



# BUILDING AN INCLUSIVE EUROPE

## The contribution of children's participation

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## CHILDREN'S RIGHTS AND PARTICIPATION

### Background paper for Eurochild Annual Conference 2013

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## INTRODUCTION

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Eurochild has been at the forefront of efforts to integrate child participation into research, campaigning and legal and policy developments at domestic and European level. In doing so, it has drawn on the knowledge and expertise of its extensive network of NGOs, Local Authority, academic and practitioner contacts across Europe.

Key contributions in this area comprise:

- **Research-based activities.** These include: a framework and toolkit for consulting children on their rights, with a particular focus on engaging with children in vulnerable situations;<sup>1</sup> and a 2010 report showing how involving children in decision-making can assist in tackling poverty and social exclusion;<sup>2</sup>
- **Thematic campaigns and lobbying.** Notably, Eurochild has promoted child participation in the context of child poverty and well-being, with a particular focus on the impact of the global economic crisis on children.<sup>3</sup> This, in turn, has led to a number of legal, policy and budgetary recommendations on child participation at EU level. More broadly, Eurochild is in the process of developing recommendations for mainstreaming children's rights into all EU activities, of which child participation is an integral part.
- **Engagement with children and young people directly,** not only as participants in research, but as campaign ambassadors and as delegates in its research and knowledge exchange events, including the annual conference<sup>4</sup>.

Eurochild's longstanding commitment to child participation has been reinforced by the adoption of a specific goal dedicated to 'Giving a voice to children and young people' in the [Eurochild Strategic Plan 2014-2018](#). To achieve this, Eurochild aim to ensure that children are directly involved in its activities so that their views and experiences are reflected in Eurochild's policy work. In turn, Eurochild will support the development of policies and funding programmes at EU and national level that encourage and facilitate children's participation.

A logical step in this direction is the organisation of the annual conference on the contribution of children's and young people's participation to build an inclusive Europe. This background paper aims to support and facilitate discussion at the conference by summarising: the legal basis and key principles that underpin the right to participate; the importance of respecting children's right to participate; some of the challenges to achieving this and ways of responding to them, particularly in the context of the five thematic areas; and relevant developments at European level.

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<sup>1</sup> Eurochild (2012) ['Speak Up!': Giving a voice to European Children in Vulnerable Situations](#).

<sup>2</sup> Eurochild (2010) ['Valuing Children's Potential: How Children's Participation contributes to fighting poverty and social exclusion'](#).

<sup>3</sup> Eurochild (2012) [How the economic and financial crisis is affecting children & young people in Europe](#)

<sup>4</sup> Eurochild (2010) [Children's meeting on poverty and social exclusion](#)

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## WHAT IS THE BASIS AND SCOPE OF CHILDREN'S RIGHT TO PARTICIPATE?

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The right of children to participate in decision-making was established in Article 12 of the [United Nations Convention on the Rights of the Child \(UNCRC\)](#). This states that:

*'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...'*

*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.*

While all human beings have a right to freedom of expression, only children have the right to have their views given due weight. The inclusion of this additional obligation in the UNCRC recognises that children often lack power and influence in the decisions that are made for them and that, as rights-holders, they are entitled to be heard and to help shape the decisions that impact on their lives. Article 12 has been adapted and included in other later human rights Conventions that have specific provisions for children such as the [Charter of Fundamental Rights of the European Union](#) (Article 24(1)) and the [United Nations Convention on the Rights of Persons with Disabilities](#) (Article 7(3)).

The Committee on the Rights of the Child published a [General Comment No. 12 – The right of the child to be heard](#) setting out its legal meaning and scope. It confirms that the right applies to the decisions that affect individual children (such as decisions made about their personal healthcare and education) as well as groups of children (such as local, national and international laws and policies). Those seeking to implement rights-based participation must ensure that: children are given safe and inclusive opportunities to form and express their views, supported by information and guidance; children are facilitated to express themselves in a medium of their choice; participation is voluntary; and children's views are taken seriously and influence decisions as appropriate.<sup>5</sup> Children should be told at the outset what influence is possible and, subsequently, what influence they have in fact had. Key features of children's rights-based participation identified by the Committee are summarised in Appendix 1.

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## WHY IS IT IMPORTANT TO RESPECT CHILDREN'S RIGHT TO PARTICIPATE?

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Article 12 has been described as the cornerstone of the UNCRC because it "recognises the child as a full human being with integrity and personality and the ability to participate freely in society."<sup>6</sup> Its significance is further underlined by the fact that, along with non-discrimination (Article 2), best interests as a primary consideration (Article 3), and the right to life survival and development (Article 6), it has been identified as one of four "general principles" of the UNCRC.<sup>7</sup> This means that all of the other rights in the UNCRC must be interpreted and applied in a way that respects children's views.

Further reasons for respecting children's right to have their views given due weight include:

- Effective participation is one way of **realising children's other rights** in the UNCRC.
- Respecting children's views usually leads to **better, more relevant decisions for individual children**.
- The process of participation in decisions builds children's **capacity for exercising personal autonomy and for democratic participation**, not only in decisions that affect them now, but in those that will affect them in the future.
- The right to express views and have them taken seriously can **help children to stay safe** by challenging situations of violence, abuse, threat or injustice.
- Active engagement with children provides **insights that can inform the development of legislation, policies, budget allocation** and services.

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<sup>5</sup> See Lundy, L. (2007) 'Voice is not enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child', *British Educational Research Journal*, 33(6) p. 927-942 for a legally sound but user-friendly model for understanding Article 12 based on four key concepts: Space, Voice, Audience and Influence. See also Shier, H. (2001) 'Pathways to participation: openings, opportunities and obligations' *Children and Society* 15(2), p. 107-117 for a practical series of questions for implementing it in practice.

<sup>6</sup> Freeman, M. (2004) 'The Future of Children's Rights', *Children and Society*, (14), p. 277-293.

<sup>7</sup> Committee on the Rights of the Child (2003) [General Comment No. 5 – General measures of implementation for the Convention on the Rights of the Child](#). See also [General Comment No. 14 on The right of the child to have his or her best interests taken as a primary consideration](#) (2013).

- Meaningful child participation is an essential means of **making adult decision-makers more accountable** and leads to better, more transparent governance.<sup>8</sup>

Since the UNCRC was adopted, there have been many advances towards realising children's right to participate in decision-making: most European countries have adopted laws that require children's views to be sought and taken seriously; governments have increasingly taken steps to consult with children in relation to local and national policies; and international agencies, including the EU and the Council of Europe, have developed a range of laws, policies and processes related to children's participation.<sup>9</sup> Nonetheless, significant challenges remain.

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## WHAT ARE THE CHALLENGES AFFECTING CHILDREN'S RIGHT TO PARTICIPATE?

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In spite of the significant advances in implementation of the right, child participation is not always routine, nor is it always meaningful. Moreover, much of the good practice has been achieved on small scale projects by children's organisations or researchers and is not always scaled up or adopted fully by governments who have the primary responsibility under the UNCRC.<sup>10</sup> Other obstacles that can impede children's right to have their views given due weight are as follows:

- **Lack of awareness among adults** of the fact that the right exists and is a matter of entitlement rather than an optional aspect of professional activity. There is also limited understanding of its full meaning and implications in practice.
- The **negative attitude of some adults** who think that children lack the competence to participate in decision-making or may view children's participation as *undermining adult authority*, for example parents in the home or teachers in schools. This may stem from a misunderstanding of the nature of children's right to participate as a matter of substituting children's views for those of adults.
- Participation can be misused for adult ends, such as where the participation is carried out in a **tokenistic or manipulative way**.<sup>11</sup> These may be the worst forms of participation as they can discourage children from expressing their views in the future.
- Meaningful engagement requires sufficient **time and resources** to ensure that children are able to form and express their views freely, and is seen to be particularly difficult at a time when funding is stretched
- **Lack of awareness among children** that they have right to be heard as well as how to exercise it in ways that ensure that they are safe and that their views are taken seriously.
- **Lack of equality** in access to participation of certain groups of children and young people who may require additional support or resources to facilitate their inclusion in decision-making. This applies particularly to very young, children with learning disabilities and those for whom the national language is not their mother tongue.

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## HOW CAN THE RIGHT TO PARTICIPATION BE BETTER IMPLEMENTED IN PRACTICE?

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Gerison Lansdown has developed a useful framework that summarises the steps that can be taken to ensure the full implementation of the right in order to move practice beyond projects towards entitlement.<sup>12</sup> This includes:

**Introducing a legal and policy framework.** Article 4 of the UNCRC requires states to put in place all appropriate legal and administrative measures to ensure that Article 12 is implemented. This requires ensuring that: it is integrated in national and local laws; there are effective means for children to complain and seek redress for breach of their rights; national children's plans include strategies for supporting children's participation in all contexts; and that there is a government department with responsibility for overseeing its implementation.<sup>13</sup> Independent human rights

<sup>8</sup> For further discussion, see Lansdown, G. (2011) *Every child's right to be heard: a resource guide on the UN Committee on the Rights of the Child General Comment No. 12*, UNICEF and Save the Children.

<sup>9</sup> Lundy, L., Byrne, L., Kilkelly, U. & Kang, J. (2012). *The UN Convention on the Rights of the Child: a study of legal implementation in 12 countries*, London: UNICEF-UK. For European developments see further the final section of this paper.

<sup>10</sup> Lansdown, G. (2011) *Every child's right to be heard: a resource guide on the UN Committee on the Rights of the Child General Comment No. 12*, UNICEF and Save the Children.

<sup>11</sup> See Hart, R. (1992) *Children's Participation: From tokenism to citizenship*, Florence: Innocenti, describing a "ladder of participation" ranging from tokenism and manipulation to child initiated participation.

<sup>12</sup> Lansdown, G. (2011) *Every child's right to be heard: a resource guide on the UN Committee on the Rights of the Child General Comment No. 12*, UNICEF and Save the Children.

<sup>13</sup> Committee on the Rights of the Child (2002) *General Comment No. 2 – The role of independent human rights institutions*.

institutions such as Children's Commissioners have been identified as an important mechanism to promote and ensure the implementation of the right to participation. These should have power to consider individual complaints and petitions and carry out investigations, including those submitted on behalf of or directly by children, and to support children taking cases to court.<sup>14</sup>

**Raising adult awareness.** The State has a duty under the CRC to develop training and capacity-building for all those involved in the process of implementing Convention rights and for all those working with and for children. This should be systematic, ongoing, and integrated into all professional training codes and educational curricula.<sup>15</sup> Training needs to address some of the commonly-held misconceptions about the right to participate and should provide adults with the practical skills and materials they need in view of available time and resources.<sup>16</sup>

**Creating opportunities for political engagement.** To enable children to inform local and national policy in a meaningful way, there must be formal opportunities for them to engage in decision-making such as participation in local youth councils and parliaments and assemblies. These should be as representative as possible and provide meaningful opportunities for children to have an input into key issues (including those identified by children themselves). Other opportunities to engage can be given through the consulting hours of politicians and officials, visits to schools, as well as support in developing child-led organisations and specific campaigns for change.<sup>17</sup>

**Children's access to information.** The significance of awareness-raising is grounded in Article 42 of the CRC which obliges States Parties to make its principles and provisions widely known. In spite of this, there is a continuing lack of knowledge and awareness of children's rights among children.<sup>18</sup> Children should be provided with accurate and age-appropriate information about the rights that they have as well as information about ways of exercising those rights, through the inclusion of information about the CRC in national school curricula and widespread dissemination of child accessible information through a range of media.

Other important actions that may address some of the challenges and enable the further implementation of the right include:

**Data collection and monitoring** of the extent to which participation rights are respected. This should include not just basic statistics on, for example, participation in schools councils and youth assemblies, the number of professionals trained or children taught about the CRC, but also qualitative data that captures the extent to which participation is perceived to be meaningful in practice.<sup>19</sup> Targets should be set for improvement and these should be subject to regular monitoring and review. Research and data collection processes should respect children's right to participate by engaging them in all aspects of the research process.<sup>20</sup>

**Public campaigns** that promote respect for children's right to be heard. These should include opinion leaders and the media and challenge negative attitudes towards children as well as other customary conceptions of children that may impede the realisation of the child's right to be heard.<sup>21</sup>

**Child Budgeting** can act as a powerful tool to monitor governments' commitment to children, increasing transparency and accountability.<sup>22</sup> Given that spending on children's right to be heard may receive less priority than other substantive children's rights during times of austerity, child budgeting enables support for children's participation to be identified and tracked.<sup>23</sup>

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<sup>14</sup> Committee on the Rights of the Child (2002) [General Comment No. 2 – The role of independent human rights institutions](#), para 25.

<sup>15</sup> Committee on the Rights of the Child (2003) [General Comment No. 5 – General measures of implementation for the Convention on the Rights of the Child](#), para 53.

<sup>16</sup> See Treseder, P. (1997) *Empowering Children and Young People. Training Manual: Promoting involvement in decision making*, Children's Rights Office and Save the Children: London.

<sup>17</sup> Committee on the Rights of the Child (2009) [General Comment No. 12 – The right of the child to be heard](#), para 128.

<sup>18</sup> Howe, R. B., & Covell, K. (2005) *Empowering Children: Children's Rights Education as a Pathway to Citizenship*, Toronto: University of Toronto Press.

<sup>19</sup> Committee on the Rights of the Child (2003) [General Comment No. 5 – General measures of implementation for the Convention on the Rights of the Child](#).

<sup>20</sup> Lundy, L. and McEvoy, L. (2012) 'Childhood, the United Nations Convention on the Rights of the Child and Research: What Constitutes a 'Rights-Based' Approach?' In: Freeman, M. (Ed). *Law and Childhood studies*, Oxford: Oxford University Press; Lundy, L. and McEvoy, L. (2012) 'Children's rights and research processes: assisting children to (in)formed views', *Childhood*, 19 (1), p. 129-144.

<sup>21</sup> Committee on the Rights of the Child (2009) [General Comment No. 12 – The right of the child to be heard](#).

<sup>22</sup> Save the Children Sweden (2010) *Budget for Children Analysis*, Save the Children Sweden/Centre for Child Rights.

<sup>23</sup> Gore, R. (2004) *Influencing Budgets for Children's Rights*, Working Paper, New York: UNICEF.

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## OPPORTUNITIES AND CHALLENGES OF CHILD PARTICIPATION IN THE FIVE CONFERENCE THEMES

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Children's right to be heard in each of the five areas to be explored at the conference is affected by the challenges noted above. However, some additional context specific issues are summarised below.

**Education.** Schools and non-formal educational contexts provide an important space where children can be equipped with the information and skills to exercise their right to participate more generally, as well as opportunities to influence individual decisions and policies affecting them.<sup>24</sup> While there has been a growth in the number of school consultative councils, there are concerns about the extent to which these are representative of all students' views, particularly the most marginalised children, and few opportunities exist for children to be involved meaningfully in school governance.<sup>25</sup> Moreover, students' influence can be limited to certain 'safe' issues and rarely extends to core educational decisions such as the content of the curriculum or testing and assessment and does not always underpin wider pedagogical approaches or school ethos more generally.<sup>26</sup> Parents' rights are often prioritised in law, with a consequent lack of individual legal rights for children to be heard in relation to significant decisions such as special educational provision or school exclusions.<sup>27</sup> More generally, the exercise of students' autonomy in schools and, to some extent, in non-formal educational settings can be undermined by a perceived need of adults to retain authority and control (in the interest of order and discipline).

**Health, Prevention, Early Intervention, Family Support and Welfare Services.** Participation in the area of health and welfare raises different challenges and issues according to age, maturity, gender, ability/capacity and cultural background of the child, but it also reflects a wide range of environmental and socio-economic factors too.<sup>28</sup> Children's participatory rights typically come to the fore in relation to information about health or medical treatment, their right to consent to or withdraw from such treatment, or to be consulted on decisions around parental contact and residence in the context of family breakdown. Older children need to be empowered and fully informed to make decisions about sexual and reproductive health. All of these contexts raise challenging questions about how children's right to participate might be undermined or facilitated whilst also upholding children's welfare. This is particularly pertinent to adults such as social workers and doctors who are charged with older young people's care. An aspect of participation that is often overlooked in this context is the extent to which children are enabled to participate in the design, monitoring and evaluation of health and welfare services. Mechanisms for enabling children to complain or provide other feedback on their experiences of such services – both at local and national level - are often lacking; and even when they do exist, services often fail to explain how they have responded to such feedback.

**Play, recreation, sports and cultural activities.** The recent publication of the [General Comment No. 17 – The right of the child to rest, leisure, play, recreational activities, cultural life and the arts](#), with its emphasis on supporting children's participation in decision-making, provides an important opportunity to publicise and advocate for children's right to be heard in these contexts. While Article 31 has been neglected or treated by adults as means of achieving other ends (typically in relation to education and health), it is often identified by children and young people as one of the most important rights and as an area where they are keen to have their views heard.<sup>29</sup> There are particular challenges in ensuring that the views of very young children and children with disabilities are heard on these issues as well as of those working children.<sup>30</sup> Moreover, the right to participate needs to extend beyond consultation on the provision of parks and leisure services; it should be recognised in municipal planning more generally as well as in the formal contexts in which children spend time such as schools, museums, hospitals, institutional care and detention centres.

**Child Protection.** Children in the child protection system are among the most vulnerable in society. This makes listening to their views and understanding their experiences all the more important insofar as it ensures that they

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<sup>24</sup> Committee on the Rights of the Child (2001) [General Comment No. 1 – Article 29\(1\): the aims of education](#).

<sup>25</sup> Lundy, L. (2012) 'Children's rights and educational policy in Europe: Implementation of the UNCRC', *Oxford Review of Education*, 38 (4), p. 393-411.

<sup>26</sup> Elwood J and Lundy, L. (2010) 'Revisiting assessment from a children's rights perspective: policy process, practice', *Research Papers in Education*, 25 (3), p. 335-353.

<sup>27</sup> Lundy, L., Byrne, L., Kilkelly, U. & Kang, J. (2012) [The UN Convention on the Rights of the Child: a study of legal implementation in 12 countries](#), London: UNICEF-UK.

<sup>28</sup> Committee on the Rights of the Child (2003) [General Comment No. 4 - Adolescent health and development](#); Committee on the Rights of the Child (2013) [General Comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health \(art. 24\)](#).

<sup>29</sup> Davey, C., and Lundy, L. (2011) 'Towards greater recognition of the right to play: An analysis of Article 31 of the United Nations Convention on the Rights of the Child', *Children & Society*, 25(1), p. 3-14.

<sup>30</sup> Committee on the Rights of the Child (2006) [General Comment No. 9 – The rights of children with disabilities](#).

receive the most appropriate support and protection.<sup>31</sup> The trauma and confusion associated with child abuse can often impede effective participation: the child may lack the confidence to talk openly to professionals about their experiences; they may feel an ongoing sense of loyalty to one or other parent or to wider family members; or they may be so profoundly traumatised or fearful that they find it difficult to reveal their views and experiences at all. General Comment no. 12 recommends that the child's views are solicited and considered in relation to child protection decisions, including children's placement in foster care or homes, in the development of care plans, and in arranging visits with parents and family. This obligation is reinforced by [General Comment No. 13](#) (The right of the child to freedom from all forms of violence) which asserts that 'As the experience of violence is inherently disempowering, sensitive measures are needed to ensure that child protection interventions do not further disempower children but rather contribute positively to their recovery and reintegration via carefully facilitated participation.' Practice in this regard varies significantly, however, with widespread failure on the part of welfare practitioners or judges to consult with children on such issues. Moreover, child protection systems have, in the main, developed interventions targeted at protecting younger children from familial abuse within the home; there has been less focus on addressing the complex needs of vulnerable teenagers at risk from abuse from peers or adults outside of the home, including child sexual exploitation, child trafficking, forced marriage and female genital mutilation for example.<sup>32</sup> This is exacerbated by the current economic crisis which has led to significant cuts in the resourcing of welfare services. As a consequence, children in the child protection system are regularly deprived of sustained, quality contact with a single key worker to enable them to build up the level of trust that is necessary to facilitate their participation in decision-making.

**Public Decision-Making.** The increasing drive among governments to encourage civic participation and user-engagement presents an opportunity to promote spaces for children's participation. While the lack of a right to vote may inhibit young people's participation in democratic decision-making, this issue may also be a focal point for highlighting the fact that they are generally disenfranchised. There are opportunities to develop the knowledge and skills needed for civic participation in formal education and through involvement in voluntary organisations, including those that are child-led.<sup>33</sup> Public consultations on local, national and even European or international policies would also provide space for children to engage with public decision-making and enhance their sense of citizenship and democratic participation. However, these processes are frequently not developed in ways that are accessible to children and there is often little evidence of children's views influencing outcomes.<sup>34</sup> This is particularly evident in the context of the EU decision-making which is still widely perceived as significantly detached from children's lives. The use of new technologies, in particular social media, presents important new channels of engagement with children in ways that are interesting and familiar to them.

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## WHAT ARE THE RELEVANT EUROPEAN DEVELOPMENTS?

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Children's right to participate in decisions that affect them is now firmly embedded in the legal and policy framework of both the EU and the Council of Europe as well as in their research and knowledge exchange activities.

### ***Legal framework***

At EU level, **Article 24 of the [Charter of Fundamental Rights of the European Union](#)**, which has the same legal status as the EU Treaties, grants children such protection and care as is necessary for their well-being, the opportunity to express their views freely and assurance that such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. The Charter is used by the EU institutions to check that any new EU legislative proposals and procedures are compatible with these rights.

**Article 3(3) of the [Treaty on European Union](#)** sets out 'protection of the rights of the child' as one of the fundamental objectives of the EU. This implicitly includes protection of children's participatory rights.

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<sup>31</sup> Cossar, J., Brandon, M. and Jordan, P. (2011) "'Don't Make Assumptions': Children and Young People's Views of the Child Protection System and Messages for Change', Office of the Children's Commissioner for England; Sanders, R. and Mace, S. (2006) 'Agency, Policy and the Participation of Children and Young People in the Child Protection Process', *Child Abuse Review*, 15(2), p. 89-109.

<sup>32</sup> Melrose, M and Pearce, J,J (2013) (eds) *Critical Perspectives on child sexual exploitation and related trafficking*. Palgrave Macmillan

<sup>33</sup> Committee on the Rights of the Child (2009) [General Comment .No. 12 – The right of the child to be heard](#).

<sup>34</sup> Sinclair, R. (2004) 'Participation in Practice: Making it Meaningful, Effective and Sustainable' *Children & Society*, 18(2), pp. 106–118.

Children's right to be heard has been integrated into **EU legislative instruments**, producing binding obligations for the EU Member States.<sup>35</sup> This is particularly evident in EU legislation governing cross-border custody, access and child abduction,<sup>36</sup> immigration and asylum,<sup>37</sup> and the protection of victims of crime.<sup>38</sup>

Children's participatory rights have been pursued with some success through cases before the **European Court on Human Rights** (ECHR)<sup>39</sup> and, to a much more modest degree, before the Court of Justice of the European Union.<sup>40</sup>

## **Policy developments**

The European Commission's 2011 EU Agenda for the Rights of the Child asserts that full recognition of the rights of the child means that children must be given a chance to voice their opinions and participate in the making of decisions that affect them. It identifies more accessible information as an important starting point in this process, with a view to empowering children to participate in more informed ways in European-level decision-making processes.

Similarly, the 2013 European Commission Recommendation, 'Investing in children: breaking the cycle of disadvantage', identifies child participation as one of three key components (or 'pillars') supporting EU and domestic initiatives to address child poverty and sustain their well-being. It includes enabling children to participate in play, recreation, sport and cultural activities, whilst putting in place procedural and structural mechanisms to enable children to contribute to more formal decision-making processes.

In turn, the Council of Europe has expressed a long-standing commitment to participation, initially as part of its broader 'Youth' agenda.<sup>41</sup> This has evolved into a more specific focus on *child* participation, as articulated in its flagship strategy, Building a Europe for and with Children: Council of Europe Strategy for the Rights of the Child (2012-2015). This provides guidance and support to its 47 member states on how best to bridge gaps between the rights and the reality of children's lives in Europe. A key priority of the Strategy is to promote child participation, with a particular focus on standard-setting, developing monitoring tools and facilitating cross-national exchange of good practice. As part of this process, the Council of Europe developed a set of Guidelines on Child-Friendly Justice in 2010 following widespread consultation with children and children's rights experts. The Guidelines aim to ensure that, in all justice proceedings, the rights of children are upheld, including the right to information, to representation, to participation and to protection.

More broadly, the Council of Europe Recommendation on the participation of children and young people under the age of 18 sets out the main principles and measures that underpin children's rights to participate under three headings: protecting the right to participate; promoting and informing about participation; and creating spaces for participation. The Council has recently developed a **Self Assessment Tool** composed of 10 indicators to support Member States in meeting the goals set out in this Recommendation.

## **Research, Knowledge Exchange and Data Collection**

Child participation has emerged as an important feature of **EU research**, and **knowledge exchange**. This is evidenced not least by the various qualitative and quantitative projects relating to children's rights, supported by the Commission, the European Parliament and the EU Agency for Fundamental Rights.

Specifically, a range of **children's rights indicators** have been developed to evaluate the implementation and impact of EU measures on children in the context of family, education, violence and poverty.<sup>42</sup> These are complemented by

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<sup>35</sup> For a full list of EU legal and policy documents relating to children's rights, see European Commission (2013) EU acquis and policy documents on the rights of the child, is available at

<sup>36</sup> Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, eg. Article 11. Discussed in detail in Stalford, H. (2012) *Children and the European Union: Rights, Welfare and Accountability*, Oxford: Hart Publishing, p. 89-114.

<sup>37</sup> For example, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection. This contains specific guarantees for the representation of child asylum seekers.

<sup>38</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime. This contains extensive provision relating to children's participation.

<sup>39</sup> See eg. *Sahin v Germany* (Application No 30943/96) [2001]; and *Sommerfeld v Germany* (Application No 31871/96) ECHR 2003-VIII 341.

<sup>40</sup> C-491/10 PPU Judgment 22/12/2010 *Aguirre Zarraga*.

<sup>41</sup> See, for instance, the Revised European Charter on the Participation of Young People in Local and Regional Life of 2003; and the Recommendation (2004)13 on the same subject.

<sup>42</sup> European Union Agency for Fundamental Rights (2010) Developing indicators for the protection, respect and promotion of the rights of the child in the European Union.

indicators and comparative research that explore Member States' approaches to children's well-being,<sup>43</sup> their experience of judicial and administrative proceedings,<sup>44</sup> child trafficking,<sup>45</sup> and unaccompanied minors.<sup>46</sup>

Currently, the European Commission is conducting a **study to map law, policy and practice on child participation across the 28 EU Member States** and to evaluate progress at EU institutional level in this regard. Anticipated outputs will include a catalogue of resources and examples of good practice that can be used to enhance child participation. It is also gathering data and developing indicators in relation to children's experience of civil, criminal and administrative justice across the member States, using the Council of Europe's Guidelines on Child Friendly Justice as a framework.

Finally, it is also worth noting the important work of the European Network of Ombudspersons for Children (ENOC). This network coordinates and facilitates knowledge exchange between the Children's Commissioners and Ombudspersons in over 30 European countries whilst also providing an important line of communication between children, children's rights advocates, and the European institutions. Much of this work has children's participation as a central focus.

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<sup>43</sup> Social Protection Committee, European Commission (2012) [\*SPC Advisory report to the European Commission on Tackling and Preventing Child Poverty, Promoting Child Well-Being\*](#).

<sup>44</sup> DG Justice, European Commission - Report due to be published in October 2013.

<sup>45</sup> European Union Agency for Fundamental Rights (2009) [\*Child Trafficking in the European Union: Challenges, perspectives and good practices\*](#).

<sup>46</sup> European Union Agency for Fundamental Rights (2010) [\*Separated, asylum-seeking children in European Union Member States: Comparative report\*](#).

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## APPENDIX 1: SUMMARY OF KEY FEATURES OF RIGHTS-BASED PARTICIPATION IDENTIFIED BY THE COMMITTEE ON THE RIGHTS OF THE CHILD

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- **Transparent and informative** - children must be provided with information about their right and how participation will take place, its scope, purpose and potential impact;
- **Voluntary** - children should never be coerced into expressing views against their wishes and they should be informed that they can cease involvement at any stage;
- **Respectful** - children's views have to be treated with respect and they should be provided with opportunities to initiate ideas and activities;
- **Relevant** - the issues on which children have the right to express their views must be of real relevance to their lives and enable them to draw on their knowledge, skills and abilities;
- **Child-friendly** - environments and working methods should be adapted to children's capacities.
- **Inclusive** - participation must be inclusive, avoid existing patterns of discrimination, and encourage opportunities for marginalized children to be heard;
- **Supported by training** - adults need preparation, skills and support to facilitate children's participation effectively;
- **Safe and sensitive to risk** – Adults must take every precaution to minimize the risk to children of violence, exploitation or any other negative consequence of their participation;
- **Accountable** - a commitment to follow-up, monitor and evaluate participation is essential.

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## APPENDIX 2: SUGGESTED QUESTIONS FOR DISCUSSION AT CONFERENCE

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- How can we ensure meaningful engagement in processes that enable children and young people to contribute to their own well-being and that of society at large?
- What can be done to ensure the meaningful participation of children in vulnerable situations?
- How do we ensure that the views of young people reach and influence those with power to effect change?
- How can resources be mobilised to support participatory experiences particularly in order to scale-up existing activity?
- Is it possible to demonstrate that taking account of children's views at the outset is more economical and efficient in the long term as it leads to better decisions and services?
- How do we harness new technologies to include more children in participation processes?
- How can we measure the impact of participation?
- How can we measure the impact of age restrictions in national and local legislation on the effectiveness of participation?
- What are the key ways of enabling the many participation initiatives and tools developed at European level to be transposed into positive action on the ground?
- How might the European institutions' efforts relating to child participation dovetail more effectively with the monitoring activities of the UN Committee on the Rights of the child?
- Who are the "allies" we can join with in order to implement the right to participate (at local, national and European level)?
- What can Eurochild do to drive change in policy and practice on child participation?

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## APPENDIX 3: EUROCHILD CONFERENCE 2013: A BRIEF GUIDE TO MAKING ADULT WORKSHOPS MORE YOUNG PERSON FRIENDLY

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In the spirit of creating a safe environment for genuine youth participation within this Eurochild Conference, below are some simple guidelines for facilitators about how to encourage young people to have their voices heard during the workshops.

1. Welcome young people to the session and learn and use their names.
2. At the start of the workshop, remind the audience what the objectives of the session are (this may guide the young people in how they want to participate).
3. Consider inviting a young person to co-chair the meeting.
4. Consider the layout of the room and furniture. If possible, arrange for everyone to sit in a circle and provide for some drinks to be easily taken during the session.
5. If you choose to do a round of introductions of all participants before the session starts, avoid a focus on formal titles and qualifications. Invite everyone to identify which country they come from and what organisation they are associated with.
6. Be clear if the discussions might be recorded or information shared might be used elsewhere (i.e. made public outside, or after the event).
7. AUA!<sup>47</sup> Avoid the use of jargon as well (one tip is to have red cards that can be waved when someone uses jargon or acronyms), but remember not to oversimplify or talk down to young people;
8. Encourage presenters to use visual supports (e.g. powerpoints or videos) to diversify how the workshop and information is made available.
9. Encourage those facilitating to consider different ways of recording views – such as the use of sticky notes or other participatory techniques.
10. Use language appropriate to the young person's understanding and to their level of English and give a maximum time to speak (especially to the adults).
11. Avoid lengthy sessions, or allow for breaks and make it clear that participants can leave and come back if they choose to do so.
12. Try to include those who have not already spoken but do not force a response
13. Young people may or may not have direct experience of the subject being discussed-do not put them on the spot and ask them questions they may be unable to answer.
14. Some young people may find it easier to contribute in smaller groups - plan for this.

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<sup>i</sup> Committee on the Rights of the Child, (2009) [\*General Comment No. 12 – The right of the child to be heard.\*](#)

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<sup>47</sup> AUA= Avoid Using Acronyms