>Eleventh Session of the Commission on Crime Prevention and Criminal Justice</p> <p>April 16-25, 2002</p> <p>E/CN.15/2002/14 welcomed by Economic and Social Council resolution 2002/30</p> <p>July 24, 2002</p> <p>(2002)</p>	<p>13. Fundamental procedural safeguards should be applied to restorative justice programmes and in particular to restorative processes:</p> <p>(a) The parties should have the right to legal advice before and after the restorative process and, where necessary, to translation and/or interpretation. Minors should, in addition, have the right to parental assistance.</p>

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United Nations standards and norms in crime prevention and criminal justice

Draft resolution VI for the adoption by the ECOSOC

Report on the Seventh Session of the Commission on Crime Prevention and Criminal Justice

Economic and Social Council (E/1998/30 E/CN.15/1998/11)

April 21-30, 1998
(1998)

III VICTIMS OF CRIME AND ABUSE OF POWER

ANNEX

Plan of action for the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

II. Information-Gathering, Information Exchange and Research

8. Member States and intergovernmental and non-governmental organizations are invited to promote the evaluation of the efficacy of different forms of **providing assistance to victims**, the evaluation of the extent to which the criminal justice process takes into consideration the legitimate needs and concerns of victims and the evaluation of different forms of ensuring compensation and restitution to victims.

Regional Instruments

European Instruments

European Union - European Parliament

Combating the sexual exploitation of children and child pornography

Council framework Decision 2004/68/JHA

22 December 2003

Official Journal L 013, 20/01/2004

P. 0044 - 0048

Article 9

Protection of and assistance to victims

1. Member States shall establish that investigations into or prosecution of offences covered by this framework Decision shall not be dependent on the report or accusation made by a person subjected to the offence, at least in cases where Article 8(1)(a) applies.

2. Victims of an offence referred to in Article 2 should be considered as particularly vulnerable victims pursuant to Article 2(2), Article 8(4) and Article 14(1) of Council framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings (15).

3. Each Member State shall take all measures possible to ensure appropriate assistance for the victim's family. In particular, each Member State shall, where appropriate and possible, apply Article 4 of that framework Decision to the family referred therein.

Sexual Abuse of Children

Resolution on the Commission: Communication On Combating Child Sex Tourism (COM(96)0547 - C4-0012/97)

and the Aide-Memoire on the European Union's Contribution to Reinforcing the Prevention of the Sexual Abuse and Exploitation of Children (C4-0556/96)

Of November 6, 1997
(1997)

7. Calls on those Member States which have not already done so to provide financial support for the **setting up of a free round-the-clock telephone help-line to enable children throughout the Union to obtain immediate help and information**, and to provide the necessary assistance to publicize it.

9. Calls on the Member States to modify their rules of criminal procedure so as to make it easier for children to give evidence to courts without fear, e.g. by making it possible for children not to testify in public, permitting videos of their testimony to be used as evidence instead, **and by having psychologists or specially trained officials in attendance whenever children are questioned**;

33. Calls on the Member States to provide special protection for children who have been subject to sexual abuse by:

- setting up structures to provide **care and counselling**, and preventive structures,
- ensuring that children's rights and interests are upheld (confidentiality, privacy),

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	<ul style="list-style-type: none"> – the implementation of programmes in the field of professional training and social rehabilitation, – protection of the family as the most suitable environment for developing the basic abilities of minors;
	European Union - Council of the European Union
Resolution on the Contribution of Civil Society in Finding Missing or Sexually Exploited Children (2001/C 283/01), Official Journal C 283, 09/10/2001 P. 0001 – 0002 (2001)	<p>2. Member States are invited to encourage cooperation between the competent authorities and civil society, in particular civil society organisations, in finding missing or sexually exploited children. This cooperation does not affect the responsibility of the competent authorities for investigations and prosecutions.</p> <p>Where appropriate such cooperation might take the following forms:</p> <p>2.1. examining the possibility, account being taken of the means already existing at internal level, of providing civil society organisations with an emergency telephone line, or encouraging arrangements whereby such organisations would provide a line of this nature.</p> <p>This telephone line would be intended for the collection of information and evidence on missing or sexually exploited children, and would be available free of charge 24 hours a day.</p>
Resolution of the Council On the Protection of Witnesses in the Fight Against International Organized Crime (95/C 327/04), Official Journal C 327, 07.12.1995 p. 0005 – 0005 (1995)	<p>B. Calls on Member States to facilitate judicial assistance in this field, even in the absence of any such provisions in the legislation of the State to which the request is addressed, save where compliance with the request for assistance would be contrary to the general principles of that State's law. In order to facilitate the use of audiovisual methods, the following points, in particular, should be taken into consideration:</p> <p>2. If the legislation of either State allows for the witness to be assisted by an adviser during the hearing, it should be possible for such assistance to be arranged in the territory of the State in which the witness is situated.</p>
	Council of Europe – Committee of Ministers
On the Protection of Children against Sexual Exploitation Recommendation No. R (2001) 16 October 31, 2001 (2001)	<p>14. Develop and financially support a multi-agency and multi-disciplinary approach to the prevention and identification of sexual exploitation of children and to provide psychological, legal, social or any other form of appropriate support or treatment to the victims, paying particular attention to high-risk groups.</p> <p>30. Ensure that the rights and interests of children are safeguarded throughout proceedings, in particular by enabling them to be heard, to be assisted or, where relevant, to be represented, while respecting the rights of the alleged offenders.</p> <p>34. Grant victims and their families the possibility, where appropriate, to stay on the territory of the state so that they are able to fully participate in judicial proceedings, provide for measures designed to protect victims, witnesses and their families from intimidation, in particular where there are criminal networks; during this period make sure victims have access to welfare, medical and legal assistance.</p>
Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation Recommendation No. R (2000) 11	<p>26. Encourage the establishment or development of reception centres or other facilities where the victims of human trafficking can benefit from information on their rights, as well as psychological, medical, social and administrative support with a view to their reintegration into their country of origin or the host country.</p> <p>27. In particular, ensure that the victims have the opportunity, for example through the reception centres or other facilities, to benefit from legal assistance in their own language.</p> <p>34. Grant victims, if necessary, and in accordance with national legislation, a temporary</p>

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May 19, 2000 (2000)	<p>residence status in the country of destination, in order to enable them to act as witnesses during judicial proceedings against offenders; during this time, it is essential to ensure that victims have access to social and medical assistance.</p> <p>36. Encourage and support the establishment of a network of NGOs involved in assistance to victims of trafficking.</p>
On the Role of Public Prosecution in the Criminal Justice System Recommendation No. R (2000) 19 of October 6, 2000 (2000)	<p>3. In certain criminal justice systems, public prosecutors also:</p> <ul style="list-style-type: none"> – ensure that victims are effectively assisted.
Concerning Intimidation of Witnesses and the Rights of the Defence Recommendation No. R (97) 13 of September 10, 1997. Appendix to Recommendation No. R (97) 13 Concerning Intimidation of Witnesses and the Rights of the Defence (1997)	<p>IV. Measures to be taken in relation to vulnerable witnesses, especially in cases of crime within the family</p> <p>20. The specific interests of the child should be protected throughout proceedings by a social agency and, if appropriate, through specially trained lawyers.</p> <p>22. Programmes should be set up to assist witnesses in giving evidence against other members of the family. Such programmes could provide a framework for:</p> <ul style="list-style-type: none"> - legal, psychological and social assistance, and, if appropriate, care and financial assistance; <p>24. When a vulnerable witness first reports allegations to the police, there should be immediate access to professional help. Furthermore, the examination of the witness should be conducted by suitably trained staff.</p>
On the Medico-Social Aspects of Child Abuse Recommendation No. R (93) 2 of March 22, 1993 (1993)	<p>3. Investigation and Assessment</p> <p>3.1 Establish at the appropriate level services available 24 hours a day, with powers and resources to provide within an appropriate time-scale for:</p> <ul style="list-style-type: none"> (b) psychosocial assessment of the needs of children and their families for practical assistance and support, therapy, legal measures of protection, etc; (d) emergency or long-term legal measures for the protection of the child if required;
Concerning Sexual Exploitation, Pornography and prostitution of and trafficking in Children and Young Adults Recommendation No. R (91) 11 adopted by the Committee of Ministers on 9 September 1991 at the 461st meeting of the Ministers' Deputies (1991)	<p>A. General Measures</p> <p>c. Prevention, detection, assistance</p> <p>10. Promote and further the creation and operation of specialised public and private services for the protection of children and young adults at risk in order to prevent and detect all forms of sexual exploitation;</p> <p>11. Support public and private initiatives at local level to set up helplines and centres with a view to providing medical, psychological, social or legal assistance to children and young adults who are at risk or who have been victims of sexual exploitation;</p> <p>C. Measures relating to the prostitution of children and young adults</p> <p>2. Encourage and support the setting up of mobile welfare units for the surveillance of, or establishment of contact with, children at risk, particularly street children, in order to assist them to return to their families, if possible, and, if necessary, direct them to the appropriate agencies for health care, training or education;</p> <p>D. Measures relating to the trafficking in children and young adults</p> <p>3. Set up facilities and support those existing, in order to protect and assist the victims of traffic in children and young adults</p>

Right to special preventive measures

On Social Measures Concerning Violence within the Family

Recommendation No. R (90)2.
adopted by the Committee of
Ministers on 15 January 1990
(1990)

Appendix to Recommendation N° R (90)2

Section B : Specific measures

III. Reporting violence

7. Whenever the social services are not informed, for example because of professional secrecy, this should not suppress the need to assist individuals in danger.

IV. Help and therapy for the whole family

9. Practical services that should be available for all members of the family include, apart from social welfare services in general :

- telephone lines (for emergency calls and for counselling),

V. Measures for children

19. A wide spectrum of treatment offers should be developed :

- emotional support for child as well as parents;
- help with socio-economic stress factors;
- treatment of parent/child interaction and marital relationships;
- work with improving the family's social network.

Council of Europe – Parliamentary Assembly

Campaign against Trafficking in Women

Recommendation 1545 (2002)
January 21, 2002
(2002)

10. The Assembly therefore urges the governments of member states:

(viii) to take the following steps regarding the prevention of trafficking in women:

(a) establish bilateral agreements between destination countries and the countries of origin of victims which should cover legal and police co-operation and humanitarian aspects of this problem, including information and prevention campaigns, and training and **assistance programmes** for the rehabilitation of victims;

(ix) to adopt the following measures regarding victims of trafficking:

(f) increase the state financing of the social services **specialised in assistance** to the victims of trafficking and prostitution;

(x) to introduce effective punishment of traffickers by:

(e) providing **legal assistance to victims** of trafficking and considering the introduction of special rules in civil proceedings engaged by victims against their traffickers, such as lightening the burden of proof with regard to the use of force.

11. The Assembly recommends that the Committee of Ministers:

(ii) elaborate a European convention on trafficking in women, open to non-member states, based on the definition of trafficking in women included in Committee of Ministers Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation. This convention should:

(a) **focus on assistance** to and the protection of victims of trafficking, by obliging the states parties to grant **legal, medical and psychological assistance** to such victims, by ensuring their physical safety and that of their families, and by granting special residence permits to victims on humanitarian grounds, and permanent residence permits to those willing to testify in court and in need of witness protection;

Right to special preventive measures

On Traffic in Women and Forced Prostitution in Council of Europe Member States

Recommendation 1325 (1997) of April 23, 1997
(1997)

Paragraph 6

The Assembly further recommends that the Committee of Ministers urges member states to:

- (vi) organise **legal, medical and psychological assistance for victims** of traffic and forced prostitution, especially those willing to testify in court;
- (xi) make free telephone **help-lines for women victims widely available.**
- (xii) support the setting up of **reception centres and increased temporary accommodation for victims, and grant victims the minimum rate of social assistance and access to health care during their stay.**

Domestic Slavery

Recommendation 1523 (2001) of June 26, 2001
(2001)

10. It accordingly recommends that the Committee of Ministers ask the governments of member states to:

- (vi) protect the rights of victims of domestic slavery by:
 - (b) taking steps to provide them with protection and with **social, administrative and legal assistance.**

Abuse and Neglect of Children

Recommendation 1371 (1998) of April 23, 1998
(1998)

13. The Assembly therefore recommends that the Committee of Ministers ask the member states of the Council of Europe:

- (c) to combat child prostitution
 - (iii) by running training programmes for the social services, the police and the courts so that they **can provide assistance** and physical, psychological and occupational rehabilitation of the young victim;

On the Rights of the Child

Recommendation 1121 (1990) of February 1, 1990
(1990)

2. Considering that children, that is human beings who have not attained their majority, are in **need of special assistance**, care and protection, and considering that the parents' primary responsibility needs to be reasserted and cannot be called into question.

On Family Policy

Recommendation 1074 (1988) of May 3, 1988
(1988)

17. Recommends that the Committee of Ministers invite the governments of the member states to base their preparation of family policy on the following proposals :

A. Legislation

- v. To revise criminal and civil legislation concerning violence in the family, and to **encourage psychological and other measures of assistance to the victims** and perpetrators of violence, without prejudice to the legal procedures concerning the latter.



Implementation

Training

IMPLEMENTATION - Training

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
<p>Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography</p> <p>General Assembly resolution 54/263 of May 25, 2000</p> <p>Entry into force January 18, 2002 (2000/2002)</p>	<p>Article 8</p> <p>4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.</p> <p>Article 9</p> <p>2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.</p>
<p>United Nations Convention Against Transnational Organized Crime</p> <p>General Assembly resolution 55/25 of November 15, 2000</p> <p>Entry into force September 29, 2003 (2000-2003)</p>	<p>Article 29</p> <p>Training and technical assistance</p> <p>1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of the offences covered by this Convention. Such programmes may include secondments and exchanges of staff. Such programmes shall deal, in particular and to the extent permitted by domestic law, with the following:</p> <p>(i) Methods used in the protection of victims and witnesses.</p> <p>2. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 1 of this article and to that end shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.</p> <p>Article 30</p> <p>Other measures: implementation of the Convention through economic development and technical assistance</p> <p>2. States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organizations:</p> <p>(d) To encourage and persuade other States and financial institutions as appropriate to join them in efforts in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention.</p>

IMPLEMENTATION - Training

<p>Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children</p> <p>Supplementing the United Nations Convention Against Transnational Organized Crime</p> <p>General Assembly resolution 55/25, of November 15, 2000</p> <p>Entry into force December 25, 2003 (2003)</p>	<p>Article 10</p> <p>Information exchange and training</p> <p>1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law</p> <p>2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.</p>
<p>Rules of Procedures and Evidence of the International Criminal Court</p> <p>Adopted by the assembly of states, first session New York,</p> <p>September 3-10 2002</p> <p>ICC-ASP/1/3</p> <p>Entry into force: 2002 (2002)</p>	<p>Rule 17</p> <p>Function of the Unit</p> <p>2.The Victims and Witnesses Unit shall, <i>inter alia</i>, perform the following functions, in accordance with the Statute and the Rules, and in consultation with the Chamber, the Prosecutor and the defence, as appropriate:</p> <p>(iv) Making available to the Court and the parties training in issues of trauma, sexual violence, security and confidentiality;</p> <p>Rule 18</p> <p>Responsibilities of the Unit</p> <p>For the efficient and effective performance of its work, the Victims and Witnesses Unit shall:</p> <p>(d) Ensure training of its staff with respect to victims' and witnesses' security, integrity and dignity, including matters related to gender and cultural sensitivity.</p>
	<p>Regional Instruments</p>
	<p>African Instruments</p>
	<p>African Union</p>
<p>African [Banjul] Charter on Human and Peoples' Rights</p> <p>OAU Doc. CAB/LEG/67/3 rev. 5 of June 27, 1981</p> <p>Entry into force October 21, 1986 (1982/1986)</p>	<p>Article 25</p> <p>States parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.</p>

IMPLEMENTATION - Training

	Inter-American Instruments
	Organisation of American States (OAS)
Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belem do Para" of June 9, 1994 Entry into force March 5, 1995 (1994/1995)	Article 8 The States Parties agree to undertake progressively specific measures, including programs: <ul style="list-style-type: none"> - to promote the education and training of all those involved in the administration of justice, police and other law enforcement officers as well as other personnel responsible for implementing policies for the prevention, punishment and eradication of violence against women.
NON-BINDING INSTRUMENTS	
	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Human Rights in the Administration of Justice General Assembly resolution 56/161 of February 20, 2002 (2002)	3. Invites Governments to provide training, including gender-sensitive training, in human rights in the administration of justice, including juvenile justice, to all judges, lawyers, prosecutors, social workers, immigration and police officers, and other professionals concerned, including personnel deployed in international field presences.
The Rights of the Child General Assembly resolution 55/79 of February 22, 2001 (2001)	13. Reaffirms the importance of ensuring adequate and systematic training in the rights of the child for professional groups working with and for children, including specialized judges, law enforcement officials, lawyers, social workers, medical doctors, health professionals and teachers, and of coordination among various governmental bodies involved in children's rights, and encourages States and relevant bodies and organizations of the United Nations system to continue to promote education and training in this regard.
Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice Annex to resolution: <i>Crime Prevention and Criminal Justice measures to eliminate violence against Women</i> General Assembly resolution 52/86 of December 12, 1997	11. Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate: (f) To establish, where possible, specialized units with persons from relevant disciplines especially trained to deal with the complexities and victim sensitivities involved in cases of violence against women. 12. Member States, in cooperation with non-governmental organizations, including organizations seeking women's equality, and in collaboration with relevant professional associations, are urged, as appropriate: (a) To provide for or encourage mandatory cross-cultural and gender-sensitivity training modules for police, criminal justice officials, practitioners and professionals involved in the criminal justice system that deal with the unacceptability

IMPLEMENTATION - Training

(1997)	<p>of violence against women, its impact and consequences and that promote an adequate response to the issue of violence against women;</p> <p>(b) To ensure adequate training, sensitivity and education of police, criminal justice officials, practitioners and professionals involved in the criminal justice system regarding all relevant human rights instruments.</p>
<p>United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)</p> <p>General Assembly resolution 45/112 of December 14, 1990</p> <p>(1990)</p>	<p>58. Law enforcement and other relevant personnel, of both sexes, should be trained to respond to the special needs of young persons and should be familiar with and use, to the maximum extent possible, programmes and referral possibilities for the diversion of young persons from the justice system.</p>
<p>United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)</p> <p>General Assembly resolution 40/33 of November 29, 1985</p> <p>(1985)</p>	<p>Rule 1</p> <p>1.6 Juvenile justice services shall be systematically developed and coordinated with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes.</p> <p>Rule 6</p> <p>6.3 Those who exercise discretion shall be specially qualified or trained to exercise it judiciously and in accordance with their functions and mandates.</p> <p>Rule 22</p> <p>22.1 Professional education, in-service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.</p>
<p>Basic Principles of Justice for Victims of Crime and Abuse of Power</p> <p>General Assembly resolution 40/34 of November 29, 1985</p> <p>(1985)</p>	<p>16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.</p>
<p>Domestic Violence</p> <p>General Assembly resolution 40/36 of November 29, 1985</p> <p>(1985)</p>	<p>7. Invites Member States to adopt specific measures with a view to making the criminal and civil justice system more sensitive in its response to domestic violence, including the following:</p> <p>(g) To provide specialized training and units for those who deal in some capacity with victims of domestic violence.</p>
UN Organs – Economic and Social Council (ECOSOC)	
<p>Guidelines for Action on Children in the Criminal Justice System</p> <p>Annex to Administration of Juvenile Justice</p> <p>Economic and Social Council resolution 1997/30 of July 21, 1997</p> <p>(1997)</p>	<p>Article 24</p> <p>All persons having contact with, or being responsible for, children in the criminal justice system should receive education and training in human rights, the principles and provisions of the Convention and other United Nations standards and norms in juvenile justice as an integral part of their training programmes. Such persons include police and other law enforcement officials; judges and magistrates, prosecutors, lawyers and administrators; prison officers and other professionals working in institutions where children are deprived of their liberty; and health personnel, social workers, peacekeepers and other professionals concerned with juvenile justice.</p>

IMPLEMENTATION - Training

28. The effective implementation of the Convention on the Rights of the Child, as well as the use and application of international standards through technical cooperation and advisory service programmes, should be ensured by giving particular attention to the following aspects related to protecting and promoting human rights of children in detention, strengthening the rule of law and improving the administration of the juvenile justice system:

(c) Training programmes for police and other law enforcement officials, judges and magistrates, prosecutors, lawyers, administrators, prison officers and other professionals working in institutions where children are deprived of their liberty, health personnel, social workers, peacekeepers and other professionals concerned with juvenile justice;

(d) Preparation of training manuals;

44. Police, lawyers, the judiciary and other court personnel should **receive training in dealing with cases where children are victims**. States should consider establishing, if they have not yet done so, **specialized offices and units to deal with cases involving offences against children**. States should establish, as appropriate, a code of practice for proper management of cases involving child victims.

53. The United Nations Crime Prevention and Criminal Justice Programme, including the institutes comprising the Programme network, the Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, the United Nations Children's Fund, the United Nations Development Programme, the Committee on the Rights of the Child, the United Nations Educational, Scientific and Cultural Organization, the World Bank and interested non-governmental organizations should assist Member States, at their request, within the overall appropriations of the United Nations budgets or from extrabudgetary resources, **in developing multidisciplinary training, education and information activities for law enforcement and other criminal justice personnel, including police officers, prosecutors, judges and magistrates**.

UN Organs – Secretariat

UN Office on Drugs and Crime (UNODC)

Congress on Crime Prevention and Criminal Justice

Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century

Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Vienna, April 10-17, 2000

U.N. Doc. A/CONF.187/4/Rev.3

Welcomed by General Assembly resolution 55/59 of January 17, 2001

(2000)

22. We recognize that the United Nations standards and norms in crime prevention and criminal justice contribute to efforts to deal with crime effectively. We also recognize the importance of prison reform, the independence of the judiciary and the prosecution authorities, and the International Code of Conduct for Public Officials. We shall endeavour, as appropriate, to use and apply the United Nations standards and norms in crime prevention and criminal justice in national law and practice. We undertake to review relevant legislation and administration procedures, as appropriate, with a view to **providing the necessary education and training to the officials** concerned and ensuring the necessary strengthening of institutions entrusted with the administration of criminal justice.

IMPLEMENTATION - Training

<p>Resolutions adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders</p> <p>Cairo, April 29 - May 8, 1995</p> <p>U.N. Doc. A/CONF.169/16</p> <p>May 12, 1995</p> <p>(1995)</p>	<p>I. Resolutions adopted by the Congress</p> <p>1.Recommendations on the four substantive topics of the Ninth United Nations Congress on the prevention of crime and the treatment of offenders</p> <p>4. <i>Expresses its concern</i> about the plight of victims of crime and urges the full use and application of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and intensified action for the protection of and assistance to victims at the national and international levels, including training, action-oriented research and on-going information exchange and other means of cooperation in this field.</p> <p>7.Children as victims and perpetrators of crime and the United Nations criminal justice programme: from standard setting towards implementation and action</p> <p>11. <i>Invites</i> States, in cooperation with the relevant United Nations bodies and institutions, to develop multidisciplinary training, taking into account national and international instruments, standards and norms with respect to juvenile justice and human rights for law enforcement personnel and other professionals concerned with children. Training should further include information on child development, improving communication with children, increasing knowledge on available facilities for their treatment and rehabilitation of child victims and offenders.</p>
<p>Basic Principles on the Role of Lawyers</p> <p>Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders</p> <p>August 27 -September 7, 1990</p> <p>U.N. Doc. A/CONF.144/28/Rev.1 at 118 welcomed by General Assembly resolution 45/121 of December 18, 1990</p> <p>(1990)</p>	<p>Principle 9</p> <p>Governments, professional associations of lawyers and educational institutions shall ensure that lawyers have appropriate education and training and be made aware of the ideals and ethical duties of the lawyer and of human rights and fundamental freedoms recognized by national and international law.</p>
	<p>UN Organs – Secretariat</p> <p>UN Office on Drugs and Crime (UNODC)</p> <p>Commission in Crime Prevention and Criminal Justice</p>
<p>Basic principles on the use of Restorative Justice Programmes in Criminal Matters</p> <p>Draft resolutions for the adoption by the Economic and social Council</p> <p>Eleventh Session of the Commission on Crime Prevention and Criminal Justice, April 16-25, 2002</p> <p>E/CN.15/2002/L.2/Rev.1 welcomed by Economic and Social Council resolution 2002/12 of July 24, 2002</p> <p>(2002)</p>	<p>12. Member States should consider establishing guidelines and standards, with legislative authority when necessary, that govern the use of restorative justice programmes. Such guidelines and standards should respect the basic principles set forth in this document and should address, inter alia:</p> <p>(c) The qualifications, training and assessment of facilitators.</p> <p>19. Facilitators shall possess a good understanding of local cultures and communities and, where appropriate, receive initial training before taking up facilitation duties.</p>

IMPLEMENTATION - Training

Action to combat international trafficking in women and children

Draft resolution V for adoption by the Economic and Social Council

Report on the Seventh Session of the Commission on Crime Prevention and Criminal Justice

Economic and Social Council (E/1998/30 E/CN.15/1998/11), April 21-30 1998

(1998)

2. *Stresses* the relevance of the following issues in connection with trafficking in women and children:

(c) The need for States to provide **specialized training for law enforcement, immigration and other concerned officers**, as well as to initiate public information campaigns to make both potential victims and the general public aware of the terrible exploitation and possible loss of life inherent in trafficking in women and children.

United Nations standards and norms in crime prevention and criminal justice

Draft resolution VI for adoption by the Economic and Social Council

Report on the Seventh Session of the Commission on Crime Prevention and Criminal Justice

Economic and Social Council (E/1998/30 E/CN.15/1998/11)

April 21-30 1998

(1998)

III. Victims of crime and abuse of power

6. *Invites* the Secretary-General, Member States and intergovernmental and non-governmental organizations active in victim assistance and redress, using where appropriate a multi-partner approach, to incorporate victim assistance modules in technical cooperation projects and to assist Member States on request in applying the guide for policy makers on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the handbook on justice for victims concerning the use and application of the Declaration, **through training courses, seminars, study tours, fellowships and advisory services**, in order to help resolve problems in the implementation of the Declaration, and welcomes the initiative of the Government of the United States of America to establish a training programme to that end.

Annex

Plan of action for the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

I. Capacity building

3. Member States, intergovernmental and non-governmental organizations and the institutes of the United Nations Crime Prevention and Criminal Justice Programme network are invited to assist the Secretary-General in updating, with an appropriate interval, **the guide for policy makers and the handbook on justice for victims, giving special attention to practical national experiences, legislative information and case law concerning special victim groups** such as victims and witnesses of organized crime, terrorism, economic and environmental crime, bias or hate crimes and victims of violence against women and children.

International cooperation in criminal matters

Draft resolution V to be recommended by the Economic and Social Council for adoption by the General Assembly

Report on the Sixth Session of the Commission on Crime Prevention and Criminal Justice

Economic and Social Council (E/CN.15/1997/21), April 28- May 9, 1997

(1997)

II Extradition

12. *Requests* the Secretary-General:

(d) To provide, taking into account the recommendations for a **training programme** contained in the report of the Intergovernmental Expert Group, in cooperation with relevant intergovernmental organizations, with the participation of interested Member States at the intergovernmental organizational meeting referred to in the recommendations and subject to extrabudgetary resources, **training** for personnel in appropriate governmental agencies and central authorities of requesting Member States on extradition law and practice designed to develop necessary skills and improve communications and cooperation aimed at enhancing the effectiveness of extradition and related practices.

IMPLEMENTATION - Training

	Regional Instruments
	European Instruments
	European Union – European Parliament
Sexual Abuse of Children Resolution on the Commission: Communication On Combating Child Sex Tourism (COM(96)0547 - C4-0012/97) and the Aide-Memoire on the European Union's Contribution to Reinforcing the Prevention of the Sexual Abuse and Exploitation of Children (C4-0556/96) of November 6, 1997 (1997)	<p>9. Calls on the Member States to modify their rules of criminal procedure so as to make it easier for children to give evidence to courts without fear, e.g. by making it possible for children not to testify in public, permitting videos of their testimony to be used as evidence instead, and by having psychologists or specially trained officials in attendance whenever children are questioned</p> <p>33. Calls on the Member States to provide special protection for children who have been subject to sexual abuse by:</p> <ul style="list-style-type: none"> - ... - the implementation of programmes in the field of professional training and social rehabilitation.
	Council of Europe – Committee of Ministers
On the Protection of Women against Violence Recommendation No. Rec (2002) 5 of April 20, 2002 (2002)	<p>Appendix</p> <p>General measures concerning violence against women</p> <p>3. Member states should introduce, develop and/or improve where necessary, national policies against violence based on:</p> <p>(e) ensuring special training for professionals confronted with violence against women;</p> <p><i>Information, public awareness, education and training</i></p> <p>Member states should:</p> <p>8. include in the basic training programmes of members of the police force, judicial personnel and the medical and social fields, elements concerning the treatment of domestic violence, as well as all other forms of violence affecting women;</p> <p>9. include in the vocational training programmes of these personnel, information and training so as to give them the means to detect and manage crisis situations and improve the manner in which victims are received, listened to and counselled;</p> <p>10. encourage the participation of these personnel in specialised training programmes, by integrating the latter in a merit-awarding scheme;</p> <p>11. encourage the inclusion of questions concerning violence against women in the training of judges;</p> <p>16. include specific information in school curricula on the rights of children, help-lines, institutions where they can seek help and persons they can turn to in confidence.</p>
On the Protection of Children against Sexual Exploitation Recommendation No. R (2001) 16 of October 31, 2001 (2001)	<p>7. Promote and organise programmes aimed at furthering awareness and training for those who are responsible for children in the fields of education, health, social welfare, justice as well as law enforcement agencies in order to enable them to identify cases of sexual exploitation and to take the necessary measures.</p> <p>18. Ensure that children in care are sufficiently protected by appropriate regulations, guidelines and procedures and that all members of staff responsible for them have the required qualifications and licences.</p>

IMPLEMENTATION - Training

	<p>61. Organise special training for diplomatic, consular, judicial, customs and police personnel to enable them to identify cases of trafficking in children for the purpose of sexual exploitation and respond appropriately.</p>
<p>Action against Trafficking in Human Beings for the Purpose of Sexual Exploitation</p> <p>Recommendation No. R (2000) 11 of May 19, 2000 (2000)</p>	<p>19. Organise special training for social workers, as well as for medical, teaching, diplomatic, consular, judicial, customs and police personnel to enable them to identify cases of trafficking for the purpose of sexual exploitation and respond appropriately.</p> <p>20. Introduce and/or develop training programmes to enable police personnel to acquire specialised skills in this field.</p> <p>21. In particular, set up specific training programmes and exchanges of experiences in order to improve co-operation between the police and the NGOs specialising in victim protection.</p> <p>22. Also introduce training programmes for immigration officials and frontier police so that they can contribute to prevention by making sure that persons travelling abroad, particularly young persons not accompanied by a parent or guardian, are not involved in trafficking.</p>
<p>On the Role of Public Prosecution in the Criminal Justice System</p> <p>Recommendation No. R (2000) 19 of October 6, 2000 (2000)</p>	<p>7. Training is both a duty and a right for all public prosecutors, before their appointment as well as on a permanent basis. States should therefore take effective measures to ensure that public prosecutors have appropriate education and training, both before and after their appointment. In particular, public prosecutors should be made aware of:</p> <ul style="list-style-type: none"> (a) the principles and ethical duties of their office; (b) the constitutional and legal protection of suspects, victims and witnesses; (c) human rights and freedoms as laid down by the Convention for the Protection of Human Rights and Fundamental Freedoms, especially the rights as established by Articles 5 and 6 of this Convention; (d) principles and practices of organisation of work, management and human resources in a judicial context; (e) mechanisms and materials which contribute to consistency in their activities. <p>8. In order to respond better to developing forms of criminality, in particular organised crime, specialisation should be seen as a priority, in terms of the organisation of public prosecutors, as well as in terms of training and in terms of careers. Recourse to a team of specialists, including multidisciplinary teams, designed to assist public prosecutors in carrying out their functions should also be developed.</p>
<p>On Children Participation in Family Life and Social Life</p> <p>Recommendation No. R. (98) 8 of September 18, 1998</p> <p>Appendix to Recommendation No. R (98) 8, Measures for the Promotion of Children's Participation in Family and Social Life (1998)</p>	<p>15. Develop interdisciplinary training models and programmes for professionals working or dealing with children and families. Target groups should include teachers, judges, social workers, nurses and medical practitioners.</p>

IMPLEMENTATION - Training

Concerning Intimidation of Witnesses and the Rights of the Defence

Recommendation No. R (97) 13 of September 10, 1997

Appendix to Recommendation No. R (97) 13 Concerning Intimidation of Witnesses and the Rights of the Defence (1997)

7. Criminal justice personnel should have **adequate training** to deal with cases where witnesses might be at risk of intimidation.

IV. Measures to be taken in relation to vulnerable witnesses, especially in cases of crime within the family

20. The specific interests of the child should be protected throughout proceedings by a social agency and, if appropriate, through specially **trained lawyers**.

24. When a vulnerable witness first reports allegations to the police, there should be immediate access to professional help. Furthermore, **the examination of the witness should be conducted by suitably trained staff**.

On Crime Policy in Europe in a Time of Change

Recommendation No. R (96) 8 of September 5, 1996

(1996)

29. Governments should:

- organise **seminars for the competent authorities on particular subjects related to international co-operation**;
- set up **exchange programmes for judicial authorities**, in particular judges and prosecutors specialised in organised and economic crime, with a view to enabling them to visit their counterparts in other member states for short periods and acquaint themselves with the working methods and legal systems in other member states;

31. **Training of judges, prosecutors and police officers should take into account international aspects of crime as well as international co-operation instruments and practices.**

On the Medico-Social Aspects of Child Abuse

Recommendation No. R (93) 2 of March 22, 1993

(1993)

5.1 Ensure **that there is adequate training of the personnel in the various professional groups** involved with the prevention of child abuse and the protection of children against abuse and, in particular, to:

(a) require bodies responsible for basic qualifying courses for doctors, community nurses, social workers, teachers, police officers, child psychologists, the legal profession and any others likely to come across cases of child abuse to include coverage of the topic of child abuse and child protection in the formal curriculum;

(b) make known to all personnel who work with children their roles and responsibilities, and those of other professionals, with respect to the notification of suspected cases and the actions to be taken thereafter and ensure that all personnel are aware of the needs of children and of the legislation, policies, and procedures for securing the welfare and protection of abused children and their families, and for respecting confidentiality in the medical and all other fields;

(c) ensure that **professionals involved in the investigation and assessment of child abuse; in intervention and therapy with abused children**, their families or abusers and in civil or **criminal legal proceedings in connection with child abuse are fully trained and appropriately experienced**;

(d) require those who are closely involved with cases of child abuse to **undertake specialised training in the skills of communicating** with children who are or may have been abused; and to have the necessary professional qualifications, as well as involvement, availability and stability (families cannot be helped in a fragmentary and piecemeal fashion);

(e) provide opportunities for **in-service and post-qualifying training** to keep professionals informed of developments and trends in work with abused children, their families and with abusers;

(f) provide opportunities **for multidisciplinary training**, to increase understanding and cooperation between the many disciplines involved;

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	<p>(g) provide opportunities for those closely involved with cases of child abuse to examine their own responses to the issues and to explore the specific challenges of work with abused children, their families and with abusers;</p> <p>(h) monitor and evaluate training programmes in the field of child abuse to increase knowledge of appropriate content, teaching materials and methods.</p>
<p>On Social Measures Concerning Violence within the Family</p> <p>Recommendation No. R (90) 2 of January 15, 1990 (1990)</p>	<p>42. In the course of their everyday work, social workers should be provided with help in the form of supervision and continuing training to enable them to clarify their own values and to distinguish within different examples of family violence, what concerns the victims and what concerns the perpetrators of the violence.</p> <p>43. Initial and in-service training of social workers, workers in day-care and other institutions, medical personnel, magistrates, police and teachers should include the learning of multidisciplinary and inter-institutional work.</p>
<p>On the Position of the Victim in the Framework of Criminal Law and Procedure</p> <p>Recommendation No. R (85) 11 of June 28, 1985 (1985)</p>	<p>I. Recommends the governments of member states to review their legislation and practice in accordance with the following guidelines:</p> <p>A. At police level</p> <p>1. Police officers should be trained to deal with victims in a sympathetic, constructive and reassuring manner.</p>
<p>Concerning the Protection of Children against Ill-Treatment</p> <p>Recommendation No. R (79) 17 of September 13, 1979 (1979)</p>	<p>Appendix I</p> <p>Principles and suggestions to be considered</p> <p>4. Training of personnel</p> <p>With a view to ensuring an adequate training of the personnel in the various professional groups dealing with the protection of children against ill-treatment, it would be appropriate:</p> <ul style="list-style-type: none"> - to favour a systematic approach to such training and to stimulate studies and experiments to determine the most appropriate content of such training, the teaching methods as well as the preparation of the necessary teaching aids; - to make such training an integral part of the formal training of all workers likely to be involved in the detection, management and prevention of child abuse; - to provide opportunities for in-service training and for regular refresher courses, in the light of the rapid developments of knowledge in the field; - to ensure that the training programmes of all paediatricians, school doctors, general practitioners and child psychologists, as well as of other members of the medical and para-medical professions likely to come across the problem, will enable them to recognise cases of child abuse at an early stage; - to ensure that social workers, teachers, members of the police and all professional workers likely to come across cases of child abuse will be taught to recognise signs of it; - to make known to all the professional workers referred to in d and e the steps to be taken in the presence of a suspected case; - to emphasise the need for a multidisciplinary approach in this training, as a means of breaking down any barriers to co-operation between disciplines and professions; - to ensure the co-operation of all bodies or services responsible for the training of all relevant professions, of the management for child abuse and of the teams, if

IMPLEMENTATION - Training

	<p>any, especially concerned with child abuse attached to local paediatric units;</p> <ul style="list-style-type: none"> - to introduce a new awareness of the concept of responsibility into training for medical and social personnel as well as into information for the public at large.
	Council of Europe – Parliamentary Assembly
<p>Campaign against Trafficking in Women</p> <p>Recommendation 1545 (2002) of January 21, 2002 (2002)</p>	<p>10. The Assembly therefore urges the governments of member states:</p> <p>(viii) to take the following steps regarding the prevention of trafficking in women: à</p> <p>(a) establish bilateral agreements between destination countries and the countries of origin of victims which should cover legal and police co-operation and humanitarian aspects of this problem, including information and prevention campaigns, and training and assistance programmes for the rehabilitation of victims;</p> <p>(e) launch large information and awareness-raising campaigns aimed at all professionals who, by the very nature of their work, could be in contact with victims of trafficking and traffickers themselves. These campaigns should address officials of ministries particularly concerned with the problem of trafficking, customs and police services, diplomatic representatives, public authorities, the media and non-governmental humanitarian organisations.</p>
<p>International Abduction of Children by One of the Parents</p> <p>Resolution 1291 (2002) June 26, 2002 (2002)</p>	<p>5. It urges each Council of Europe member state to:</p> <p>(ii) provide appropriate training for all people working in this field (police, lawyers, judges) and in particular for specialists investigating the disappearance of children.</p>
<p>Domestic Slavery</p> <p>Recommendation 1523 (2001) June 26, 2001 (2001)</p>	<p>10. It accordingly recommends that the Committee of Ministers ask the governments of member states to:</p> <p>(iii) ensure that police officers are adequately trained to deal with victims of slavery and increase the number of women officers</p>
<p>Violence against Women in Europe</p> <p>Recommendation 1450 (2000) of April 3, 2000 (2000)</p>	<p>iii invite member states to:</p> <p>d. step up international co-operation between state institutions and NGOs in order to improve protection for the victims of trafficking in women, something which requires, <i>inter alia</i>, increased awareness-raising and training for those in primary contact with potential victims of trafficking in women;</p> <p>e. introduce training programmes for police officers and judges dealing with women victims of violence;</p>
<p>Abuse and Neglect of Children</p> <p>Recommendation 1371 (1998) April 23, 1998 (1998)</p>	<p>13. The Assembly therefore recommends that the Committee of Ministers ask the member states of the Council of Europe:</p> <p>(c) to combat child prostitution</p> <p>(iii) by running training programmes for the social services, the police and the courts so that they can provide assistance and physical, psychological and occupational rehabilitation of the young victim;</p> <p>(d) to reinforce the prevention and punishment of abuse, including within the family circle:</p> <p>(v) by training all professionals who work with children, as well as doctors and health care professionals, to detect abuse and any signs that may lead to a suspicion of physical or psychological violence;</p> <p>(e) to legislate against incest:</p>

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	(ii) by organising appropriate staff training for the social services, the police and courts which takes account of the ambivalence which often surrounds such offences, by working to restore young victims' self-image.
On Traffic in Women and Forced Prostitution in Council of Europe Member States Recommendation 1325 (1997) of April 23, 1997 (1997)	Paragraph 6 The Assembly further recommends that the Committee of Ministers urges member states to: (ii) introduce training of immigration staff , in particular in consulates delivering visas and at border points, in order to ensure that such staff are fully aware of the problem, are provided with up to date information on trafficking methods and trends, and are trained to recognise potential victims.
On a European Strategy for Children Recommendation 1286 (1996) of January 24, 1996 (1996)	8. The Committee of Ministers should strongly urge these states: vi. to provide specific training in children's rights for all professionals who come into contact with children, including teachers, the various members of the judicial authorities, social workers, etc.
On the Sexual Exploitation of Children Resolution 1099 (1996) of September 25, 1996 (1996)	15. Furthermore, the Assembly advocates that programmes of specific training for professionals working with children (teachers, judges, lawyers, etc.) be introduced in member states, and that specially trained units be set up by the police and in the courts to take care of minors who are victims of sexual abuse.
	Inter-American Instruments
	Organisation of American States (OAS)
Enhancement of the Administration of Justice in the Americas AG/RES. 1561 (XXVIII-O/98) of June 2, 1998 (1998)	1. To instruct the Permanent Council, in coordination with the General Secretariat and the Inter-American Juridical Committee, in collaboration with national and international institutions involved with this subject, and in keeping with resources allocated in the program-budget and other resources, to continue to organize seminars or workshops aimed at achieving greater judicial cooperation in the region and at increasing awareness of international rules of law, in particular those originating in the inter-American system, and to consider and forward through appropriate channels any requests put to the Organization by member states for assistance in improving the administration of justice in their countries.



Implementation

Cooperation

IMPLEMENTATION - Cooperation

BINDING INSTRUMENTS

	International Instruments
	UN Instruments
	UN Organs – General Assembly
Source	Texts
Convention on the Rights of the Child General Assembly resolution 44/25 of November 20, 1989 Entry into force September 2, 1990 (1989/1990)	Article 24 4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography General Assembly resolution 54/263 of May 25, 2000 Entry into force January 18, 2002 (2000/2002)	Article 6 1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph [Sexual exploitation of the child; Transfer of organs of the child for profit; Engagement of the child in forced labour] including assistance in obtaining evidence at their disposal necessary for the proceedings. Article 10 1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations. 2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation. 3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism. 4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.
Rome Statute of the International Criminal Court Doc. A/CONF.183/9 of July 17, 1998 Entry into force July 1, 2002 (1998-2002)	PART 9. INTERNATIONAL COOPERATION AND JUDICIAL ASSISTANCE Article 86 General obligation to cooperate States Parties shall, in accordance with the provisions of this Statute, cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court. Article 87 Requests for cooperation: general provisions 3. The requested State shall keep confidential a request for cooperation and any document supporting the request, except to the extent that the disclosure is necessary for execution of the request.

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4. In relation to any request for assistance presented under this Part, the Court may take such measure, including measures related to the protection of information, as may be necessary to ensure the safety or physical or psychological well-being of any victims, potential witnesses and their families. The Court may request that any information that is made available under this Part shall be provided and handled in a manner that protects the safety and physical or psychological well-being of any victims, potential witnesses and their families.

Article 93

Other forms of cooperation

1. States parties shall, in accordance with the provisions of this Part and under procedures of national law, comply with requests by the Court to provide the following assistance in relation to investigations or prosecutions:

- (a) The identification and whereabouts of persons or the location of items;
- (b) **The taking of evidence , including testimony under oath**, and the production of evidence, including expert opinions and reports necessary to the Court;
- (c) The questioning of any person being investigated or prosecuted;
- (d) The service of documents, including judicial documents;
- (e) **Facilitating the voluntary appearance of persons as witnesses** or experts before the Court;
- (g) The examination of places or sites, including the exhumation and examination of grave sites;
- (h) The execution of searches and seizures;
- (i) The provision of records and documents, including official records and documents;
- (j) **The protection of victims and witnesses and the preservation of evidence**;
- (k) The identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crime for the purpose of eventual forfeiture, without prejudice to the rights of bona fide third parties; and
- (l) **Any other type of assistance** which is not prohibited by the law of the requested State, **with a view to facilitating the investigation and prosecution of crimes** within the jurisdiction of the Court.

Article 100

Costs

1. The ordinary costs for execution of requests in the territory of the requested State shall be borne by the State, except for the following, which shall be borne by the Court:

- (a) Costs associated with the travel and security of witnesses and experts or the transfer under article 93 of persons in custody.

Rules of Procedures and Evidence of the International Criminal Court

Adopted by the assembly of states, first session New York, september 3-10 2002
ICC-ASP/1/3
Entry into force: 2002
(2002)

Rule 17

Function of the Unit

2. The Victims and Witnesses Unit shall, *inter alia*, perform the following functions, in accordance with the Statute and Rules, and in consultation with the Chamber, the Prosecutor and the defence, as appropriate:

- (a) With respect to all witnesses, victims who appear before the Court, and others who are at risk on account of testimony given by such witnesses, in accordance with their particular needs and circumstances:
 - i) Providing them with adequate protective and security measure and formulating long and short-term plans for their protection;
 - ii) Recommending to the organs of the Court the adoption of protection measures and also advising relevant States of such measures;

IMPLEMENTATION - Cooperation

- iii) Assisting them in obtaining medical, psychological and other appropriate assistance;
- iv) Making available to the Court and the parties training in issues of trauma, sexual violence, security and confidentiality;
- v) Recommending, in consultation with the Office of the Prosecutor, the elaboration of a code of conduct, emphasizing the vital nature of security and confidentiality for investigators of the Court and of the defence and all intergovernmental and non-governmental organizations acting at the request of the Court, as appropriate;
- vi) Cooperating with States, where necessary, in providing any of the measures stipulated in this rule.

Rule 18

Responsibilities of the Unit

For the efficient and effective performance of its work, the Victims and Witnesses Unit shall:

(e) Where appropriate, **cooperate with intergovernmental and non-governmental organizations.**

Rule 92

Notification to victims and their legal representatives

8. For notification as referred to I sub-rule 3 [Court shall notify victims regarding its decision to hold a hearing to confirm charges] and otherwise at the request of a Chamber, the Registrar shall take necessary measures to give adequate publicity to the proceedings. In doing so, the Registrar may seek, in accordance with Part 9, the **cooperation of relevant State parties**, and seek **the assistance of intergovernmental organizations.**

Rule 96

Publication and reparation proceedings

1. Without prejudice to any other rules on notification of proceedings, the Registrar shall, insofar as practicable, notify the victims or their legal representatives and the person or persons concerned. The Registrar shall also, having regard to any information provided by the Prosecutor, take all the necessary measures to give the adequate publicity of the reparation proceedings before the Court, to the extent possible, to other victims, interested persons and interested States.

2. In taking the measures described in sub-rule 1, the Court may seek, in accordance with Part 9, the cooperation of relevant States Parties, **and seek the assistance of intergovernmental organizations in order to give publicity, as widely as possible and by all possible means, to the reparation proceedings** before the Court.

Rule 167

International cooperation and judicial assistance

1. With regard to offences under article 70 [Offences against the administration of justice which include Corruptly influencing a witness, obstructing or interfering with the attendance or testimony of a witness, retaliating against a witness for giving testimony or destroying, tampering with or interfering with the collection of evidence], the Court may request a State to provide any form of **international cooperation or judicial assistance** corresponding to those forms set forth in Part 9. In any such request, the Court shall indicate that the basis for the request is an investigation or prosecution of offences under article 70.

IMPLEMENTATION - Cooperation

	<p>Chapter 11 International cooperation judicial assistance</p> <p>Section IV Cooperation under article 93</p> <p>Rule 194</p> <p>Cooperation requested from the Court</p> <p>3. If protective measures within the meaning of article 68 [Protection of the victims and witnesses and their participation to the proceedings] have been adopted, the Prosecutor or Chamber, as appropriate, shall consider the views of the Chamber which ordered the measures as well as those of the relevant victim or witness, before deciding on the request.</p>
<p>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</p> <p>General Assembly resolution 39/46 of December 10, 1984</p> <p>Entry into force June 26, 1987 (1987)</p>	<p>Article 9</p> <p>1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.</p>
<p>United Nations Convention Against Transnational Organized Crime</p> <p>General Assembly resolution 55/25 of November 15, 2000</p> <p>Entry into force September 29, 2003 (2000-2003)</p>	<p>Article 18</p> <p>Mutual legal assistance</p> <p>1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in article 3 [(a) It is committed in more than one State; (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) It is committed in one State but has substantial effects in another State.] and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the offence referred to in article 3, paragraph 1 (a) or (b), is transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organized criminal group.</p> <p>2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 10 of this Convention in the requesting State Party.</p> <p>3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:</p> <ul style="list-style-type: none"> (a) Taking evidence or statements from persons; (b) Effecting service of judicial documents; (c) Executing searches and seizures, and freezing; (d) Examining objects and sites; (e) Providing information, evidentiary items and expert evaluations; (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;

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(g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;

(h) Facilitating the voluntary appearance of persons in the requesting State Party;

(i) Any other type of assistance that is not contrary to the domestic law of the requested State Party.

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

Article 24

Protection of witnesses

3. States Parties shall consider entering into **agreements or arrangements with other States for the relocation of persons** referred to in paragraph 1 of this article [1. Each State Party shall take appropriate measures within its means to provide effective **protection from potential retaliation** or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, for their relatives and other persons close to them.]

Article 29

Training and technical assistance

2. States Parties shall assist one another in **planning and implementing research and training programmes designed to share expertise** in the areas referred to in paragraph 1 of this article and to that end shall also, when appropriate, use **regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern**, including the special problems and needs of transit States.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

Supplementing the United Nations Convention Against Transnational Organized Crime

General Assembly resolution 55/25, of November 15, 2000

Entry into force December 25, 2003 (2003)

II. Protection of Victims of Trafficking in Persons

Article 6

Assistance to and Protection of Victims of Trafficking in Persons

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, **in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society**, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and Employment, educational and training opportunities.

IMPLEMENTATION - Cooperation

	Regional Instruments
	European Instruments
	European Union – Council of the European Union
To Combat Child Pornography on the Internet Council Decision (2000/375/JAI) of May 29, 2000 Entry into force May 29, 2000 (2000)	Article 2 <p>1. Member States shall ensure the widest and speediest possible cooperation to facilitate an effective investigation and prosecution of offences concerning child pornography on the Internet in accordance with existing arrangements and agreements.</p> <p>2. To ensure a timely and effective response to these offences, Member States shall communicate already established points of contact, which are set up on a 24-hour basis and consist of knowledgeable personnel, as well as the specialised units which are referred to in Article 1(2) and which can be used for exchange of information and for further contacts between Member States. Points of contact, which Member States have already set up for other duties, may also be used for these purposes. Likewise, existing channels for communication, such as Europol and Interpol shall be used.</p> <p>3. Member States shall ensure that Europol, within the limits of its mandate, is informed of suspected cases of child pornography.</p> <p>4. Member States, in appropriate cooperation with Europol, shall examine the possibility of organizing regular meetings of competent authorities specialising in combating child pornography on the Internet with a view to promoting general information exchanges, analysis of the situation and the coordination of measures in criminal tactics.</p> <p>5. Each Member State shall notify the General Secretariat of the Council of its organisational unit or units acting as points of contact pursuant to paragraph 2. The General Secretariat shall inform all other Member States of these points of contact.</p>
	Council of Europe
European Convention on the Compensation of Victims of Violent Crimes ETS No. 116 of November 24, 1983 Entry into force January 1, 1988 (1988)	Article 12 <p>Subject to the application of bilateral or multilateral agreements on mutual assistance concluded between Contracting States, the competent authorities of each Party shall, at the request of the appropriate authorities of any other Party, give the maximum possible assistance in connection with the matters covered by this Convention. To this end, each Contracting State shall designate a central authority to receive, and to take action on, requests for such assistance, and shall inform thereof the Secretary General of the Council of Europe when depositing its instrument of ratification, acceptance, approval or accession.</p>
	Organization for Security and Co-operation in Europe (OSCE)
Charter for European Security Sum.Doc/1/99 of November 19, 1999 (1999)	<p>21. We are committed to eradicating torture and cruel, inhumane or degrading treatment or punishment throughout the OSCE area. To this end, we will promote legislation to provide procedural and substantive safeguards and remedies to combat these practices. We will assist victims and co-operate with relevant international organizations and non-governmental organizations, as appropriate.</p>

IMPLEMENTATION - Cooperation

	Inter-American Instruments
	Organisation of American States (OAS)
<p>Inter-American Convention on Mutual assistance in Criminal Matters</p> <p>Adopted May 23, 1992</p> <p>Entry into force April 1996 (1992/1996)</p>	<p>Article 1</p> <p>Purpose of the Convention</p> <p>The states parties undertake to render to one another mutual assistance in criminal matters, in accordance with the provisions of this convention.</p> <p>Article 2</p> <p>Scope and Application of the Convention</p> <p>The states parties shall render to one another mutual assistance in investigations, prosecutions, and proceedings that pertain to crimes over which the requesting state has jurisdiction at the time the assistance is requested.</p> <p>This convention does not authorize any state party to undertake, in the territory of another state party, the exercise of jurisdiction or the performance of functions that are placed within the exclusive purview of the authorities of that other party by its domestic law.</p> <p>This convention applies solely to the provision of mutual assistance among states parties. Its provisions shall not create any right on the part of any private person to obtain or exclude any evidence or to impede execution of any request for assistance.</p> <p>Article 7</p> <p>Scope of Application</p> <p>The assistance envisaged under this convention shall include the following Procedures among others:</p> <ul style="list-style-type: none"> (a) notification of rulings and judgments; (b) taking of testimony or statements from persons; (c) summoning of witnesses and expert witnesses to provide testimony; (d) immobilization and sequestration of property, freezing of assets, and assistance in procedures related to seizures; (e) searches or seizures; (f) examination of objects and places; (g) service of judicial documents; (h) transmittal of documents, reports, information, and evidence; (i) transfer of detained persons for the purpose of this convention; and (j) any other procedure provided there is an agreement between the requesting state and the requested state. <p>Article 23</p> <p>In connection with witnesses or expert witnesses, documents containing the relevant questions, interrogatories, or questionnaires shall be forwarded to the extent possible or necessary.</p>

IMPLEMENTATION - Cooperation

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women

"Convention of Belem do Para" of June 9, 1994

Entry into force March 5, 1995

(1994/1995)

Article 8

The States Parties agree to undertake progressively specific measures, including programs:

(i) to **foster international cooperation** for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.

Organization Fifth Inter-American Specialized Conference on Private International Law

Inter-American Convention on "International traffic in Minors"

Adopted March 18, 1994

Entry into force August 15, 1997

(1994/1997)

Article 1

The purpose of the present Convention, with a view to protection of the fundamental rights of minors and their best interests, is the prevention and punishment of the international traffic in minors as well as the regulation of its civil and penal aspects.

Accordingly, the States Parties to this Convention undertake to:

(b) **institute a system of mutual legal assistance among the States Parties, dedicated to the prevention and punishment of the international traffic in minors, as well as adopt related administrative and legal provisions to that effect.**

Article 4

To the extent possible, **States Parties shall cooperate with States** that are not Parties in preventing and punishing international traffic in minors, and in protecting and caring for minors who are victims of that wrongful act.

The competent authorities of a State Party are to notify the competent authorities of a State that is not a Party whenever a minor is within its territory who has been a victim of international traffic in minors in a State Party.

Article 8

The States Parties to the present Convention undertake to:

(a) **assist each other promptly and expeditiously through their Central Authorities**, as permitted by the domestic laws of each State and by applicable international treaties, to conduct judicial and administrative proceedings, to take evidence, and to take any other procedural steps that may be necessary for fulfilling the objectives of this Convention;

(b) **establish through their Central Authorities mechanisms for the exchange of information about any domestic statute, case law, administrative practices, statistics and modalities regarding international traffic in minors in their States.**

Article 10

If one of the States Parties where extradition is subject to the existence of a treaty receives a request for extradition from a State Party with which it has no such treaty, or if it has such a treaty, this crime is not among the extraditable offenses, it may consider the **present Convention as the legal grounds needed to grant extradition** in the case of the international traffic in minors.

Further, States Parties that do not make extradition conditional on the existence of a treaty shall recognize the international traffic in minors as a basis for extradition between them. Where no extradition treaty exists, extradition shall be subject to the other conditions required by the domestic laws of the requested State.

IMPLEMENTATION - Cooperation

Article 14

The **request for locating and returning shall not require authentication** and shall be processed through the Central Authorities or directly through the competent authorities referred to in Article 13 of the present Convention. The requested authorities shall decide upon the most expeditious procedures for effecting it.

After receiving the request, the requested authorities shall order the necessary steps taken in accordance with their domestic laws to initiate, facilitate, and assist the judicial and administrative procedures involved in locating and returning the minor. In addition, steps shall be taken to ensure the immediate return of the minor, and where necessary, to ensure his or her care, custody or provisional guardianship, depending on the circumstances, and, as a preventive measure, to bar the minor from being wrongfully removed to another State.

The request, stating grounds for location and return of the minor, shall be lodged within one hundred and twenty days after the wrongful removal or retention of the minor has been detected. **If the request for location and return is lodged by a State Party, the latter shall do so within one hundred and eighty days.**

Article 17

In keeping with the purposes of this Convention, the Central Authorities of the States Parties shall **exchange information and cooperate with their competent judicial and administrative authorities** on all matters concerning control of the entry of minors into and departure from their territories.

NON-BINDING INSTRUMENTS

International Instruments

UN Instruments

UN Organs – General Assembly

Source

Texts

The Rights of the Child

General Assembly resolution 55/79
February 22, 2001
(2001)

9. Calls upon all Member States to take all necessary steps to **strengthen international cooperation by means of multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism**, and in this regard calls upon Member States to promote international cooperation and coordination among their authorities, national and international non-governmental organizations and international organizations, as appropriate;

10. Requests States to **increase cooperation and concerted action at the national, regional and international levels** to prevent and dismantle networks that traffick in children.

Crime Prevention and Criminal Justice measures to eliminate violence against Women

General Assembly resolution 52/86
of December 12, 1997
(1997)

Paragraph 11

Bearing in mind that criminal justice agencies should work closely with practitioners in other sectors, including health, social services and education, and with members of the community to deal with the problem of violence against women,

Annex

Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice

11. Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including

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	<p>organizations seeking women's equality, and research institutes are urged, as appropriate:</p> <p>(e) To establish better linkages between medical services, both private and emergency, and criminal justice agencies for purposes of reporting, recording and responding to acts of violence against women;</p> <p>14. Member States and the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate:</p> <p>(b) To develop multidisciplinary and gender-sensitive approaches within public and private entities that participate in the elimination of violence against women, especially through partnerships between law enforcement officials and the services that are specialized in the protection of women victims of violence;</p> <p>16. Member States and United Nations bodies and institutes are urged, as appropriate:</p> <p>(a) To exchange information concerning successful intervention models and preventive programmes in eliminating violence against women and to compile a directory of those models;</p> <p>(b) To cooperate and collaborate at the regional and international levels with relevant entities to prevent violence against women and to promote measures to effectively bring perpetrators to justice, through mechanisms of international cooperation and assistance in accordance with national law.</p>
<p>Basic Principles of Justice for Victims of Crime and Abuse of Power</p> <p>General Assembly resolution 40/34 of November 29, 1985 (1985)</p>	<p>Paragraph 19</p> <p>States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.</p> <p>Paragraph 20</p> <p>States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18. [Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights]</p>
	<p>UN Organs – Economic and Social Council (ECOSOC)</p>
<p>Guidelines for Action on Children in the Criminal Justice System</p> <p>Annex to Administration of Juvenile Justice</p> <p>Economic and Social Council resolution 1997/30 of July 21, 1997 (1997)</p>	<p>2. Encourages Member States to make use of the technical assistance offered through United Nations programmes, including in particular the United Nations Crime Prevention and Criminal Justice Programme, in order to strengthen national capacities and infrastructures in the field of juvenile justice, with a view to fully implementing the provisions of the Convention on the Rights of the Child relating to juvenile justice, as well as making effective use and application of the United Nations standards and norms in juvenile justice;</p> <p>27. There is an urgent need for close cooperation between all bodies in this field, in particular, the Crime Prevention and Criminal Justice Division of the Secretariat, the Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the United Nations Development Programme, the Committee on the Rights of the Child, the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization. In addition, the World Bank and other international and regional financial institutions and organizations, as well as non-governmental organizations and academic institutions, are invited to support the provision of advisory services and technical assistance in the field</p>

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	<p>of juvenile justice. Cooperation should therefore be strengthened, in particular with regard to research, dissemination of information, training, implementation and monitoring of the Convention on the Rights of the Child and the use and application of existing standards, as well as with regard to the provision of technical advice and assistance programmes, for example by making use of existing international networks on juvenile justice.</p>
	<p>UN Organs – Secretariat</p> <p>UN Office on Drugs and Crime (UNODC)</p> <p>Congress on Crime Prevention and Criminal Justice</p>
<p>Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century</p> <p>Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders</p> <p>Vienna, April 10-17, 2000</p> <p>U.N. Doc. A/CONF.187/4/Rev.3</p> <p>Welcomed by General Assembly resolution 55/59</p> <p>of January 17, 2001</p> <p>(2000)</p>	<p>4. We recognize the necessity of closer coordination and cooperation among States in combating the world crime problem, bearing in mind that action against it is a common and shared responsibility. In this regard, we acknowledge the need to develop and promote technical cooperation activities to assist States in their efforts to strengthen their domestic criminal justice systems and their capacity for international cooperation.</p> <p>6. We support efforts to assist States in capacity-building, including in obtaining training and technical assistance and in developing legislation, regulations and expertise, with a view to facilitating the implementation of the Convention and the protocols thereto.</p> <p>7. Consistent with the goals of the Convention and the protocols thereto, we shall endeavour:</p> <p>(a) To incorporate a crime prevention component into national and international development strategies;</p> <p>(b) To intensify bilateral and multilateral cooperation, including technical cooperation, in the areas to be covered by the Convention and the protocols thereto;</p> <p>(c) To enhance donor cooperation in areas with crime prevention aspects;</p> <p>(d) To strengthen the capability of the Centre for International Crime Prevention, as well as the United Nations Crime Prevention and Criminal Justice Programme network, to assist States, at their request, in building capacity in areas to be covered by the Convention and the protocols thereto.</p> <p>8. We welcome the efforts being made by the Centre for International Crime Prevention to develop, in cooperation with the United Nations Interregional Crime and Justice Research Institute, a comprehensive global overview of organized crime as a reference tool and to assist Governments in policy and programme development.</p> <p>10. We undertake to strengthen international cooperation in order to create a conducive environment for the fight against organized crime, promoting growth and sustainable development and eradicating poverty and unemployment.</p> <p>13. We emphasize that effective action for crime prevention and criminal justice requires the involvement, as partners and actors, of Governments, national, regional, interregional and international institutions, intergovernmental and non-governmental organizations and various segments of civil society, including the mass media and the private sector, as well as the recognition of their respective roles and contributions.</p> <p>14. We commit ourselves to the development of more effective ways of collaborating with one another with a view to eradicating the scourge of trafficking in persons, especially women and children, and the smuggling of migrants. We shall also consider supporting the global programme against trafficking in persons developed by the Centre for International Crime Prevention and the United Nations Interregional Crime and</p>

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Justice Research Institute, which is subject to close consultation with States and review by the Commission on Crime Prevention and Criminal Justice, and we establish 2005 as the target year for achieving a significant decrease in the incidence of those crimes worldwide and, where that is not attained, for assessing the actual implementation of the measures advocated.

23. We also recognize the value of the **model treaties on international cooperation** in criminal matters as important tools for the development of international cooperation and we invite the Commission on Crime Prevention and Criminal Justice to call upon the Centre for International Crime Prevention to update the Compendium in order to provide the most up-to-date versions of the model treaties to States seeking to utilize them.

24. We further recognize with great concern that juveniles in difficult circumstances are often at risk of becoming delinquent or easy candidates for recruitment by criminal groups, including groups involved in transnational organized crime, and we commit ourselves to undertaking countermeasures to prevent this growing phenomenon and to including, where necessary, provisions for juvenile justice in national development plans and international development strategies and to including the administration of juvenile justice in our funding policies for development cooperation.

Recommendations and Resolutions adopted by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Cairo, April 29 - May 8, 1995

U.N. Doc. A/CONF.169/16

May 12, 1995

(1995)

RECOMMENDATIONS ON THE FOUR SUBSTANTIVE TOPICS

I. International cooperation and practical technical assistance for strengthening the rule of law: promoting the United Nations crime prevention and criminal justice programme

5. *Calls on* Member States to intensify their efforts aimed at more **consolidated cooperation and coordination in crime prevention and criminal justice**, in order to establish integrated regional policies, programmes, plans and mechanisms, having due regard to common social and religious traditions and values, taking into account United Nations norms and standards in crime prevention and criminal justice;

10. *Invites* the Commission on Crime Prevention and Criminal Justice to call on the United Nations Development Programme, the World Bank and other international, regional and national funding agencies to support **technical cooperation activities devoted to strengthening the rule of law and cooperation with the United Nations crime prevention and criminal justice programme**, in order to ensure proper coordination;

II Action against transnational and organized crime, and the role of criminal law in the protection of the environment: national experiences and international cooperation

2. *Urges* Member States to establish the principle of the **broadest possible cooperation among States, with regard to the institution of extradition, taking into account the rights of the accused and also the interests of the victims**;

5. *Calls on* Member States to facilitate transnational criminal investigations by extending legal assistance to each other, with a view to promoting effective **international cooperation**;

IV. Crime prevention strategies, in particular as related to crime in urban areas and juvenile and violent criminality, including the question of victims: assessment and new perspectives

4. *Expresses its concern* about the plight of victims of crime and urges the full use and application of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and intensified action for the protection of and assistance to victims at the national and international levels, including training, action-oriented research and on-going information exchange and other means of **cooperation in this field**;

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	<p>RESOLUTIONS ADOPTED BY THE CONGRESS</p> <p>7.Children as victims and perpetrators of crime and the United Nations criminal justice programme: from standard setting towards implementation and action</p> <p>9. <i>Requests</i> the Commission on Crime Prevention and Criminal Justice to invite the Secretary-General to continue including in the various advisory services and technical assistance programmes specific arrangements for technical assistance in the field of criminal justice and the administration of justice, with regard to children. Such assistance may include technical advice in law and criminal justice reform, including the promotion of alternative measures, such as alternatives to custody, diversionary programmes, alternative dispute resolution, restitution, family conferences and community services;</p> <p>24. <i>Requests</i> States to cooperate at the international level, through the use of bilateral, regional or multilateral mechanisms, in enforcing legislation on violence against children;</p> <p>25. <i>Invites</i> States to examine ways, consistent with their national legal systems, of ensuring that prosecution of illicit traffic in children and other violent acts against them, including sexual exploitation of children for commercial purposes, committed abroad by one of their nationals, is not prevented by gaps in international cooperation and that these acts are effectively sanctioned;</p> <p>26. <i>Invites</i> the Commission to initiate the process of requesting the views of States regarding the process of elaborating an international convention on the illicit traffic in children, which may embody necessary elements to efficiently combat this form of transnational organized crime;</p>
<p>Basic Principles on the Role of Lawyers</p> <p>Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, August 27 -September 7, 1990</p> <p>U.N. Doc. A/CONF.144/28/Rev.1 at 118 welcomed by General Assembly resolution 45/121 of December 18, 1990</p> <p>(1990)</p>	<p>25. Professional associations of lawyers shall cooperate with Governments to ensure that everyone has effective and equal access to legal services and that lawyers are able, without improper interference, to counsel and assist their clients in accordance with the law and recognized professional standards and ethics.</p>
	<p>UN Organs – Secretariat</p> <p>UN Office on Drugs and Crime (UNODC)</p> <p>Commission in Crime Prevention and Criminal Justice</p>
<p>United Nations Standards and norms in crime prevention and criminal justice</p> <p>Draft resolution I for adoption by the Economic and Social Council</p> <p>Report on the Seventh Session of the Commission on Crime Prevention and Criminal Justice</p>	<p>III. Victims of crime and abuse of power</p> <p>ANNEX</p> <p>Plan of action for the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power</p> <p>I. Capacity Building</p> <p>2. The Secretary-General is requested to develop in collaboration with relevant intergovernmental and nongovernmental organizations criteria for the selection of technical cooperation projects for the establishment or further development of victim services.</p>

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<p>Economic and Social Council (E/1998/30 E/CN.15/1998/11) of April 21-30, 1998 (1998)</p>	
<p>Follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime</p> <p>Annex I P8- Senior Expert Group Recommendations to Combat Transnational Organized Crime efficiently</p> <p>Draft resolutions to be recommended by the Economic and Social Council for adoption by the General Assembly</p> <p>Report on the Sixth Session of the Commission on Crime Prevention and Criminal Justice</p> <p>Economic and Social Council (E/CN.15/1997/21) of April 28- May 9, 1997 (1997)</p>	<p>14. States should consider, as appropriate, reciprocal arrangements for the protection of witnesses and other endangered persons.</p>
<p>International cooperation in criminal matters</p> <p>Draft resolution V to be recommended by the Economic and Social Council for adoption by the General Assembly</p> <p>Report on the Sixth Session of the Commission on Crime Prevention and Criminal Justice</p> <p>Economic and Social Council (E/CN. 15/1997/21) of April 28-May 9 1997 (1997)</p>	<p>II. Extradition</p> <p>12. <i>Requests</i> the Secretary-General:</p> <p>(b) To continue to provide advisory and technical cooperation services to Member State requesting assistance in the development, negotiation and implementation of bilateral, subregional, regional or international treaties on extradition, as well as the drafting and application of appropriate national legislation, as necessary.</p> <p>(c) To promote regular communication and exchanges of information between central authorities of Members State dealing with requests for extradition and to promote meetings of such authorities on a regional basis for Members States wishing to attend.</p>
	<p>UN specialized Agency – International Labour Organisation (ILO)</p>
<p>R190 Worst forms of Child Labour Recommendation</p> <p>Of June 17, 1999 (1999)</p>	<p>9. Members should ensure that the competent authorities which have responsibilities for implementing national provisions for the prohibition and elimination of the worst forms of child labour cooperate with each other and coordinate their activities</p> <p>11. Members should, in so far as it is compatible with national law, cooperate with international efforts aimed at the prohibition and elimination of the worst forms of child labour as a matter of urgency by:</p> <p>(a) gathering and exchanging information concerning criminal offences, including those</p>

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	<p>involving international networks;</p> <p>(b) detecting and prosecuting those involved in the sale and trafficking of children, or in the use, procuring or offering of children for illicit activities, for prostitution, for the production of pornography or for pornographic performances;</p> <p>(c) registering perpetrators of such offences</p> <p>16. Enhanced international cooperation and/or assistance among Members for the prohibition and effective elimination of the worst forms of child labour should complement national efforts and may, as appropriate, be developed and implemented in consultation with employers' and workers' organizations. Such international cooperation and/or assistance should include:</p> <p>(a) mobilizing resources for national or international programmes;</p> <p>(b) mutual legal assistance;</p> <p>(c) technical assistance including the exchange of information;</p> <p>(d) support for social and economic development, poverty eradication programmes and universal education.</p>
	Regional Instruments
	European Instruments
	European Union – European Parliament
<p>Sexual Abuse of Children</p> <p>Resolution on the Commission: Communication On Combating Child Sex Tourism (COM(96)0547 - C4-0012/97)</p> <p>and the Aide-Memoire on the European Union's Contribution to Reinforcing the Prevention of the Sexual Abuse and Exploitation of Children (C4-0556/96)</p> <p>Of November 6, 1997</p> <p>(1997)</p>	<p>O. whereas only closely coordinated activities on the part of judicial and police authorities at European level will ensure the effectiveness of determined efforts to stamp out the vicious trade to which children fall victim,</p> <p>2. Calls on the Member States to take rapid action to harmonize certain concepts in their criminal legislation (in particular, the age up to which individuals may be deemed to be children with regard to sexual exploitation) and to classify as criminal offences:</p> <p>(a) pedophile activities</p> <p>(b) child sex tourism</p> <p>(c) child pornography</p> <p>(d) failure to inform the judicial authorities of pedophile acts or child abuse, or serious indications thereof, of which a person may have become aware, as failure to assist a person in danger, and to incorporate comparable penalties in their respective criminal law;</p> <p>5. Urges the Member States to enact legislation to abolish the requirement of double incrimination for sexual offences against minors; in other words, there should be no requirement that the crime be punishable in the place where it was committed in order for a prosecution to be brought;</p> <p>10. Calls on the Council to extend the field of activities of the future European information system to combating the sexual exploitation of children by providing for the exchange of computerized data concerning the identity of missing children and also persons who have been convicted of criminal offences involving the sexual exploitation of children, criminal paedophile activities or trafficking in children;</p> <p>21. Observes that, in some third countries, the phenomenon of child prostitution is directly linked to poverty and therefore calls on the Community, as part of its policy to support development, and in cooperation with the authorities of the countries concerned, to make a contribution to the emergence of a healthier alternative form of tourism and sponsor actions for the protection and rehabilitation of the victims of child prostitution.</p> <p>24. Calls on the Member States to adopt legislative provisions with extraterritorial, world-wide application, to enable persons who have engaged in the sexual exploitation of children abroad to be apprehended, prosecuted and punished</p>

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	European Union – Council of the European Union
<p>Resolution on the Contribution of Civil Society in Finding Missing or Sexually Exploited Children</p> <p>(2001/C 283/01), Official Journal C 283, 09/10/2001 P. 0001 – 0002 (2001)</p>	<p>2. Member States are invited to encourage cooperation between the competent authorities and civil society, in particular civil society organisations, in finding missing or sexually exploited children. This cooperation does not affect the responsibility of the competent authorities for investigations and prosecutions.</p> <p>Where appropriate such cooperation might take the following forms:</p> <p>2.2. making it possible, if that is not already the case under national legislation, to support civil society organisations in the search for missing or sexually exploited children, for instance by:</p> <ul style="list-style-type: none"> - disseminating information for locating missing children, if the authorities deem this useful, - making available to the competent authorities, at their request, volunteers for organised searches in the context of finding missing children, - providing support for the families of missing or sexually exploited children, - providing specific expertise in the field of missing or sexually exploited children. <p>2.3. Member States are invited to lay down suitable rules, in accordance with their legislation on investigations and prosecutions, for the exchange of appropriate information about the search for missing or sexually exploited children between civil society organisations and the competent authorities.</p> <p>That exchange of information should be effected with every guarantee of the security of the system, the confidentiality of data and the protection of personal data.</p> <p>3. Member States are invited to compile all data on missing or sexually exploited children in order to ascertain the extent of the phenomenon and analyse its trends, and to exchange such data with one another.</p> <p>Such compilation should be carried out by the competent authorities, where appropriate with the support of civil society organisations.</p>
<p>Resolution of the Council On the Protection of Witnesses in the Fight Against International Organized Crime</p> <p>(95/C 327/04), Official Journal C 327, 07.12.1995 p. 0005 – 0005 (1995)</p>	<p>B. Calls on Member States to facilitate judicial assistance in this field, even in the absence of any such provisions in the legislation of the State to which the request is addressed, save where compliance with the request for assistance would be contrary to the general principles of that State's law. In order to facilitate the use of audiovisual methods, the following points, in particular, should be taken into consideration:</p> <p>1. In principle, it should be envisaged that the hearing may be conducted under the legal and practical conditions of the requesting State only;</p> <p>2. If the legislation of either State allows for the witness to be assisted by an adviser during the hearing, it should be possible for such assistance to be arranged in the territory of the State in which the witness is situated;</p> <p>3. Translation costs and the cost of using audiovisual methods should be borne by the requesting State, unless otherwise arranged with the State to which the request is addressed.</p>

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	Council of Europe – Committee of Ministers
<p>On the Role of Public Prosecution in the Criminal Justice System</p> <p>Recommendation No. R (2000) 19 of October 6, 2000 (2000)</p>	<p>Safeguards provided to public prosecutors for carrying out their functions</p> <p>8. In order to respond better to developing forms of criminality, in particular organised crime, specialisation should be seen as a priority, in terms of the organisation of public prosecutors, as well as in terms of and in terms of careers. Recourse to teams of specialists, including multidisciplinary teams, designed to assist public prosecutors in carrying out their functions should also be developed.</p> <p>Relationship between public prosecutors and the executive and legislative powers</p> <p>15. In order to promote the fairness and effectiveness of crime policy, public prosecutors should co-operate with government agencies and institutions in so far as this is in accordance with the law.</p> <p>Relationship between public prosecutors and the police</p> <p>23. States where the police is independent of the public prosecution should take effective measures to guarantee that there is appropriate and functional co-operation between the Public Prosecution and the police.</p> <p>International co-operation</p> <p>37. Despite the role that might belong to other organs in matters pertaining to international judicial co-operation, direct contacts between public prosecutors of different countries should be furthered, within the framework of international agreements where they exist or otherwise on the basis of practical arrangements</p> <p>38. Steps should be taken in a number of areas to further direct contacts between public prosecutors in the context of international judicial co-operation. Such steps should in particular consist in:</p> <ul style="list-style-type: none"> (a) disseminating documentation; (b) compiling a list of contacts and addresses giving the names of the relevant contact persons in the different prosecuting authorities, as well as their specialist fields, their areas of responsibility, etc; (c) establishing regular personal contacts between public prosecutors from different countries, in particular by organising regular meetings between Prosecutors General; (d) organising training and awareness-enhancing sessions; (e) introducing and developing the function of liaison law officers based in a foreign country; (f) training in foreign languages; (g) developing the use of electronic data transmission; (h) organising working seminars with other states, on questions regarding mutual aid and shared crime issues. <p>39. In order to improve rationalisation and achieve co-ordination of mutual assistance procedures, efforts should be taken to promote:</p> <ul style="list-style-type: none"> (a) among public prosecutors in general, awareness of the need for active participation in international co-operation, and (b) the specialisation of some public prosecutors in the field of international co-operation. <p>To this effect, states should take steps to ensure that the public prosecutor of the requesting state, where he or she is in charge of international co-operation, may address requests for mutual assistance directly to the authority of the requested state that is competent to carry out the requested action, and that the latter authority may return directly to him or her the evidence obtained.</p>

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Action against Trafficking in Human Beings for the purpose of Sexual Exploitation

Recommendation No. R (2000) 11 of 19 May 2000

(2000)

6. Take co-ordinated action using a multidisciplinary approach involving the relevant social, judicial, administrative, customs, law enforcement and immigration authorities and non-governmental organisations (NGOs).

7. Encourage co-operation, involving both national authorities and NGOs, between countries of origin, transit and destination of the victims of trafficking, by means of bilateral and multilateral agreements.

36. Encourage and support the establishment of a network of NGOs involved in assistance to victims of trafficking.

37. Promote co-operation between reception facilities and NGOs in countries of origin to assist the return and reintegration of victims.

45. Facilitate police investigation and monitoring of establishments in which victims of trafficking are exploited and organise their closure if necessary.

46. Provide for rules governing the liability of legal persons, with specific penalties.

47. Provide for traffickers to be extradited in accordance with applicable international standards, if possible, to the country where evidence of offences can be uncovered.

48. Establish rules governing extra-territorial jurisdiction to permit and facilitate the prosecution and conviction of persons who have committed offences relating to trafficking in human beings for the purpose of sexual exploitation, irrespective of the country where the offences were committed, and including cases where the offences took place in more than one country.

50. Set up a co-ordinating mechanism responsible for drawing up the national policy on combating trafficking and organising a multidisciplinary approach to the issue.

51. Use this mechanism to encourage the exchange of information, the compilation of statistics and the assessment of practical findings obtained in the field, trends in trafficking and the results of national policy.

52. Use this mechanism to liaise with mechanisms of other countries and international organisations in order to co-ordinate activities, and to monitor, review and implement national and international strategies aimed at combating trafficking;

53. As far as possible, make use of all the available international instruments and mechanisms applicable to trafficking, particularly regarding the seizure and confiscation of profits earned from trafficking.

54. Set up an international body to co-ordinate the fight against trafficking, with particular responsibility for establishing a European file of missing persons, in accordance with national laws concerning the protection of personal data.

55. Increase and improve exchanges of information and co-operation between countries at bilateral level as well as through international organisations involved in combating trafficking.

Concerning Intimidation of Witnesses and the Rights of the Defence

Recommendation No. R (97) 13 of September 10, 1997.

Appendix to Recommendation No. R (97) 13 Concerning Intimidation of Witnesses and the Rights of the Defence

(1997)

30. Instruments aiming to foster international co-operation as well as national laws should be supplemented in order to facilitate the examination of witnesses at risk of intimidation and to allow witness protection programmes to be implemented across borders. The following measures should, for example, be considered:

- use of modern means of telecommunication, such as video-links, to facilitate simultaneous examination of protected witnesses or witnesses whose appearance in court in the requesting state is otherwise impossible, difficult or costly, while safeguarding the rights of the defence;
- assistance in relocating protected witnesses abroad and ensuring their protection;
- exchange of information between authorities responsible for witness protection programmes.

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On Crime Policy in Europe in a Time of Change

Recommendation No. R (96) 8 of
September 5, 1996

(1996)

28. Governments should envisage the possibility of providing for **an investigation/prosecution magistrate** with jurisdiction over the entire national territory, or providing for the establishment of **a central co-ordination body**.

29. Governments should:

- improve as far as possible their ratification position with regard to the European Conventions on Extradition (ETS No. 24) and Mutual Assistance in Criminal Matters (ETS No. 30), their additional Protocols (ETS Nos. 86, 98 and 99) the additional Protocol to the European Convention on Information on Foreign Law (ETS No. 97), as well as the Convention on the Transfer of Sentenced Persons (ETS No. 112) and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141);
- review their need to uphold reservations and declarations made when ratifying the above-mentioned European Conventions on extradition and mutual assistance;
- **exchange between competent authorities of the member states information** on those parts of domestic legislation which appear to be relevant for handling requests for co-operation in criminal matters based on the different conventions;
- provide, when requested by another government, information and other forms of **assistance for drafting domestic legislation on criminal matters**, in particular those which have international features (for example computer crime, environmental crime, fraud, organised crime) with a view to member states adopting domestic legislation which is compatible and harmonised with legislation in other member states, in such a manner as to make international co-operation both possible and uncomplicated;
- exchange, where appropriate, **liaison magistrates with other governments**, especially those with whom co-operation is more intensive, with a view to assisting the competent authorities when drafting or executing requests for legal co-operation and, moreover, to contributing to harmonising procedures and reducing delays;
- organise **seminars for the competent authorities on particular subjects related to international co-operation**;
- set up **exchange programmes for judicial authorities**, in particular judges and prosecutors specialised in organised and economic crime, with a view to enabling them to visit their counterparts in other member states for short periods and acquaint themselves with the working methods and legal systems in other member states;
- examine the advisability of developing amongst member states a computerised **information network** including all components of criminal justice systems in member states, as well as a database containing, inter alia, legislation and case-law.

30. Governments should bear in mind **existing structures for police and judicial co-operation, such as ICPO-Interpol**, and make optimal use of them.

31. Training of judges, prosecutors and police officers should take into account international aspects of crime as well as **international co-operation instruments** and practices.

32. In the long term, existing **structures of mutual assistance** based on the traditional concept of separate states might be complemented by adequate measures of co-operation and be improved by the creation of new supra-national structures for the judiciary.

33. European standards should be adopted on mutual legal assistance involving the use of sensitive data.

34. European standards should be adopted on mutual assistance for the purpose of the

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	<p>use of telecommunications in the giving of evidence.</p> <p>35. Procedures should be developed on simultaneous and co-ordinated multilateral mutual legal assistance between three or more countries.</p> <p>36. Bearing in mind existing structures for police co-operation, methods should be provided for better co-ordination of police teams working together across borders in the investigation of given cases.</p> <p>37. Controlled delivery techniques and the use of undercover agents should be studied at international level.</p> <p>38. Provision should be made for setting up international multi-disciplinary expert teams working together in given cases.</p> <p>39. International administrative assistance should be provided for and made available to national control authorities with jurisdiction over areas that are prone to economic crime.</p> <p>40. Efforts should be undertaken in order to find the right balance and the necessary co-ordination between international administrative assistance and mutual legal assistance in criminal matters.</p>
<p>On the Medico-Social Aspects of Child Abuse</p> <p>Recommendation No. R (93) 2</p> <p>March 22, 1993</p> <p>(1993)</p>	<p>Recommends the governments of the member States to:</p> <p>3.11 Adopt practices which encourage the sharing of information between the various professionals involved in investigation and assessment and which acknowledge the need to respect the confidentiality of the information shared. This may be achieved through holding a multidisciplinary case conference convened within an agreed time-scale, at which reports from all those involved in the investigation and assessment are presented and a plan drawn up for the welfare and protection of children, for their families and, where appropriate, for the abuser(s).</p>
<p>Concerning Sexual Exploitation, Pornography and Prostitution of, and Trafficking in, Children and Young Adults</p> <p>Recommendation No. R (91) 11</p> <p>September 9, 1991</p> <p>(1991)</p>	<p>I. Recommends that the governments of member states review their legislation and practice with a view to introducing, if necessary, and implementing the following measures:</p> <p>B. Measures relating to pornography involving children</p> <p>3. ensure, particularly through international co-operation, the detection of firms, associations or individuals, often linked with two or more countries, using children for the production of pornographic material;</p> <p>II. International aspects</p> <p>Recommends that the governments of member states:</p> <p>1. examine the advisability of signing and ratifying if they have not done so:</p> <ul style="list-style-type: none"> - the United Nations Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1950); - the Hague Convention on Jurisdiction, Applicable Law and Recognition of Decrees relating to Adoptions (1965); - the European Convention on the Adoption of Children (1967); - Convention No. 138 concerning Minimum Age for Admission to Employment, of the International Labour Organisation (1973); - the United Nations Convention on the Rights of the Child (1989); <p>2. introduce rules on extraterritorial jurisdiction in order to allow the prosecution and punishment of nationals who have committed offences concerning sexual exploitation of children and young adults outside the national territory, or, if applicable, review existing rules to that effect, and improve international co-operation to that end;</p>

IMPLEMENTATION - Cooperation

	<p>3. increase and improve exchanges of information between countries through Interpol, in order to identify and prosecute offenders involved in sexual exploitation, and particularly in trafficking in children and young adults, or those who organise it;</p> <p>4. establish links with international associations and organisations working for the welfare of children and young adults in order to benefit from data available to them and secure, if necessary, their collaboration in combating sexual exploitation;</p> <p>5. take steps towards the creation of a European register of missing children.</p>
<p>Concerning the Protection of Children against Ill-Treatment</p> <p>Recommendation No. R (79) 17 September 13, 1979 (1979)</p>	<p>16. Stressing that effective prevention and management of the problem requires the fullest co-ordination and co-operation between the health, social and other agencies,</p> <p>1. Recommends that the governments of member states take all necessary measures to ensure the safety of abused children, who for the purposes of this recommendation are those subjected to physical injury and those who are victims of neglect, deprivation of affection or mental cruelty likely to jeopardise their physical, intellectual and emotional development, where the abuse is caused by acts or omissions on the part of persons responsible for the child's care or others having temporary or permanent control over him;</p> <p>To this effect, it invites them to :</p> <p>3. Promote co-ordination, knowledge and understanding among services and among persons belonging to the various professional groups involved in child protection, in order to facilitate a multidisciplinary approach;</p>
	<p>Council of Europe – Parliamentary Assembly</p>
<p>Campaign against Trafficking in Women</p> <p>Recommendation 1545 (2002) January 21, 2002 (2002)</p>	<p>10. The Assembly therefore urges the governments of member states:</p> <p>(viii) to take the following steps regarding the prevention of trafficking in women:</p> <p>(a) establish bilateral agreements between destination countries and the countries of origin of victims which should cover legal and police co-operation and humanitarian aspects of this problem, including information and prevention campaigns, and training and assistance programmes for the rehabilitation of victims;</p> <p>(b) create special police services and make them aware of the fight against trafficking and forced prostitution. Such services should have direct contacts with Interpol and Europol in order to ensure an exchange of information on trafficking networks and efficient collaboration in the detention of criminals;</p> <p>(c) encourage constant co-operation and interaction between non-governmental organisations, consulates and police services responsible for the fight against trafficking</p>
<p>Abuse and Neglect of Children</p> <p>Recommendation 1371 (1998) April 23, 1998 (1998)</p>	<p>13. The Assembly therefore recommends that the Committee of Ministers ask the member states of the Council of Europe:</p> <p>(c) to combat child prostitution</p> <p>(vii) by organising international judicial and police co-operation against child prostitution networks, in particular by promoting the exchange of information;</p> <p>(d) to reinforce the prevention and punishment of abuse, including within the family circle:</p> <p>(vi) by establishing medical and social services in co-operation with schools so as to provide children both with an easily accessible ear and an initial place in which any physical traces can be detected;</p> <p>(vii) by making a single, free phone number generally available and making schoolchildren aware of this, so that they can contact qualified doctors or psychologists who would be authorised, where appropriate, to launch a medical and social procedure or even a judicial investigation;</p>

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(j) to introduce international sanctions for abduction with a view to adoption:

(ii) by improving transfrontier police and judicial co-operation to deal with such networks, which also operate across borders;

14. The Assembly invites the Committee of Ministers:

(a) to exert its influence on the environment which nurtures this criminal behaviour by drawing up a Council of Europe convention open for signature by non-member states, aimed at:

(iii) **co-operating with a view to monitoring and tracking down** the international dissemination of such pictures, whatever the media or technology used and including encoded communications between private persons;

(b) to organise **judicial co-operation** between Council of Europe member states in order to punish recidivist sex offenders, by drawing up, in conjunction with the Parliamentary Assembly, a Council of Europe convention setting up a register of convictions for offences against minors:

(i) by providing for this register to be placed under the authority of the President of the European Court of Human Rights in Strasbourg;

(ii) by giving the President of the European Court of Human Rights authority to monitor compliance with the convention, in particular as regards confidentiality, the validity of requests for consultation and application of rules on amnesty;

(iii) by providing that, for the purpose of compiling the above-mentioned register, the President of the European Court of Human Rights shall be notified by the criminal courts of signatory states of all final convictions carrying a sentence for an offence against a minor as well as ancillary penalties, depending upon the definition, procedural rules and sentences in force in the state in which the offender is convicted; and providing also for notification of amnesties and cancellations of convictions occurring after notification of the original judgment;

(iv) by defining the rules for access to data held in this register, which may be requested only by:

- a court trying an offence or crime against a minor;
- any person requesting a certificate to the effect that his/her name is not listed in the register, where such a certificate is required in order to apply for a job entailing direct contact with children;

15. lastly, by providing for the application of the rules on amnesty to convictions which have been notified and the subsequent cancellation of entries in the register set up under the convention, in accordance with the provisions of the criminal law of the state in which the judgment notified was passed.

On Traffic in Women and Forced Prostitution in Council of Europe Member States

Recommendation 1325 (1997)

April 23, 1997

(1997)

Paragraph 4

The Assembly recommends that the Committee of Ministers elaborate a convention on traffic in women and forced prostitution, which would also be open for signature by states not members of the Council of Europe. The scope of the convention should be limited to adult women, and based on the Assembly's definition in paragraph 2 above. It should focus on human rights, stipulating repressive measures to combat trafficking through harmonisation of laws especially in the penal field, **opening new channels for improved police and judicial communication, co-ordination and co-operation, and organising a certain degree of assistance and protection for victims of trafficking, especially those willing to testify in court.** This should also include physical protection if necessary, and in any case the granting of temporary residence permits as well as legal, medical and psychological assistance. The convention should establish a control-mechanism to monitor compliance with its provisions and to co-ordinate further action at the pan-European level to combat trafficking in women and forced prostitution. The Committee of Ministers is asked to submit the draft convention to the Assembly for opinion before its adoption.

IMPLEMENTATION - Cooperation

	<p>Paragraph 6</p> <p>The Assembly further recommends that the Committee of Ministers urges member states to:</p> <p>(iii) create specific police structures on the national level to combat traffic in women and forced prostitution, and improve international communication, co-ordination and co-operation of police bodies via Interpol and Europol, but also on the basis of both bilateral and multilateral contacts;</p>
<p>On a European Strategy for Children</p> <p>Recommendation 1286 (1996) of January 24, 1996 (1996)</p>	<p>7. The Assembly also recommends that the Committee of Ministers invite the states grouped together in the Council of Europe to make children's rights a political priority by:</p> <p>(iii) adopting a comprehensive, consistent and co-ordinated approach to childhood policy, which will encourage multidisciplinary structures to be put in place at all deliberation and decision-making levels, in particular at ministerial level, and foster the creation of national coalitions of all relevant partners;</p>
<p>On the Sexual Exploitation of Children</p> <p>Resolution 1099 (1996) of September 25, 1996 (1996)</p>	<p>5. The Assembly calls upon the member states of the Council of Europe to unite their efforts and their resources to combat child prostitution, trafficking and pornography, in order that the sexual exploitation of children may cease, and calls for increased international co-operation.</p> <p>14. The Assembly also calls on member states to work in close co-operation with countries whose children and young people suffer sexual exploitation by nationals of the member states in order to combat sex tourism abroad.</p> <p>17. The Assembly observes that national action is limited and cannot be effective in combating exploitation and trafficking in organised networks, and calls upon the member states to reinforce transfrontier judicial and police co-operation in Europe; it fully supports the initiatives aimed at improving the Europol system.</p>
	<p>Inter-American Instruments</p>
	<p>Organisation of American States (OAS)</p>
<p>Enhancement of the Administration of Justice in the Americas</p> <p>AG/RES. 1561 (XXVIII-O/98) June 2, 1998 (1998)</p>	<p>1. To instruct the Permanent Council, in coordination with the General Secretariat and the Inter-American Juridical Committee, in collaboration with national and international institutions involved with this subject, and in keeping with resources allocated in the program-budget and other resources, to continue to organize seminars or workshops aimed at achieving greater judicial cooperation in the region and at increasing awareness of international rules of law, in particular those originating in the inter-American system, and to consider and forward through appropriate channels any requests put to the Organization by member states for assistance in improving the administration of justice in their countries.</p>
<p>Enhancement of the Administration of Justice in the Americas</p> <p>AG/RES. 1481 (XXVII-O/97) June 5, 1997 (1997)</p>	<p>2. To reiterate to the Permanent Council that it should continue, through its Working Group on Enhancement of the Administration of Justice in the Americas, in coordination with the Inter-American Juridical Committee and the General Secretariat, in collaboration with the national and international institutions involved in this subject and within allocated resources approved in the program-budget and other resources, to organize seminars or workshops aimed at achieving greater judicial cooperation in the region and at increasing awareness of international rules of law emanating from the inter-American system, and that it should consider and forward, through appropriate channels, any requests member states may put to the Organization with regard to assistance for the enhancement of the administration of justice in their countries.</p>



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