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Item 3: Interactive dialogue with the Special Rapporteur on the independence of judges and lawyers

Mr. President

BICE and its partner organisations involved in the juvenile justice program in Africa and Latin America thank the Special Rapporteur on the independence of judges and lawyers for focusing her thematic report on the **protection of children’s rights in the justice system and the role of judges, prosecutors and lawyers.**

As she rightly pointed out, legal assistance is important to overcome factors and circumstances that hamper effective and prompt access to justice for children. Some States like the DR Congo strive to establish Free Legal Advisory Units within Bar associations whilst other States like Colombia, Peru and Togo provide for that assistance in their legislation. However in practice, legal aid is not properly ensured, such as in Ecuador, where legal counsel is not systematic and not available throughout proceedings. Ultimately, the undue delay in child proceedings lies on weak public investment in strengthening legal aid providing mechanisms, low interest of lawyers – even appointed lawyers – in child cases considered non profitable, and the unreasonable distance from homes to courts. As a matter of fact, delays jeopardize evidence, discourage children, and compromise the respect of children’s fundamental rights.

Regarding the training of prosecutors, judges and lawyers, their specialization is a key requirement for an effective child-friendly, child-sensitive juvenile justice system. Indeed, many key child rights principles and the administration of justice rules specific to children are still not well assimilated by both formal and informal justice actors. Above all, the principle of the “best interests of the child” which is prominently at the heart of a child-sensitive justice system is barely mastered. **Question: How could the CRC General Comment n°14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, become a daily tool for prosecutors, judges and lawyers?**

As for alternatives to judicial proceedings, even though States domestic laws and institutions may provide generally for extra judicial treatment, including alternatives measures, the problem stands on the ineffectiveness of existing socio-educative programs and the deficient follow-up and monitoring process of diversion actions that deter judges from taking non custodial measures. **Judges and prosecutors of the juvenile justice should therefore be proactive in ensuring genuine partnership with other stakeholders, including social workers, for the effective implementation of their decisions. Question: How prosecutors and judges can help establish and strengthen restorative juvenile justice mechanisms so that they are not constrained to infringe the law due to their ineffectiveness?**

Our organizations regret that the SR has not mentioned – even indirectly – the paramount role of social workers in helping other stakeholders of the justice system to achieve effective access to justice for children. Hence, social investigations based, *inter alia*, on family situation, child behavior development, needs and expectations, enable prosecutors, lawyers and paralegals to appropriately defend the child according to his/her resilience potential, and the judges to take the decision that better serves the best interests of the child. Without a secured and dynamic collaboration between prosecutors, judges and lawyers and social workers, child cases cannot be swiftly and promptly treated.

Thank you Mr. President.