



# Embedding a children's rights perspective in policy and decision-making



## Introduction

This policy memo provides an overview of the extent to which children's rights are promoted and taken into account in policies and practice. The memo considers policy frameworks at national level as well as those at European Union (EU) level. The memo also discusses ways in which policies and wider initiatives facilitate children's participation in decisions about their future.

## What are children's rights?

Child-rights approaches established at the beginning of the 20th century focus on the child as an active and autonomous agent of social change in contrast to the historically embedded status of the child as an object in need of protection because of their vulnerability.<sup>1</sup> Child-rights approaches are founded on the principles of equality, inclusion and social justice and presented as the new norm in policymaking without much questioning.<sup>2</sup> The UNCRC adopted in 1989 re-confirmed the status of children by recognising children's social, civil, cultural, economic and political rights,<sup>3</sup> which should be exercised without discrimination, ensuring the best interests of the child and respecting the views of the child.<sup>4</sup>

The UNCRC provides an international framework of 54 articles to ensure, among others, the protection of children's social, emotional and cognitive development, the promotion of their physical and mental health and wellbeing as well as their civic participation in the community.<sup>5</sup> The UNCRC, which is signed and ratified by all EU Member States, sets the legal framework for children's rights and provides a context for policy action.<sup>6</sup> Box 1 presents the key policy frameworks at the international and EU level to protect and promote children's rights. To further enhance exchange and collaboration among academic institutions working on aspects related to children's rights, a Children's Rights European Academic Network was established in 2003. At present, more than 30 higher education institutions in Europe are part of this network.<sup>7</sup>

## How children's rights are mainstreamed into Member State actions

All EU Member States have adopted legal provisions based on the UNCRC Article 12 to respect the views of the child, to mainstream children's rights and to monitor the protection of these rights in the national policy frameworks. However, the exact transposition of Article 12 into national legislation differs by Member State. The legislative and policy frameworks can constitute children's acts, codes, national strategies, constitutional provisions in national legislations promoting children's social, civic and political development and might also include civil codes or criminal procedural acts.<sup>8,9</sup>

In addition, to ensure that children's rights are being supported and protected, some Member States have established autonomous legal bodies or institutions, such as a children's

ombudsperson, children's councils, a children's commissioner, or a children's advocate.<sup>10</sup> Where there is no independent body, the protection of children's rights typically falls under the responsibility of the national ombudsperson for the protection of persons' rights or the relevant governmental ministry.<sup>11</sup> Figure 1 presents the national institutions in each Member State assigned to protect children's rights.

The exact duties and responsibilities of these bodies differ between Member States. However, the operation of all these legal institutions is aligned with the principles and guidelines of the UNCRC and the EU Charter of Fundamental Rights. For the Member States that have established children's ombudspersons, the typical responsibilities of these institutions include:<sup>12</sup>



Disseminating strategies around children's rights;



Introducing changes to laws by having an impact on policies and practices at a national and European level;



Raising awareness and understanding about children's rights; and



Resolving individual complaints by providing legal support to children and their parents or guardians.

In addition, Member States may develop specific strategies or initiatives to ensure the rights of particularly vulnerable populations, such as Gypsy, Roma and Traveller children, migrant and refugee children, and children with disabilities.

## Initiatives to facilitate children's participation in policy and decision-making

According to Article 24 of the Charter of Fundamental Rights of the European Union, 'children may express their views freely, which shall be taken into consideration on matters which concern them in accordance with their age and maturity'.<sup>13</sup> As voting constitutes a basic right of political participation and democracy, there is increasing debate about the appropriate age and the level of maturity of children to be allowed to vote. At present, children's right to vote depends on the type of elections and varies (to some degree) across EU Member States.<sup>14</sup>

Figure 2 presents the age requirements related to the right of children to vote across EU Member States.



#### BOX 1: KEY POLICY DOCUMENTS AT INTERNATIONAL AND EU LEVEL THAT PROTECT AND PROMOTE CHILDREN'S RIGHTS

- **United Nations (UN) Convention on the Rights of the Child (UNCRC, 1989):** recognised children as individuals and agents of social change, and proclaimed the recognition of children as a group entitled to special protection. It established the right of children to a harmonious social, emotional and cognitive development in a family and community environment that protects their wellbeing and prepares them for the adult life in the community. Additionally, the convention recognises children's right to be heard (Article 12), children's freedom of expression (Article 13), children's freedom of thought, belief and religion (Article 14), children's right of association and freedom of peaceful exercise of their rights (Article 15) and children's right to access to information from the media (Article 17).<sup>15</sup>
- **UN Committee on the rights of the child, General Comment No. 12 "The right of the child to be heard" (2009):** indicated that the views expressed by children may add relevant perspectives and experience and should be considered in decision-making, policymaking and preparation of laws and/or measures as well as their evaluation.<sup>16</sup>
- **European Union, Lisbon Treaty of the European Union (2007) – Article 3:** set up an objective to promote and protect children's rights in the EU through the legal acknowledgement and reinforcement of the European Social Charter.<sup>17</sup>
- **European Union, EU Charter of Fundamental Rights (2009) – Article 24:** promoted the right of all children to express their views freely. The Charter recognised that children's views should be taken into account in accordance with children's age and maturity.<sup>18</sup>
- **European Union, Guidelines for the protection and promotion on the rights of the child (revised in 2017):** promoted a systems-strengthening approach to protect the rights of all children, including participation of children.<sup>19</sup>
- **European Commission, An EU Agenda on the rights of the child (2011):** set out the need to hear children and enable their participation in the making of decisions that affect them.<sup>20</sup>
- **European Commission, Recommendation on Investing in Children: Breaking the Cycle of Disadvantage (2013/112/EU):** set out guidance for EU Member States on how to tackle child poverty and social exclusion through measures such as ensuring access to quality services, supporting parental participation in the labour market, and enabling children's right to participate in decision-making that affects their lives.<sup>21</sup>
- **Council of Europe, European Social Charter (1996) – Article 17:** called for support of children's and young persons' social, legal and economic entitlements and is ratified by all EU Member States.<sup>22</sup>
- **Council of Europe, European Convention on the Exercise of Children's Rights (1996):** recognised that children have a right to be informed and allowed to exercise their rights in judicial and administrative proceedings affecting them.<sup>23</sup>
- **Council of Europe, Recommendation of the Committee of Ministers to member States on the participation of children and young people under the age of 18 (2012):** calls for measures to ensure the protection of children's rights and the opportunity for children to participate in decisions that affect their lives.<sup>24</sup>
- **Council of Europe, Strategy for the Rights of the Child (2016-2021):** established the priorities of the Council of Europe in the areas of equality of opportunities, participation, free-of-violence life, child-friendly justice and right of all children to access online environments.<sup>25</sup>

**FIGURE 1: NATIONAL INSTITUTIONS TO PROMOTE CHILDREN'S RIGHTS ACROSS MEMBER STATES**



Source: Adapted from European Commission, 2015, Evaluation of legislation, policy and practice on child's participation in the European Union (EU), Directorate-General for Justice and Consumers (JUST), and the European Network of Ombudspersons for Children (ENOC) ([http://enoc.eu/?page\\_id=8](http://enoc.eu/?page_id=8))

**FIGURE 2: KEY AGE REQUIREMENTS OF CHILDREN’S RIGHT TO VOTE IN EU AND NATIONAL ELECTIONS ACROSS EU MEMBER STATES**



Source: Adapted from European Union Agency for Fundamental Rights (FRA), 2017, *Children’s right to vote*, FRA, Available from <https://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements/right-to-vote>

However, short of voting, increasing public attention has been paid in recent years to the participation of children in decision-making processes.

In addition to the legal right for children to participate in decisions that affect them individually – for example, by having their preferences and opinions taken into account in justice, asylum, and care proceedings concerning them – increasing public attention is being paid to the role of children in helping to design and evaluate the policies, legislation and public decisions that affect their lives. Mechanisms of participation may be:<sup>62</sup>

- **Consultative:** in which the opinions and experiences of children are actively sought in order to inform adult decision-making. This may be regular (for example, surveys of children’s experiences) or discrete (for example, consultation on a specific policy or strategy document).
- **Collaborative/participatory:** in which children actively participate in the design or outcome of a decision (in a process initiated by adults), such as youth councils and children’s parliaments.
- **Child-led:** in which children initiate and control activities, such as child-led campaigns or the use of decision-making mechanisms (such as legal proceedings) by children themselves.

Although the practice of involving children in decision-making remains a relatively young policy agenda, some evidence suggests that involving children in decision-making through direct, informative, inclusive and child-friendly approaches can benefit the design and implementation of policies and practices affecting children’s lives.<sup>63</sup> On the other hand, achieving full participation in decision-making for all children may be challenging due to the lack of representation of marginalised and vulnerable groups of children. This suggests the need for additional support for these children to enable them to engage in decision-making.<sup>64,65</sup>

Various initiatives have been implemented at European and EU Member State level to directly involve children in decision-making and discussion about policies that affect them. Examples of these initiatives are included below.

### European initiatives to include children’s participation in policy and decision-making

#### Bucharest Children’s Declaration

Under the Romanian Presidency of the EU during the first half of 2019, the right of children to participate was a prominent element of the EU policy agenda. The ‘Bucharest Children’s Declaration’, a political commitment prepared by the Romanian Children’s Board and co-developed by children, was agreed at a Children’s Summit in May 2019 hosted by the Romanian Presidency.<sup>66</sup> The declaration sets

out key recommendations for both EU and Member States to enable the **participation of children and young people in policy and decision-making** processes.

The declaration included calls for:



A 'clear roadmap' for implementing the UNCRC, the EU Charter on Fundamental Rights and EU recommendations related to child participation, including monitoring and evaluation of progress;



Training for children and adults about children's rights to participate, and the establishment of mechanism for consultation at EU level;



The use of child participation mechanisms and forums at community, national and EU levels to inform and consult children about policies affecting their lives;



The inclusion of child participation as a horizontal principle guiding funding decisions by the EU Structural and Cohesion funds.

### Council of Europe, Children Participation Assessment Tool

In 2012, the Council of Europe set out a Recommendation on the participation of children and young people under the age of 18, calling for measures to ensure the protection of children's rights and the opportunity for children to participate in decisions that affect their lives.<sup>67</sup>

The accompanying Child Participation Assessment Tool (CPAT), released in 2016, helps to measure how well children's right to participate is protected.<sup>68</sup> The tool sets out ten indicators relating to different aspects of child participation, against which authorities and stakeholders can assess and monitor the extent of existing child participation mechanisms and identify measures to increase compliance with the Recommendation. These include:

- That legislation is in place to cover children and young people's right to participate;
- That an independent children's rights institution is in place;
- That mechanisms are in place to enable children's participation in judicial and administrative proceedings, and for children to access appropriate complaint procedures;
- That children are provided with information about their right to participate, and training for professionals working with children is provided;
- That feedback and consultation mechanisms are in place at school, local, regional and national governance levels.

In 2016, the CPAT was initially piloted in Estonia, Ireland and in Romania, and it was gradually rolled out in other Member States such as Bulgaria, Italy and Latvia (see Box 2). Currently Slovenia, Malta and Finland are implementing the CPAT.<sup>69</sup>

### BOX 2: IMPLEMENTATION OF CPAT IN LATVIA



**Latvia:** In 2017, the Latvian Government introduced an evaluation of children's participation in accordance with the CPAT.

The instrument was implemented with the support and technical assistance of the Council of Europe, in collaboration with the association 'Latvian Children's Welfare Network'. The results of the assessment identified a shortage of comprehensive and child-friendly information provided to children with regard to public administration material and policy documents including general information for Latvian citizens. At the end of the implementation period, the Latvian Ombudsperson presented the evaluation findings and discussed ways to improve the recognition and representation of children's rights. It was noted that actions need to be implemented to raise the awareness and understanding of children about their rights and especially their right to be engaged in decision-making affecting them.<sup>70</sup>

### 'Europe Kids Want' survey

One of the main ways that children's views can be taken into account in decision-making processes is through the use of surveys and research. A 2017 survey by UNICEF in collaboration with Eurochild, focused on the topics of employment, climate change, violence, cultural diversity, schooling, online bullying, terrorism and children's participation in decision-making.<sup>71</sup> In total, 19, 577 children and young people from 23 Member States completed the survey by April 2019.<sup>72</sup> The initial survey findings published in November 2018, based on responses from 13,679 children who completed the survey, showed that:



Children and young people responding to the survey were concerned about secure employment, the possibility of war or terrorist attack, and climate change.



The top three fears related to online activities were related to negative comments, invasion of privacy and someone pretending to be somebody else.



Children and young people responding to the survey also would like to see safer schools. Potential steps towards achieving this goal, as reported by the children, entailed combatting bullying and discrimination, and eradicating the use of alcohol and drugs.



Children who responded to the survey suggested that Member States should ensure world peace, equality and the protection of the environment.<sup>73</sup>

### Member State initiatives to include children’s participation in policy and decision-making

At the Member State level, initiatives promoting the active participation of children in policy and decision-making processes include children’s parliaments, children’s councils and forums as well as wider national strategies. A 2015 country mapping found that nearly all Member States have some form of participatory children and youth structure at a national level, with almost all Member States implementing Youth or Children’s Councils, and fewer states implementing national child or youth parliaments.<sup>74</sup>

However, the mapping exercise found also that consultative activities undertaken by Member States were often time-limited and related to particular activities or specific policy decisions. Systems for monitoring and evaluating child participation are scarce and not always appropriate, and evidence of impact relates often to participation activities at a local level.<sup>75</sup> As such, evidence of the effectiveness of these initiatives is limited.

Examples of these initiatives include:



**Bulgaria:** The Children’s Council supports children’s collective participation in policymaking in Bulgaria as part of the wider National Child Strategy for 2019–2030. The council operates as part of the State Agency for Child Protection and includes representatives from all districts of the country. The topics discussed in the council include online safety, education, and welfare initiatives on the health-related habits of children. Children from the council were also actively involved in the discussions related to the preparation of the new National Strategy for Child and Family 2019–2030.<sup>76</sup>



**Greece:** The Greek Youth Parliament, established in 1995 and hosted annually by the Hellenic Parliament, includes 300 young people from Greece. The aim of the Youth Parliament is to promote young people’s participation in civic society and their engagement in democratic dialogue. In 2019, the focus of the meeting will be



around the exploration, recognition and exercise of human rights.<sup>77</sup>

**Ireland:** The Comhairle na nÓg are youth and child councils based in each of Ireland’s local authorities. The councils, for people aged below 18 years of age (the voting age), aim to involve young people in local decision-making.<sup>78</sup> This includes working with young people to hear their views on topics of importance to them, and acting as a consultative forum for authorities to gather feedback from young people in policy and service development.

Article 12 of the UNCRC was also the foundation for the 2015 Irish National Strategy on Children and Young People’s Participation in Decision Making 2015–2020.<sup>79</sup> One of the priority areas of the strategy was the development of a Children’s and Young People’s Participation, Hub na nÓg, which was established in November 2017 and will provide central coordination for activities relating to child participation

### In Sum

The adoption of the UNCRC by Member States and the Charter of Fundamental Rights by the EU set the direction in the protection of all children’s rights without discrimination across Member States. Over the past few years, several initiatives have been developed and adopted at the EU and national levels to ensure that children’s rights are embedded in policies and practices that affect their lives. Based on the principles of accountability and transferability, the involvement of children in decision-making processes also provides opportunities to better understand the issues that affect children and design policies that would best respond to the needs of children. However, there is considerable diversity in actions undertaken by Member States to promote children’s rights, including the right to participate.

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