

PRO BONO CHILDREN EUROPE

A EUROPEAN CHILD JUSTICE CLEARINGHOUSE

OUR POLICY OF COMMITMENT TO CHILD PROTECTION
WITHIN OUR ACTIVITIES



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INTRODUCTION

Who are we?

PILnet and AADH believe that the right to be defended is a universal right and that it should not be constrained by difficulties in accessing the law, whatever the causes, financial or otherwise. In order to guarantee this right and access to justice, they have created the first European pro bono clearinghouse dedicated to the defence of children, namely Pro Bono Children Europe (hereafter PBCE). This European clearinghouse offers the expertise of a pool of pro bono lawyers to any organization working for the protection of children and their clients. PBCE should not be considered as a substitute for the obligation of the member states to provide access to law and justice and it is not in any way aiming at replacing State-funded legal aid.

Why this safeguarding policy?

In view of the great vulnerability of the populations to which PBCE provides assistance, it seemed essential to us to recall the fundamental principles which will frame our activity and the intervention of our stakeholders (lawyers, employees, representatives, volunteers, NGOs, partners, experts, etc.).

PBCE was launched in the framework of the **CLEAR-Rights: enhancing legal assistance for children in conflict with the law in Europe**¹.

¹ The project CLEAR-Rights: Enhancing legal assistance and access to justice for children in conflict with the law in Europe is co-funded by the European Union's Justice Programme (2014-2020). The content of these Safeguarding Policy represents the views of the authors only and their sole responsibility. The European Commission does not accept any responsibility for the use that may be made of the information it contains. CLEAR-Rights is a two-year project (January 2021 to December 2022) co-funded by the Justice Programme of the European Union. The CLEAR-Rights project is coordinated by the Regional Office of Terres des hommes for Europe in Hungary, in collaboration with 5 partners: PILnet in Hungary; Alliance of Lawyers for Human Rights (Alliance des Avocats pour les droits de l'homme) (AADH) in France; Defence for Children International (DCI) in Belgium; Terre des hommes Romania; and Defence for Children International - ECPAT in the Netherlands.

The aim of PBCE is to:

- Improve access to justice for children;
- Strengthen the resilience of children's rights NGOs;
- Promote and support legal pro bono work in the field of children's rights;
- Support and enhance collaborations and exchange of good practices in the field of child justice.

PBCE believes that it is its responsibility to provide an effective protection policy in response to the particular vulnerability of minor and young adults. This policy aims at preventing any abuse and minimizing the risks connected to working with vulnerable populations. In this way, we try to secure a safe and responsible working environment. It will apply at all times, including both during and outside of working hours.

What are its objectives?

This safeguarding policy will guide our commitment to and help us in the conduct of our activities in the best interests of children.

It will be based on the relevant European, national and international provisions on the rights of the child and will recall that minors have rights that can be invoked at any time.

On this basis, it will define an ethical regime of obligations and duties that apply to all those who work for us or collaborate with us. This regime will guarantee a high degree of professionalism, competence, kindness and vigilance towards children by the introduction of preventive tools and the establishment of transparent procedures.

It will establish various means and mechanisms for children and our staff and volunteers to ensure its implementation and compliance.

What values does it commit to?

This document has been created to carry the core values and principles that we deploy in each of our efforts, namely:

- **Transparency:** this document will be shared as widely as possible in order to make our operation and working methods public.
- **Impartiality, respect and inclusion:** our policy reaffirms that PBCE is dedicated to advocating for all individuals and as such, we will not tolerate any discriminatory behavior towards the children we work with. We will promote diversity and inclusion in providing and accounting for the needs of children of every race, ethnicity, culture, nationality, ability, gender, sexuality, faith, and family background.
- **Best Interest of the Child:** when we assist them, we will provide children with a safe environment and the framework necessary to effectively support and protect the dignity and well-being of children.



FRAMEWORK OF APPLICATION



To what type of situation does this policy apply?

The recommendations and mechanisms provided for by the policy will be integrated in each of our activities related to children and young adults, whether it is training for the benefit of actors in the field of child protection (NGOs, lawyers, guardians, educators, judges, etc.), pro bono legal support to NGOs or assistance and defense of minors, communication and awareness raising, cooperation between NGOs, sharing of experiences and good practices between clearing houses, lawyers and NGOs, etc.

PBCE has a zero tolerance policy for all forms of mistreatment and abuse, including contravention of child safeguarding policies and practices, and in particular will investigate and adequately respond to in a timely manner to:

- any behavior demonstrating a serious and flagrant professional breach that may endanger or harm the child (breach of confidentiality commitment, violation of the child's right to privacy, violation of the child's right to information, failure to consult with the legal representative before making a decision, etc.).
- any emotional abuse and/or psychological maltreatment committed against a child such as bullying, verbal abuse, inappropriate and humiliating words, threats, degrading speech, which causes or is likely to cause damage to the child's self esteem, social competence or well-being, etc. Emotional abuse includes shaming, belittling, name calling, persistent criticism, offensive remarks, solitary confinement, isolation, and other forms of emotional violence.
- any incident involving the use or threat of physical force which causes or is likely to cause physical injury or suffering to a child. Physical abuse includes hitting, slapping, grabbing, shaking, kicking, pushing, burning, and other forms of physical violence.

- any abuse of sexual nature committed against a child (touching, rape, incitement to behave in a sexually inappropriate manner, witnessing or participating in sexual abuse of a third party, etc.)
- any situation when a professional maintains a relationship with a child outside the scope of the lawyer's professional practice, for any reason.

Who does it apply to?

PBCE operates through the cooperation of many parties, each with their own activities. This policy will therefore apply (including both during and outside of working hours) without exception to:

- **All PBCE representatives and employees**, namely members of the governing bodies, officers, volunteers, employees, civic service volunteers, interns. These staff are bound and required to comply with this policy in their day-to-day work of governance, policy formulation, program development, communication, etc.
- **All of our pro bono lawyers:** When handling cases and conducting trainings, our attorneys might be in direct contact with minors and grassroots organizations dealing with child protection issues. Our attorneys are therefore committed to adopting the values and recommendations of our Safeguarding Policy and to fulfilling their obligations. Any pro bono lawyer who wish to work on a case from the PBCE must first read and agree with the Safeguarding Policy. They are not required to sign the "Child protection commitment form" (Annex I).
- **All third parties engaged in our activities and linked with PBCE:** PBCE may work formally with different parties in its activities. For example, it has pooled its efforts with representatives of European clearinghouses and will develop its relations with representatives of NGOs and associations from the concerned countries, but also in-house counsels, company employees, students from legal clinics, contractors, consultants, suppliers without this list being exhaustive. They are all required, in the same way as our pro bono lawyers, to adopt and respect this policy throughout their collaboration.

What is the status of this safeguarding policy?

This policy is a binding commitment.

OUR CODE OF CONDUCT



Title I:

Granting the child respect for his or her rights

Article 1. PBCE and its members undertake to treat the child with respect and always act in accordance with the applicable National, European and International provisions on child protection:

- a. By systematically integrating the best interests, the well being and the dignity of the child in every decision and in the assessment of the consequences of conduct adopted with regard to a minor.
- b. Informing the child of his or her rights and obligations and allowing the child to express his or her views on all matters affecting him or her while respecting the permission and wishes of the child's legal representative. It is the responsibility of the members of PBCE to consult with the parties and to act in accordance with the advice of the legal representative except where it is clearly contrary to the best interests of the child.
- c. Exercising the utmost discretion and not violating the child's privacy and/or confidentiality of records. All members of PBCE remain bound by confidentiality and must prevent the disclosure of information about the child that may violate the child's right to privacy. This obligation continues even after the activities have ended.
- d. Treating minors without discrimination and respecting their individual characteristics and situations (nationality, sexual orientation, religion, language, race, ethnicity, social, cultural, etc.)
- e. Accompanying the minor legally until the end of each case in accordance with the principle of the best interests of the child, except in exceptional, unforeseeable and irresistible circumstances.

Title II:

Recruitment of staff and monitoring of our lawyers

Article 2. PBCE will only agree to work with lawyers, NGOs, associations, companies or institutions that present guarantees of seriousness, professionalism and ethical responsibility. We reserve the right to refuse a collaboration if we consider that our values and requirements cannot be met by potential collaborators.

- a. PBCE might require legal documentation as proof identity for all partners, employees, applicants except for pro bono lawyers coming from law firms already part of AADH and PILnet's networks;
- b. PBCE encourage all parties engaged with PBCE to sign a child protection commitment form (Annex I).

Article 3. More specifically, PBCE undertakes measures to secure the recruitment procedures of its pro bono lawyers ensuring a high professionalism requirement. It will support the competence of its pro bono lawyers by offering specialized legal training on child-related topics (criminal proceedings for children in conflict with the law, child friendly justice, anti-trafficking in , the role of the lawyer working with a child, psychology and communication with the child, international mechanism to defend children's rights, international private family law). Attending trainings might be considered a requirement to be assigned or work on specific matters or participate in specific activities dealing with children. PBCE will also share tools and resources to strengthen the capacity of lawyers assisting children (such as the Step-by-Step Guideline and Quality Standards on Legal Assistance for Children).

Any lawyer who engages in a matter from PBCE must have current professional liability insurance covering their pro bono activities. PBCE will not be held liable for any action of a pro bono lawyer in the course of handling a case.

Article 4. PBCE will establish supervision and monitoring of the work of the lawyers through a systematic reporting questionnaire. Any lawyer involved in a case will have to inform the PBCE representatives as soon as he/she has finished his/her mission and will be given a questionnaire to fill in and return to them. He/she undertakes not to disclose any information that may affect the confidentiality of the data as mentioned in Article 8 b). The questionnaire will allow a qualitative assessment of the management of matters.

Article 5. PBCE will raise awareness of the above-mentioned issues through trainings for legal and field professionals working with children and likely to collaborate with PBCE, i.e. police officers, social workers, lawyers, NGO representatives, magistrates, etc. PBCE will therefore ensure that all staff members, volunteers, partners, and representatives receive adequate child safeguarding training and are aware of all applicable safeguarding policies.

Title III:

Prevention of incompetence and abuse

Article 6. In application of the principle of the best interests of the child and of our obligations to assist them until all avenues of appeal have been exhausted, legal assistance by our lawyers will not supplant the work of other competent authorities, whatever they may be. In this respect:

- a. PBCE will establish the precise scope of intervention of its lawyers.
- b. PBCE will regulate the deployment of pro bono lawyers through a system of individual allocation of cases and will only deal with requests falling within its field of competence. Thus, priority will be given to the national clearinghouses and each case which could be handled by one of the clearinghouse members of the European Pro Bono Alliance will be entrusted to it beforehand, unless rejected. At the end of a 15-day period (except if the needs of the case and the best interest of the child require a quick treatment), if the case has not been matched by a national clearinghouse, it will be sent back to the PBCE representative who will distribute it among its networks.

Article 7. In order to prevent and report an abuse or incident committed by one of the parties involved:

- a. PBCE shall ensure that reporting mechanisms are available to any party engaged in a procedure involving children. Reports of child safeguarding concerns, supported by evidence to assess their seriousness and validity, may be made in an informed and anonymous manner. A message can be delivered via email to Noanne Tenneson and Giulia Patane at: eprobonoc@tutanota.com, who, after verifying the elements supporting the request, will conduct investigations in an impartial and timely manner and evaluate the use of sanctions as per Article 10. PBCE will at all times preserve the confidentiality of child safeguarding matters and records in respect of article 9.
- b. PBCE shall ensure that all parties are made aware of the existence of these mechanisms, especially minors.
- c. PBCE shall conduct regular audits of child safeguarding policies, practices and procedures.

Article 8. Staff, NGOs, pro bono lawyers and any collaborators of PBCE shall not engage in any behavior that may be harmful to a child:

- a. PBCE staff shall always weigh the consequences of a decision or behavior against the best interests of the child. This principle remains essential throughout the care and support process and shall take precedence over any other personal considerations or opinions.
- b. Never reveal information about the child's identity or that would allow the child's identity to be guessed or that would prejudice the child's family situation and privacy. Lawyers shall safeguard and enforce this right throughout the support process.
- c. Never communicate to third parties or internally in their law offices about cases they have handled through PBCE without the prior consent of the child's parents or guardians and the prior written consent of PBCE.
- d. Never threaten, attempt or commit any of the abuses listed at the beginning of this policy against a child.

The list is not exhaustive and PBCE reserves the right to sanction as per Article 10 any behavior not mentioned above if it considers it to be manifestly illegal or contrary to its mandate and values.

Title IV: Commission of an infraction

Article 9: In the event of the commission of an infraction of the present Code of Conduct - whether it is an abuse, an inappropriate behavior or a professional breach - the individual who witnesses or has knowledge of the infraction, shall report it as soon as possible to the representative of PBCE as referred in article 7.

Internal concerns involving a PBCE pro bono lawyer, volunteer, or representative shall be investigated as soon as reasonably practicable by any governing representative . Investigations shall be kept strictly confidential and involve all authorities required by law based on the nature of the concern. For incidents in which criminal conduct is alleged, PBCE shall immediately notify the police and any other necessary child protection authorities.

Reports of child safeguarding concerns shall be treated with the utmost confidentiality and disclosed only on a need-to-know basis in accordance with this policy or as required by law.

Article 10. Any infraction may result in a disciplinary sanction (removal from the list of approved legal aid providers, removal of files and transfer to another pro bono lawyer and implementation of national disciplinary proceedings). In the event of a serious infraction, it will be reported to the competent authorities and may be subject to legal proceedings.

Title V: Implementation of the Policy

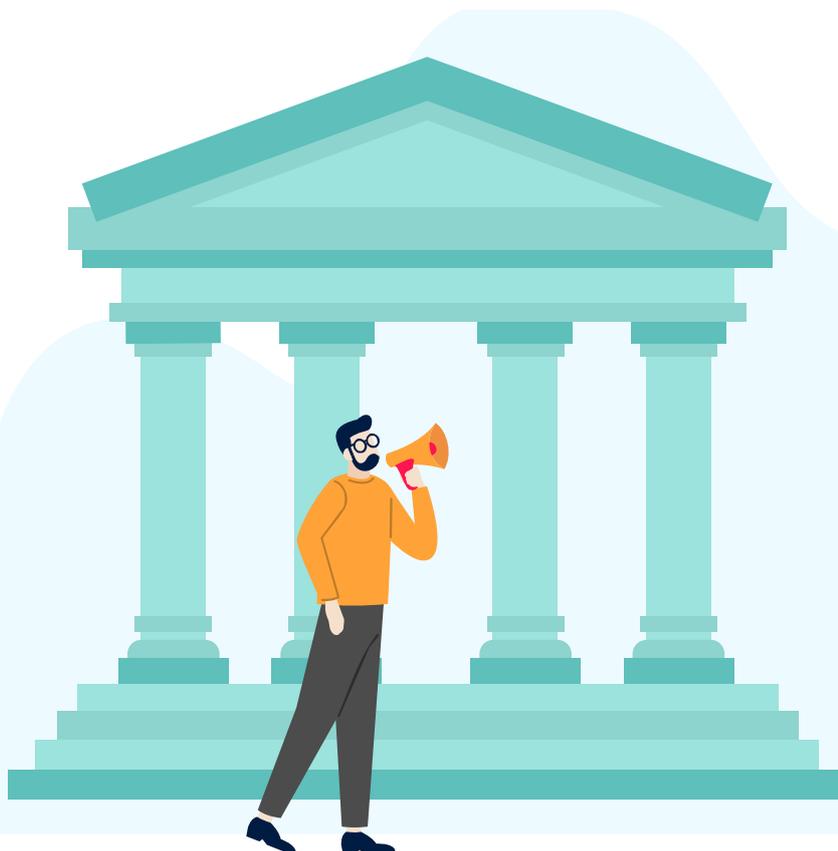
Article 11. PBCE is committed to raising awareness and disseminating the content of this policy:

- During its future training sessions for lawyers, PBCE will inform about the existence of this policy and the level of commitment required in order to participate in our activities.

- During the training of any other professional working with children (legal professionals, social workers, police officers, etc.) PBCE will also inform about the existence of the policy and its content in order to raise awareness about the main issues of child protection.
- This safeguarding policy will be accessible on the PBCE webpage in accordance with our principle of transparency.

Article 12. We will share this policy with all new pro bono lawyers as well as existing PILnet's and AADH members expressing interest in PBCE. The pro bono lawyers will have to read it before formally committing to collaborate with us. We encourage pro bono lawyers to sign the attached protection commitment returned it to PBCE, before being involved in matters or activities as a prerequisite for collaboration.

Article 13. We will inform children of the existence of this policy through the NGOs representatives who are in direct contact with children. We will make sure that they understand the extent of their rights as well as the duties of our members.



ANNEX I

CHILD PROTECTION COMMITMENT FORM

I, _____, residing at
_____, working as
_____, within _____, and collaborating
with the the PBCE for the purpose of

I hereby declare:

- I have never been charged with or convicted of a criminal offence;
- I have read the entirety of the Safeguarding Policy written by PBCE and understand its contents and the scope of my commitment;
- I undertake to fulfill my obligations and duties as set out in this safeguarding policy and not to fail to do so for any reason;
- thereby ensuring that I demonstrate the highest standards of professionalism to ensure a sound and reasonable safeguarding framework in accordance with the provisions set out in the policy, and to apply them in the conduct of my actions in relation to my collaboration with the EUCJCH
- undertake to notify PBCE representatives as soon as possible of any breach of this commitment or serious misconduct that I have committed or of which I am aware of
- acknowledge that in the event of a breach or serious misconduct of this undertaking, I am subject to immediate termination of my participation in the collaboration with PBCE and to possible disciplinary action or criminal prosecution.
- By signing this document, I declare myself bound by this protection commitment and by all the provisions of this safeguarding policy.
- Done at _____, on _____

Signature preceded by the handwritten words "Read and approved"

