

# Proceedings of the fourth regional meeting of NGO Coalitions for the Rights of the Child in Europe

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Belgian Children's Rights NGO Coalitions





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# PREFACE

Since the Convention on the Rights of the Child (CRC) came into force in 1989 and subsequently ratified by all UN member States of the European Region, there has been a growing movement among NGOs and civil society organisations in support of the Convention's implementation.

Many have formed networks, particularly in response to the opportunity provided by article 45 (a) in the Convention, which invites input from experts. Over the years there has been a steady growth in the children's rights coalitions across the region. Currently, there are some 30 NGO-coalitions within the European Region.

## History

Started in 1998 the European children's rights coalitions gather on a regular base. The first meeting took place in Berlin (Germany) and attracted NGO and child rights coalitions from 21 European countries. The principal aims were threefold: (1) to enable national coalitions to share experiences and information; (2) to promote thereby more successful approaches to the implementation of the Convention, both on the national and European levels; (3) to work out a strategy for better future co-operation between national coalitions across Europe.

A second regional meeting was held in Stockholm (Sweden) in May 1999 and served as a follow up to the plans and interest created at the first meeting in 1998. NGO coalitions and individual NGOs from 20 countries in Europe participated, including EU countries and countries from Central and Eastern Europe.

The conference also addressed special themes relating to macro-economics and the rights of the child, democracy and the rights of the child and how best to promote the aim of ending all corporal punishment of children in Europe through legal reform and education.

The third regional meeting of European NGO and child rights coalitions took place in Vilnius (Lithuania) in October 2002. Participants from 15 countries in Europe met with the aim to explore how national NGO networks can work more effectively and efficiently, building on the work undertaken in the two previous meetings.

The meeting provided an opportunity to share NGO experiences across Europe and strengthen capacity and practice in promoting the rights of the child. At the end of

the meeting, the “*Vilnius Call for Action*” was adopted, a declaration on how national NGO-coalitions can work more effectively in realising children’s rights.

As from the first of May 2004, the European Union welcomed 10 new member states. The Belgian Children’s Rights Coalitions, that is the Flemish “Kinderrechten-coalitie Vlaanderen” and the French-speaking “Coordination des ONG pour les droits de l’enfant” (CODE), proposed to organise the Fourth Regional Meeting in Brussels, the heart of Europe. The meeting was a unique opportunity to meet Child Rights Coalitions and NGOs from the new countries and to promote and to support the implementation of children’s rights throughout Europe.

## Methodology

The work of the Belgian Coalitions in organizing the meeting was supported and supervised by a Steering Committee consisting of:

- u Denise Allen, NGO-group for the Convention on the Rights of the Child;
- u Simone Ek, Save the Children Sweden;
- u Claudia Kittel, National Coalition for the implementation of the UN-Convention on the Rights of the Child in Germany;
- u Gerison Landsdown, consultant;
- u Lesley Miller, UNICEF Regional Office for Europe;
- u Mieke Schuurman, Euronet (the European Children’s Network);
- u Loreta Trakinskiene, Save the Children Lithuania.

The objective of this Committee is to support the work of the host country and to make links with the previous European meetings of Coalitions for Children’s Rights.

The Steering Committee agreed to consider the following themes during the 2 days and a half Meeting at 8, 9 and 10 March 2005:

- u Session 1: The U.N.-Committee on the Rights of the child and its interest for NGO-Coalitions for Children’s Rights
- u Session 2: Children as partners in the CRC monitoring and advocacy process
- u Session 3: Balancing between action and study
- u Session 4: Role of the European Union in promoting Children’s Rights
- u Session 5: A World Fit For children: developing and monitoring National plans of action for Children
- u Session 6: The relationship between NGOs and the Government

To stimulate the debate, some background documents about all the sessions were given previously to the participants, notably some questionnaires concerning “Children as partners in the CRC monitoring and advocacy process”, “A World Fit For Children: developing and monitoring National plans of action for Children” and “The relationship between NGOs and the Government”.

No less than 90 participants from 24 different European countries took part in the Fourth Regional Meeting of NGO Coalitions on children’s rights. The sessions were followed by plenary discussions (session 1, session 3, session 4, session 6) or by working groups (session 2, session 5). It allowed very interesting exchanges between the participants.

Throughout the plenary and working group sessions, national coalitions were able to provide examples of their own good practices and outline problems or obstacles they face in their countries. In addition, room was provided for displaying documents (brochures, literature, posters, etc).

Networking, co-operation, lobbying and advocacy activities at European level were discussed, with input from experts or representatives from the UN Committee on the Rights of the Child and from various organisations (NGO Group, Euronet, CRIN,...).

Between sessions time was created to meet each other and to share information in an informal manner. During the third day, a project of ‘Brussels call for action’ was presented and discussed by the participants. After the meeting, this discussion continued via mail and resulted in the document ‘*The Brussels call for action*’ which you can find on pages 21-23.

## Structure of the report

The proceedings of the Fourth Regional Meeting of NGO Coalitions in Europe gives an overview of the papers presented during the forum. To give the reader a summary of the two and a half day meeting, the presented papers are preceded by a synthesis report.

Our gratitude goes out to all those people who have contributed to realize this report.

We wish you a good reading of this report which is intended to both document the rich discussions that took place and to facilitate a wider dissemination of the approaches by national coalitions in advancing the implementation of the Convention.

***Veerle De Roover***  
***Jef Geboers***  
***Didier Reynaert***  
***Frédérique Van Houcke***

# SYNTHESIS REPORT

## 1 Opening Session

The Conference started on Tuesday 8 March 2005 in the Marquis Building of the Flemish community with a number of welcome speeches.

The first speakers were the Presidents of the Flemish and the French-speaking Belgian children's rights coalitions.

Karin Maes, chairperson of the Flemish NGO-coalitions, began with a welcome and a thank you to all participants and to the Steering Committee. Benoît Van Keirsbilck, chairperson of the French-speaking NGO-coalition presented the program of the three days meeting.

In her speech, Loreta Trakinskiene, member of Save the Children Lithuania and organiser of the previous child rights meeting in 2002 in Vilnius, emphasised the fact that thanks to the meeting in Vilnius, the child rights organisations in her country receive much more attention from the local authorities.

Afterwards Guy Redig, filling in for the Flemish minister of youth Bert Anciaux who was excused, commented the Flemish children's rights policy and particularly the Flemish Action Plan on the rights of the child.

**Lothar Krappmann, member of the U.N.-Committee on the Rights of the Child, introduced the first session**, focussing on the role of the Committee vis-à-vis NGO Coalitions on Children's Rights.

## 2 The UN Committee on the Rights of the Child and its interest for NGO Coalitions for children's rights

The UN Committee on the Rights of the Child was created in the light of the adoption of the Convention on the Rights of the Child. On 20 November 1989 the governments, represented at the General Assembly, agreed unanimously to adopt the Convention into international law. The CRC entered into force in September 1990.

Under article 44 of the Convention, State Parties accept the duty to submit regular reports to the Committee every five years on the steps they have taken to put the Convention into effect and on progress in the enjoyment of children's rights in their territories. The Committee holds three sessions a year, each of four weeks duration.

Besides the monitoring process the Committee has to report to the General Secretary of the UN to draw the attention to problems of special relevance, it may request further information from State parties (not only in reaction to an incomplete report, but also for active inquiries), it organises a Day of General Discussion, and it produces General Comments.

## 2.1 New challenges for the UN Committee

The Committee is on the way to start a new phase in its work. Because of the increased number of State Parties reports and additional materials, the General Assembly of the United Nations in December 2004 formally permitted the Committee to reorganize its monitoring work in the form of a two-chamber system. From 2006 on, the Committee will consider the reports in two parallel chambers of 9 members each. This two-chamber system will enable the Committee to deal with about 50 reports per year. Up till now the Committee was in a position to deal with about 27 per year. From now on the Committee will dare again to press State Parties to send delayed reports. Another new measure that was taken by the Committee for a limited period of time to reduce the workload is that State Parties can combine their third and fourth report and deliver this at a date close to the originally planned submission of their fourth report. The two-chamber system and the combination of two reports should reduce the backlog within two or three years.

The work of the UN Committee on the Rights of the Child will also benefit by the increased number of its members. Since 2003 eighteen experts from Africa, North and Latin America, Asia, and Europe cooperate in the Committee. It is expected that the enlarged personal capacity will be used to more specifically address problems concerning different world regions.

Although the members of the Committee are nominated and elected by the governments that have ratified the Convention, they do act in a personal capacity. They do not represent their countries governments or any other organization to which they might belong. However, every member of the Committee uses his/her regional knowledge and affiliation to networks in order to promote the implementation of the Convention in this region. The Committee members of some regions have established an informal working group for cooperation on these issues. Also the European members have considered to jointly strengthening relationships to European structures and organizations.

The work of the Committee mainly relies on submitted reports and written information of all kind on the situation of children. A lot of national coalitions would like to see the members of the Committee visit their countries so they can check the provided information with their own eyes. At this moment however it is simply impossible for the members to visit all the countries. And because the Committee wants to

treat all the national reports on an equal base the members are hesitant to increase the number of country visits.

## **2.2 Evaluation of the reports – monitoring**

As mentioned before, every five years a government must submit a detailed report to the Committee on the children's rights situation in their country. The main goal of the work of the Committee is to encourage States Parties to implement the Convention on the rights of the Child and to take actions to improve the situation of the children's rights. Many NGO coalitions consider it a pity that the Committee cannot sanction governments, who do not fulfil their obligations, and can only issue recommendations to national governments. On the other hand, it is most important that governments become convinced that not only revisions of laws but also change of attitude is needed in order to fully implement the Convention. Thus, the dialogue with the governments is regarded as an appropriate instrument that can contribute to generate the new view of the child as a right-holder.

Some national coalitions propose to introduce a point-system: when a country makes progress it gets more points. This system could help to encourage governments in promoting and protecting the rights of their children.

## **2.3 The relation between NGOs and the Committee**

The Committee doesn't rely only on the official reports of governments. The base to prepare their 'Concluding Observations' would be too small.

Therefore, the Committee calls for assistance from different partners. The Committee receives support from United Nations institutions (such as UNICEF, UNHCR and UNESCO), from other governments, from international NGO associations and specifically from children's rights NGOs. In many countries there has been growing movement to support children's rights as articulated in the CRC. Within this movement there are a variety of networks, groups and organizations that embrace the Convention's vision of children's rights. National children's rights coalitions play an important role in providing information to the Committee. They submit additional reports and comments to the State Party report and give further analyses and explanations to the Committee during the pre-sessions preparing the dialogue with the governments. They can also make sure that the Committee's comments are widely publicized once the government has reported. They have also the power to influence their government's policy.

National coalitions coordinate the various statements and opinions of the different organisations of their country. They also are engaged in monitoring the implementation of the Convention, try to raise awareness about the Convention among the

general public, professional groups, and children themselves. Some of the European national coalitions are just coming into existence; others have already a long history. An exchange of experience between national coalitions is therefore necessary.

The NGO Group for the Convention on the Rights of the Child located in Geneva plays an important role. This group is a coalition of international non-governmental organisations that work together to facilitate the implementation of the United Nations Convention on the Rights of the Child. It supports the creation and the work of national coalitions and it is an important link between the Committee on the Rights of the Child and the NGO community.

Although the NGO Group and the Committee already work together well, some improvements need to be done. The NGO Group – since they have a lot of expertise – would like to get more involved in the work of the Committee.

### 3 Children as partners in the CRC monitoring and advocacy process

*Presentation by Charlotte Van den Abeele, Child Rights Officer  
What do you think? project (UNICEF)*

Not only the NGO-community has joined forces in recent years to monitor the CRC and to report to the U.N. Committee on the Rights of the Child. Also children themselves participated in the reporting process, inspired by the CRC itself.

Article 12 recognises the child as an active subject of rights, and articulates the child's right to be involved in decision-making affecting him/her. Combined with the articles 44 and 45 of the CRC regarding the reporting process to the Committee on the Rights of the Child, it is necessary that children are consulted and directly contribute to the reporting process, since they are most competent to talk about their own rights.

In the past, children themselves were rarely involved in this process. They were rarely consulted when evaluations were made on how their rights are respected. For some years now, more and more countries are involving children in the reporting process in one way or another.

#### 3.1 The reporting process

National NGO-coalitions can play an important role in promoting the participation of children in the reporting process. They can do this by involving children in the development of the alternative report of NGOs. This can be organized through working groups of children (through the member organizations who work directly with children), by conduction questionnaires amongst children, make use of existing information within partner organizations etc. Special attention has to be given to those groups of children

that have difficulties to participate in society and can't easily express their views in most of the participation projects. National coalitions can also take the initiative to make an alternative report with children, next to the alternative report of ngos. If the participation of children is not coordinated by the national coalition, but by an individual organisation, the national coalition can help with expertise and make sure that the different reports are complementary. The national coalitions can also stimulate the government to involve children in the development of the official government report. They can stimulate the government to invite children to express their views through seminars in schools, debates, questionnaires, etc.

Some examples of countries where children are participation in the reporting process in one way or another: Germany, the Netherlands, Italy, Belgium and Sweden.

### **3.2 Difficulties and lessons learned**

A first important lesson learned was the representativity of the children. The children involved should come from as much different organizations possible and it is important to make sure that not only the happy few are involved.

Another difficulty of the involvement of children in the reporting process to the Committee is the question whether children should speak out on as many aspects of their rights as possible, or that there has to be a focus on some of the most important problems they face. Do you try to be as complete as possible in the report of the children or do you try to be complementary to the alternative report of the NGOs?

The structure of the reporting process itself too is often a barrier. The rigid framework of the reporting process of the Committee is often not adjusted to children. How do you make a complex procedure and structure such as the reporting process comprehensible for children? This aspect raises also questions of how far do we go with the participation of children? Should they be actively involved in the whole reporting process, starting with collecting their views in a report, to present these views to the Committee?

A very important aspect is to inform the children about their role of participation in the reporting process, in what can they expect and what not? It is important to inform all the children about the follow-up. This is often very difficult, because when you involve children through other organisations you can't always control if they pass the information or not.

How to involve young children in this process? You have to adapt your working methods for the different age groups with makes it far more difficult to get organised. This leads us to a last difficulty: How to make one report with the opinions of children and young people when it is such a divers group?

## 4 Balancing between action and study

### *Presentation by Denise Allen of the NGO Group for the Convention on the Rights of the Child.*

The theme of balancing between action and study is part of a continuing discussion among child rights NGO coalitions on methods to improve their effectiveness in influencing their governments to fully implement the Convention on the Rights of the Child and other regional and international agreements and instruments that compliment the Convention.

The emergence of coalitions is largely due to external developments outside of the country, much more than internal developments. Article 45a of the Convention on the Rights of the Child opened the way for independent, credible bodies to be sources of information to the Committee on the Rights of the Child in the reporting process of that Committee.

But this was not unique as other longer existing treaty bodies had similar mechanisms for enabling competent bodies, such as human rights organizations, to submit alternative reports. Mainstream human rights organizations were therefore accustomed to reporting to other human rights treaty bodies. In Western Europe the traditional human rights organizations, especially in the field of civil and political rights, were fully acquainted and involved in the United Nations human rights mechanisms.

This was not always the case with child focused NGOs that worked with and/or behalf of children. Nonetheless the provisions in the Convention gave child focused NGOs an unprecedented opportunity to have a new avenue for influencing government towards improving the conditions of children's lives.

In a survey conducted by the NGO Group for the Convention on the Rights of the Child in 2002 coalitions from twenty-nine countries described the work. The survey revealed that most were involved in the preparation of the CRC alternative report, awareness raising and advocacy activities, monitoring the implementation the implementation of the Convention, and representation to various authorities and interests groups toward advancing children's rights.

Coalitions were then asked to state how many of their activities they were doing at the time of the survey. This question sought to assess the level of dynamism within these networks by the number of activities they were carrying out. While the questionnaire did not make a distinction between action and study, the list above suggests a separation of the two but also links between them.

A further examination of coalition activities revealed an intricate link between action and study, as the table below illustrated.

<b>Types of Activities</b>	<b>Action</b>	<b>Study</b>
Preparation of CRC alternative report	Mobilize constituency	Research
Awareness raising activities	Information dissemination, training	Target (s) needs assessment, data collection
Advocacy activities	Lobby, campaigns, marches, conferences, networking	SWOT analysis, agenda development,
Representation	Advocacy	
Monitoring the CRC	Representation, networking,	Research, documentation, studies, database development
Forum of exchange among NGOs	Mobilization	
Research		Study, forecasting, survey, participative research, investigations
Media campaigns and publicity	Information dissemination, awareness raising	Target(s) needs assessment, data collection
Child rights training	Conducting related actions	Research
Child participation activities	Mobilization, facilitation	
Direct services	Service provision	

Hence in reality child rights coalitions are involved in both study and action for the most part.

In 2003 the NGO Group for the CRC did a survey to assess the use of the CRC concluding observations for monitoring the implementation of the Convention on the Rights of the Child at national level. The conclusions of the survey illustrate once again the intricate link between action and study.

For the respondents monitoring the application of the concluding observations, though primarily a process that employs various approaches of study also embraces other activities that are essentially action oriented, such as hearings, identifying and meeting with key government officials and investigations of violations. There is also a strong indication that coalitions' are utilizing and possibly increasing their capacities in monitoring as the chart indicates. Examination of laws and policies, impact studies, investigations of violations and the creation of databases demonstrate that not only is there a recognition for study in order inform action but also the necessity to be

able to apply different methods. There is a growing realization that the CRC concluding observations is a worthwhile tool for defining coalition activities in the intervening periods between the two reporting processes to the Committee on the Rights of the Child.

The debate on how action and study are balanced is not new. At the first European Forum held in Berlin Germany in 1998 representatives from approximately twenty coalitions from the European Council region attended. Several working groups convened and some made recommendations on 'action' and 'study'.

Evidence gathered since then indicates that national child rights coalitions employ both study and action as essential partners for affective advocacy. Their authority and credibility rest in both their abilities to act effectively for change and the initiatives are guided by reliable information.

## 5 The role of the European Union in promoting children's rights

*Presentation by Mieke Schuurman (Euronet), Diane Sutton (Save the Children) and Olivier De Schutter (Professor Faculty of law, University Louvain-La-Neuve)*

Members of the Committee, who come of the same regions of the world, have begun to establish a regional team in order to identify issues shared in the region, to cooperate and to jointly address governments and regional international institutions. They are trying to constitute a CRC European subgroup. It's much needed, since the European institutions do not pay enough attention to children and their rights (children's poverty, children's health, neglect and violence, pornography and prostitution, xenophobia, discrimination of minorities, asylum-seeking children, .... ). So although every country in the EU has ratified the CRC, the European institutions themselves have a lot of work to do.

### 5.1 An overall EU children's policy

Since May 2004 The European Union has 25 member states with about 450 million citizens. 90 million of them are younger than 18 and are considered as children. Although they make up 20 % of the population their rights have been long time neglected in the legislation, programmes, political decision-making and policies of the Union. Yet the future and development of the EU depends on them.

Things however are slowly changing. Thanks to the lobby work of many children's rights organisations and the support of some important MEPs, more and more EU policies and legislation take the rights of the child into consideration. The Treaty

establishing a Constitution for Europe includes many references to children's rights. In particular, the references to the protection of children's rights in the internal and external objectives of the European Union will ensure that the rights and interests of children, in areas in which the EU is permitted to legislate and adopt policies, will be taken into account.

The first guidelines that were adopted by the EU affected children in armed conflict and children who were victims of sexual exploitation and trafficking. Today there are much more areas that the EU is focussing and making policies on and which take into consideration the rights of the child.

First of all it is important to emphasize that the EU will not take over the principal competences of the member states for legislation and policies on children's rights issues. Following the principle of subsidiarity the main protection of children's rights rests at the members state level. Though there are some important issues that have an international dimension, for instance the problem of unaccompanied minors and separated children that enter the EU. Or the sexual exploitation and trafficking of children. These are problems that cannot be solved by one country alone.

For the sexual exploitation of children for example, the European Commission has set up the Daphne Programme that supports NGOs and other civil society organisations in tackling violence against children.

Although there already exist for a long time the intention to improve the protection and promotion of children's rights at the European level, the problem was often the lack of a legal base. Especially with the accession of 10 new member states in 2004, where the living circumstances of children are often worse than in the former 15 member states, in particular with regard to poverty and discrimination, the EU realized that the rights of the child needed a better protection and new legal possibilities had to be created.

Therefore the inclusion of children's rights in the objectives of the Union's Constitutional Treaty and possibly with the references to children's rights in the Charter of Fundamental Rights is a great step forward. These legal bases might result in the mainstreaming of children's rights in all EU policies and legislation affecting children. But still, there remains an important role for European children's NGOs to make sure these new legal possibilities will get implemented.

## **5.2 Children's Rights in the Constitutional Treaty**

Since the creation of the European Community, children have been considered as vulnerable human beings. Everybody agreed that they needed protection and they have been the topic of debate in the past decade, but in fact they weren't politically

important enough to be the subject of European legislation and for a long time they were left out of the EU policy.

The European Charter of Fundamental Rights (adopted in December 2000) and the Constitutional Treaty could change the denying of children's rights in EU policy. The European Union Charter of Fundamental Rights sets out in a single text, for the first time in the European Union's history, the whole range of civil, political, economic and social rights of European citizens and all persons resident in the EU. The Charter includes also some articles that refer to children's rights.

In article 24 of the Charter the principle of 'the best interest of the child' was adopted. This principle states that in all actions related to children the child's best interest must be taken into consideration. Other relevant articles in this Charter treat the right to education, the prohibition of child labour and the right to equality and non-discrimination.

The problem with this Charter is his limited application possibilities, as it has no direct effect within the national context. And this is why the references that are now mentioned in the Constitutional Treaty are so important. The Constitution, that once adopted will be legally binding, means a huge step forward in enhancing the legal obligations on specific rights for children. The ratification of the Constitution by all the member states would secure specific reference to rights for children as mentioned in the Children's Rights Section of the Charter for Fundamental Rights.

Specifically the inclusion of children's rights in the internal and external objectives of the Union, as mentioned in Part I, Article 3 of the draft Constitution, means that children's rights can now be mainstreamed into the EU's legislation, policies and programmes for which the EU has a competence within the Constitution.

It is also very important that article 3, paragraph 4 states that the EU should 'contribute to the strict observance and development of international law'. This means that the very important UN Convention on the Rights of the Child needs to be taken into consideration by the EU. Which in fact is very logical as – as mentioned before – all EU member states have ratified the United Nations Convention on the rights of the child.

The ratification of the European convention is of a primordial importance. EU institutions will no longer be able to blame the lack of a legal base for not addressing children's rights.

### **5.3 Mainstreaming the rights of the child in the EU**

Human rights, including children's rights should become one of the core issues of the European Union. With the Charter for Fundamental Rights and the Constitution for Europe an important step has been taken into the right direction.

Mainstreaming can be obtained by:

- u Political dialogue
- u The inclusion of children's rights' clauses in all kinds of treaties (such as trade and cooperation agreements)
- u The establishment of respect for children's rights as an accession criterion for the applicant countries
- u The implementation of National Plans of Action

Over the past years, the UN Convention on the Rights of the Child has proven to be a very valuable tool for promoting the rights of children everywhere around the world. But the EU has been very slow to recognise and implement children's rights into his policy. Children's rights have been long time absent in European action programmes, regulations and strategies. Though all the EU member states have ratified the UN Convention, the European Union is not a signatory of the CRC.

Mainstreaming children's rights in EU policies does not mean that new legal competences should be created. All the rights that affect children and that are now mentioned in the EU Charter of Fundamental Rights should become legally binding and these rules should form a legal basis which enables European legislators to ensure that the best interest of the child is taken into account. The principle competence for policy and legislation on children's rights issues should however stay at member state level.

## 6 A world Fit For Children: developing and monitoring National Plans of Action for Children

*Presentation by Lesley Miller, UNICEF*

In May 2002, during the Special Session on Children of the UN General Assembly, the international Community adopted "A World Fit for Children". World leaders made a joint commitment and issued an urgent, universal appeal to give every child a better future. The strong agenda that was adopted during this Special Session focused on four key priorities:

- u Promoting healthy lives,
- u Providing quality education for all,
- u Protecting children against abuse, exploitation and violence,
- u Combating HIV/AIDS.

The responsibility for the implementation of this global "Plan of Action" rests with each individual country. Every country, member of the UN Convention on the Rights

of the Child, promised therefore to develop a 'National Plan of Action' by the end of 2003 to ensure an enabling environment for securing the well-being of children and the respect for their rights.

These NPAs should contain specific, time-bound and measurable goals. And states are encouraged to rapport about their improvements and realisations in the reporting process for the UN Committee on the Rights of the Child.

Though a majority of countries has adopted national plans of action, the way they did it varies a lot from country to country. Some NPAs have been developed through a broad consultation of civil society; others were created by a governmental commission only.

Despite all the efforts done by the different stakeholders, there are still a lot of challenges.

First of all, the involvement of children in the development of plans and policies is still not always guaranteed. Policy-makers happily start to understand the need of consulting children. Previous NPAs for children have failed because of a lack of involvement of children and young people and the failure to link the goals of the NPAs to their rights.

As children are the most important stakeholders and as they have the most experience of their own situation, they can help governments to understand their problems better.

Another challenge is the budgeting of these national plans of action. It is clear that measures won't be able to be fully implemented, if there aren't enough resources available. And unfortunately, policy-makers aren't always ready to put their money where their mouth is. More detailed rules concerning the budgeting of the National plans of Action should be adopted.

Thirdly, the decentralisation of some countries don't facilitate the implementation of an NPA. In federal countries for example, responsibilities are delegated to a sub-national level. The national government doesn't foresee enough resources and it becomes difficult for the municipalities to realise the plan of action. Besides, disparities can result in an unequal implementation of the plan.

And finally, it is very important to work with different partners and participants to create a national plan of action. People must be involved at all levels. Only if we all work together children's rights can be mainstreamed.

**NGOs can play a key role in some tasks:**

- u To identify the "key ingredients" for successfully influencing government policies and decisions and to demonstrate to the government that children's participation

can make an important contribution to advancing the children's rights agenda, the more likely governments may take children's views seriously,

- u To advocate both for specific budget allocations for the implementation of NPA's, but also for child-friendly budgeting more generally,
- u To try to combine a permanent process to continuously monitor progress at national and sub-national levels with the CRC reporting obligations,
- u To encourage the establishment of permanent structures to monitor progress towards the full realisation of children's rights, looking at both process and impact.

During working groups a discussion on the progress of the establishment of an NPA and the form and content of such a plan was held.

**Remarks were given about:**

- u The consultation of the NGOs and the taking into consideration of the commentaries made,
- u The consultation of the children themselves and the taking into consideration of the commentaries made,
- u The lack of targets,
- u The lack of a timetable,
- u The lack of a budget ...

Governments often demonstrate that making an NPA is considered like "a homework" they have to do.

It was concluded that an NPA can be a good tool but must be used in a better way.

## 7 The relationship between NGOs and the government

*Presentation by Eddy Boutmans (former Belgian secretary of State of development cooperation and Niels Hjortdal (Save the Children Denmark)*

NGOs are established by private initiative. They are independent because they do not belong to the government or are being controlled by a public body. They do not generate profit for their members.

The question was raised, while governments are directly accountable to their citizens, what are the authority, legitimacy and accountability of NGOs?

NGOs may claim to be acting in the interest of the people and see part of their role as holding governments and international institutions to account. But who holds the NGOs to account?

In relation to NGOs working on children's rights and participating in the work of the Committee, it is assumed that they would be able to show appropriately the required accountability in relation to the critical aspects of reporting, involving and responding. It is seen as a meaningful precondition for being able to be invited by the Committee to take part and provide information that is particularly relevant to its consideration of the State Party report, as expressed in the Guidelines for the Participation of Partners (NGOs and Individual Experts) in the Pre-sessional Working Group of the Committee on the Rights of the Child for participation of partners. These guidelines state that: *'The Committee will only invite NGOs [to the pre-sessional working group] whose information is particularly relevant to its consideration of the State Party's report. Priority will be given to partners who have submitted information within the requested time-frame, who are working in the State Party and who can provide first-hand information that is complementary to information already available to the Committee.'*

It was argued that this might also be the best instrument to maintain independence, integrity and to build credibility so as to get the public support which is necessary to make an impact which will contribute to promote the respect for children's rights.

But independence often also means getting the necessary funding and sometimes biting the hand that feeds you.

During the meeting it became clear that some Coalitions receive a lot of government funding whilst others only work with contributions from their members or with private funding. Does this mean that some Coalitions just do what their governments tell them to do? Clearly, talking and working *with* the government should not be the same as working *for* it. The government is supposed to work for the general interest and defending human rights and particularly children's rights is part of the official policies of any government that signed up to the CRC.

It was argued that NGOs should always bear in mind that we are NON governmental and that we have to realise that – certainly in advocating children's rights – one of our foremost aims is to influence politics. The position of distance, but also dialogue and critical engagement was defended

It should be realised that accepting state money always implies accepting state control on the use of that money. Seeing to the correct spending is not only the governments right, but even their duty. But this control should not be of political content, it should be on spending the money for the purposes it was allowed for.

As Boutmans put it: 'the subsidy should not be a favour, but as largely as possible a predictable decision, if possible valid for a few years, based on a substantiated request, a good dossier, examined by unbiased civil servants (that is to say: as unbiased as possible) – and if the final decision and responsibility is a political one, it

should be regulation based and the reasons for the decision should be explicit. A positive interaction between state and civil society is part of the *European model* and we should defend that, always realising that it is important to safeguard the respectful distance between both.'

Coalitions should also try to get money from different public sources (state or provincial level; regional, municipal funds can also be created).

And what about private funding: is this not the best way of keeping our independence?

Financial support from membership and sympathisers is seen as most important because this will strengthen the position of Coalitions both vis à vis commercial sponsoring and state subsidies.

Commercial funding or sponsoring is only acceptable if it doesn't influence the position or actions of the NGOs. And Coalitions shouldn't depend on one sole sponsor.

Some final words about working with politicians:

In most political groups, a particular spokesman or interested MP will be our main contact.

Coalitions should try to have meetings with a parliamentary committee as a whole (cross party), or with a cross party group interested in our issues, if there is not a specific committee.

## 8 Closing Session

The 10<sup>th</sup> March ended in the very prestigious and historical City Hall of Brussels. After a welcome by Faouzia Hariche, Counsellor City of Brussels, Tom Hewitt presented the work of the Child Rights Information Network (CRIN). A time was given to see the progress and way forward since "The Vilnius Call for action". A project of "Brussels call for action" was presented and discussed by the participants. To conclude, some words of thanks were spoken by the chairpersons of the Flemish and French-speaking NGO-coalitions.

# THE BRUSSELS CALL FOR ACTION

## Fourth Regional Meeting of NGO Coalitions for the Rights of the Child in Brussels

**Participants from 24 countries in Europe, all NGOs working in networks to promote implementation of the Convention on the Rights of the Child (CRC), took part in the meeting.**

Since the CRC was adopted in 1989, came into force in 1990 and subsequently ratified by all UN member States of the European Region, there has been a growing movement among NGOs and other civil society organisations in support of the Convention.

Many of us have formed networks, particularly in response to the opportunity provided by article 45a in the Convention, which invites input from experts into the Committee on the Rights of the Child reporting process. Over the years there has been a steady growth in the children's rights coalitions across the region. Currently, there are some 30 NGO-coalitions within the European Region.

The aims of the Fourth Regional Meeting of NGO Coalitions for the Rights of the Child in Brussels have been to strengthen the association between child rights networks within the EU – taken into account that as from the first of May 2004, The European Union welcomed 10 new member states – and to continue the exploration on how to work more effectively and efficiently, building on the work undertaken in the three previous forums (Berlin, March 1998; Stockholm, May 1999 and Vilnius, October 2002).

The meeting provided an opportunity to share NGO experiences across Europe and strengthen capacity and practice in promoting the rights of the child.

The NGO community is aware of many groups of children whose rights are ignored, disrespected and violated. Many experience discrimination, others are living in institutions or on the streets, held in detention, being sexually exploited and trafficked, facing all forms of violence, poverty and exclusion. To these groups belong children living in extremely poverty, children with disabilities, children with immigrant or ethnic minority background.

It is time to build a Europe with and for children and make children's rights real.

Therefore, we, the NGO-networks want:

#### At European level:

- u To ensure that the **EU keeps the current reference to child rights in the internal and external objectives of the Union in the draft EU Constitution**, as it will assure that children's rights as articulated by the CRC will be mainstreamed into legislation, policies and programs for which the EU has a competence as set out in the Constitution. The establishment of mechanisms within the Union for promoting and monitoring the achievement of such measures should also be assured;
- u To urge, in the EU enlargement process, that **children's rights are included as indicators of progress both during and after the accession to the EU**, according to the Copenhagen Criteria (1993) on *'human rights, and respect for and protection of minorities'*;
- u To further **develop and support networking among national coalitions in the region** which is fundamental in strengthening child rights advocacy at the region wide level and to promote political will at all levels;
- u To **hold regular forums** (maximum every two years) in Europe to exchange and share progress, to give a **regular follow up** of the Vilnius and the Brussels calls for Action and to give consideration to mechanisms for including children in this processes;

#### At both European and national level:

- u To urge the **European Union and European governments to give greater attention to and to promote children's rights** as articulated by the Convention on the Rights of the Child at legislative and policy making levels and to establish mechanisms for promoting and monitoring the achievement of such measures;
- u To urge all governments to create and implement **comprehensive monitoring and research systems that are child centered and child rights orientated**;
- u To encourage the **creation of all party groups of parliamentarians to focus on the implementation of the Convention on the Rights of the Child**
- u To **create and make greater use of existing services** (such as Children's Rights Information Network (CRIN); NGO Group for the CRC) to develop a network, for sharing information and experiences through email, website and the means that will enable learning and joint advocacy;

- u To urge all governments to **explore, financially support and implement the empowerment of children regarding their rights**, from the very early childhood, through the promotion of childrens active involvement in decisions which affect their lives from the local, family, community, national, through to European levels, having a particular attention for children belonging to vulnerable groups;
- u To **stimulate the creation of children’s organizations run by and for children themselves**, and to recognize and provide support for adults working to facilitate the development of these organizations;

### **At national level:**

- u To strongly urge all European governments to **elaborate, implement and monitor time bound strategies for children such as National Action Plans in line with the goals outlined in the CRC and the World Fit for Children agreement**.
- u To **strengthen National Coalitions participation in the reporting process to the Committee on the Rights of the Child and to develop follow up mechanisms for promoting implementation of the concluding observations**. These follow up mechanisms should include the application of impact assessment tools, feedback to the Committee on the concluding observations, regular and consistent reporting by governments on the progress in implementing the recommendations;
- u To **encourage and support greater involvement of children in the reporting process to the Committee on the Rights of the Child**, such as preparing their own reports, submitting questions to States Parties, providing translation of all relevant documents such as the concluding observations in a timely fashion, and participation in the follow-up processes at all levels within the country and to share experiences and expertise in this regard;

The views of NGOs (especially National Coalitions), children and civil society must be taken into account in all the recommendations outlined above.



# Opening Session

## Wellcome Address

Karin Maes & Benoît Van Keirsbilck, Flemish and French-speaking NGO-Coalitions

Flemish Minister of Youth and coordinating Minister of Childrens Rights,  
Mister Bert Anciaux

Member of the UN Committee on the Rights of the Child,  
Mister Lothar Krappmann,

Members of cabinet and administrations,  
Members of the Steering committee,  
Dear colleagues and friends,

### Karin Maes

My name is Karin Maes, president of the Flemish NGO-coalition and on behalf of the Kinderrechtencoalitie Vlaanderen and la CODE, I would like to welcome you to the fourth regional meeting of NGO Coalitions in Europe and to the capital of Belgium, Brussels.

Looking at you all and at the map behind me I think we can already call this meeting a success. 89 representatives from no less then 24 countries are gathered here today.

We would like to thank you for coming over here. Some of you have travelled great distances to be here today and we hope that your stay here will be a pleasant one and that we can achieve our objectives during this 2 and a half days meeting. Although we consider everyone's presence here today as equally important, we would

like to express our gratitude to the representatives from Turkey, Albania and Azerbaijan for coming over to attend this forum.

Dear friends, when we started out with this project in 2003, we didn't know if we could make it a success. We had to overcome a lot of difficulties. It was through the help of the Steering Committee that we managed to pull it off.

In the summer of 2004 things were not looking good. We don't have the beautiful beaches of Greece or the mountains of France and Italy in our country, but what we do have is a lot of governments! Combine this with an election year and you will understand that looking for government funding wasn't an easy thing to do.

We needed a small miracle to achieve our objective of getting you here in Brussels in the first half of 2005.

But we made it. Thanks to the help of a lot of people. First of all, we would like to thank the NGO-group from Geneva for giving us the financial support we needed to start off this project and to engage our collaborator Veerle De Roover who could concentrate on the organisation of the forum.

Soon after that the Flemish government gave us an enormous financial boost. With this money we were able to pay Veerle fulltime, not only for a couple of months, but until April. This means that this forum won't end on Thursday. We have the time, the staff and the money to turn your efforts during this 2 and a half days into a working instrument we can use in the years to come.

So, a very big thank you to the Flemish government, that not only provided the funds, but who are also our hosts for today and tomorrow, because the building we are staying in belongs to the Flemish community.

We also have to thank the Ministry of Foreign affairs of Belgium for contributing in a big way to this Forum. The same goes for Unicef Europe. Thanks a lot; you gave us the means to support the representatives of all the countries to come here today and to prepare the necessary documents.

Also thanks to Save the Children Sweden. The money you gave us was very welcome and it came in at a stage when we needed it.

We also like to thank the French community of Belgium for their financial support. And we would like to thank the city of Brussels for hosting the conference on Thursday.

So, thanks again to all the representatives of these bodies: thank you Denise, thank you Simone, thank you Lesley, thank you Faouzia, thank you Joost, Pascal and Bert, thank you very much.

## Benoît Van Keirsbilck

My name is Benoît Van Keirsbilck and on behalf of the Kinderrechtencoalitie and la CODE I would also like to welcome you to this forum.

We hope you'll enjoy your stay here: this evening you'll get a taste of our famous cuisine and tomorrow you're free to visit the lovely city that's called Brussels!

But of course, we are here to work! We have a very busy schedule ahead of us: Because we don't want to waste your time, because we think a lot of work is needed, because we want to get to know each other better in a very short time, and yes, because we want to contribute in creating a better world for our children to live in.

In a few moments, we are very proud to introduce to you Mister Lothar Krappmann, member of the UN-committee on the Rights of the Child. He will speak to you about the *UN-Committee on the Rights of the Child and its interest for NGO-coalitions for Children's rights* followed by a plenary discussion.

This afternoon, we will discuss two themes: *Children as partners in the CRC monitoring and advocacy process* followed by working groups and *Balancing between action and study*, followed by a plenary discussion.

At the end of this discussion, we can enjoy a welcoming reception that is being offered to us by the Flemish Community. Between 7 and 8 pm we'll give you some time to freshen up and we'll end this day with a dinner. Please enjoy yourselves but do be careful with our Belgian beers: they are as strong and tasty as their look and reputation.

If you have been careful, you will be able to enjoy our second day. We kick off at 9h30 with an important theme: *The role of the European Union in promoting children's rights*, followed by a round table and discussion. In the afternoon we discuss *A world fit for children: developing and monitoring National Plans of Action for Children*, followed by working groups.

At the end of the day, after a short coffee break, we will talk about *The relationship between NGOs and the government: balancing between cooperation and independence*.

After that, we'll give you some free time in our capital. Please enjoy everything this beautiful city has to offer you. You received some information about things to do and see in your documentation file. By then, you will be used to Belgian beers or you'll hate them for the rest of your life (depending on how you were feeling that day).

Finally, thanks to the city of Brussels, on the third day, we'll gather in the city hall of our capital to discuss *The role of CRIN in supporting NGO-coalitions* and *The Vilnius call for action*. This is followed by a *Final declaration*, a *Closing session* and a *Press conference*. Some of you will *visit the European parliament* in the afternoon.

Indeed, we're not starting from scratch: this is already the fourth regional meeting, following the meetings that took place in Berlin, Stockholm and Vilnius in 2002. To move ahead we have to look at the past!

To talk about the last meeting and the Vilnius call for action, it is my pleasure to introduce to you Loreta Trakiskiene from Save the Children Lithuania.

We hope we'll have a great meeting and we're looking forward to getting to know you all.

***Karin Maes & Benoît Van Keirsbilck***  
***Chairpersons of the Flemish and French-speaking NGO-coalitions***

## Welcome Address

Loreta Trakinskiene, Save the Children Lithuania

Ladies and Gentlemen, Colleagues and Friends,

It is a great honor for me to participate in the Fourth Regional Meeting of NGO Coalitions in Europe here in Brussels. The main reason why I am here today is international cooperation.

I would like to thank you all and especially the Steering Committee for giving me this opportunity to meet the international community representatives from different countries with different cultural backgrounds and experience, with people having deep awareness of the word "Childhood".

Some time ago there was very little public awareness of the Convention on the Rights of the Child, and still less awareness of the reporting process. The governments did little to generate public and political debate on the subject, and did not introduce teaching on the rights of the child into the school curriculum. However, thanks to the international community of NGOs national debate and public understanding of the issue was generated.

What does international cooperation mean for us?

Firstly, I am happy to work in Save the Children Lithuania. I have been in this movement since 1991. This organization, the establishment of which was initiated by Save the Children Sweden, who took great concern in the future of Lithuania children at the time of the collapse of the former Soviet Union, when Lithuania regained its independence.

For more than fourteen years Save the Children Sweden lead us patiently forward with confidence and reliance. It is their organization that recommended us to join the International Save the Children Alliance, of which we became a member in 2004.

Secondly, international cooperation gave us understanding to invite more NGOs working with or for children as well as private persons to cooperate in achieving the main goal – to make Lithuania a country where health, happiness and welfare of children are top priorities. Through coordination of our attempts, absence of duplicate activities, learning from each other, development of a strong lobbying voice, we believed and still believe in achieving this goal.

Such joint work consolidated some NGOs and state officials. We prepared our comments on the report and we can be very proud that experts in the United Nations appreciated our efforts and proposals, and that our comments were reflected in the conclusions made by the UN to our governments.

The greatest achievement of our Lithuania NGOs, of which we can really be proud of, is that children have become more visible in our society. Consequently, the voice of organizations fighting for the rights of the child became louder among state officials. State institutions realized that the rights of the child and child future are among the most important national problems, such as national defense, environment or unemployment.

However, it would be very difficult for young NGOs to operate in Lithuania without international cooperation and support. International advices and experience were of great importance for us

Thirdly, I am very proud to say that in October 2002, the Third Regional Meeting of NGOs was organized in Vilnius.

The meetings of national networks in Europe present a golden opportunity for all of us to meet and exchange experiences and to move forward in the championing of the rights of the child in our societies.

It was amazing event: an opportunity to meet different people from Europe, realising the problems they were facing and getting to know their ways of working with children.

The aim of the Vilnius Regional NGO Meeting was to explore how national NGO networks can work more effectively and efficiently, building on the work undertaken in the two previous forums (Berlin, March 1998 and Stockholm, May 1999). This meeting provided an opportunity to share NGO experiences across Europe and strengthen capacity and practice in promoting the rights of the child.

Children's issues have been invisible in EU policies and programmes. Now children's rights are mentioned in the Constitution Treaty and in the Charter of Fundamental Rights. It is important that progress is made towards a cross cutting European policy on children.

I learned a lot from colleagues who have rich experience and high professionalism, and who were very patient with me and involved me in the Steering Committee. Today, I am in Brussels for this meeting. I came from Lithuania, a country that recently joined the EU.

The Fourth Regional Meeting of NGO Coalitions in Europe today, is a good example of cooperation to move child rights issues higher on the political agenda and to present knowledge and exchange experiences to remind politicians of their duties towards children. Children are full members of a democratic society and bearers of their own rights, based on the principles and norms of the UN Convention on the Rights of the Child.

Children's rights will only become a reality when States Parties to the convention have both the political will to realize those rights and the capacity and knowledge to be effective in their efforts.

Once again I wish all of us fruitful work, lovely discussions and cooperation based on mutual understanding and kindness. Thank you very much for your attention and let me conclude by a quote from the UN Convention on the Rights of the Child, Article 3: 'In all actions concerning children... The best interests of the child should be primary consideration.'

***Loreta Trakinskiene***  
***CEO of Save the Children Lithuania***

## Welcome Address

Bert Anciaux, Flemish Minister for Culture, Youth, Brussels  
and coordinating Minister for Children's Rights

Dear participants,  
Dear organisers,

Today it is my turn to welcome you in my home town, Brussels, the capital of Flanders, Belgium and Europe. I hope you had a pleasant journey and enjoyed a good night's rest.

As Flemish Minister for Youth, I am responsible within the Flemish Government for youth policy, with explicit attention to children's rights policy. Flanders, which is the largest region of this country, is competent for many aspects of this policy, among which the person-related matters such as youth work policy, youth assistance and education. However, the responsibility of Flanders also comprises tougher matters that have an impact on the living conditions of children and youngsters, for instance town and country planning, housing and environmental policy.

Since 1997, Flanders has had a children's rights co-ordination, both within the Government and the Administration. 1997 has been a crucial year in Flemish children's rights policy. On 15 July 1997, the Flemish Parliament adopted the Flemish Parliament Acts or federated state laws on the Children's Rights Commissioner and the evaluation of the Government policy against the observance of the rights of the child.

When establishing the Flemish Office of the Children's Rights Commissioner, great care was taken to guarantee the independence of its operation through its legal basis and its position with Parliament.

Moreover, the Government policy was streamlined to the International Convention on the Rights of the Child by introducing a child impact report and annual reports.

The child impact report describes the impact draft Flemish Parliament Acts are expected to have on the child. The child impact report is drawn up by the Administration for draft Flemish Parliament Acts insofar as they matter to children. The method thus tries to assess the impact on children in a proactive manner before the Government approves the draft in principle. The child impact report is submitted together with the draft Act to the Flemish Parliament. To my knowledge, Flanders is the only region where this is a statutory obligation. The federal government and the other federated states in Belgium do not apply this system either. We are currently examining how this application can be transformed into something more than a mere formalism, that is an instrument providing a concrete added value for children and youngsters. We are exploring, among other things, the possibility to integrate the instrument into a wider form of preliminary impact reporting, a so-called regulatory impact analysis, when drawing up Flemish Parliament Acts.

Furthermore, the Flemish Government submits an annual report to the Flemish Parliament and the Children's Rights Commissioner about the implementation of the International Convention on the Rights of the Child. This annual reporting should make it easier to meet the reporting obligation of the Convention (Article 44).

In order to have everything proceed smoothly, so-called 'contact persons for children's rights' have been appointed within 25 Flemish Administrations and government institutions that have a bond with children's rights. The task of these contact persons consists of the sensitisation within their own Administration and the reporting to the children's rights co-ordination about the pursued policy.

This network of contact persons for children's rights can actually be perfectly compared with a children's rights coalition of NGOs. The creation of networks always occupies centre stage, but in this case within the government.

The Flemish children's rights policy takes further shape by subsidising organisations and initiatives in the field of children's rights. For instance, the Flemish Children's Rights Coalition and the internationally renowned Centre for the Rights of the Child are subsidised.

Flanders also fulfils its international obligations to the best possible extent. Within the framework of the world action plan 'A world fit for children', the Flemish Government approved, on 2 April 2004, a proper Flemish Action Plan on Children's Rights, which will be integrated into the Belgian National Action Plan. I hope the establishment of a National Commission for the Rights of the Child will also be realised this year.

In this respect, I would like to refer to the fact that the Flemish Action Plan was prepared by a mixed working group of government (competent Ministers' Offices

and Administration) and civil society. Flanders has thus complied with the request of the Committee on the Rights of the Child to Belgium to draw up a 'comprehensive national plan of action' 'through an open, consultative and participatory process'.

I continue to involve civil society in the youth and children's rights policy through a so-called 'Reflection group on Children's Rights'. This reflection group collaborates in drawing up a second Flemish Youth Policy Plan 2005-2009 by the end of 2005. The rights of the child will serve as a legal and ethical framework to that end. The actions of the Flemish Action Plan will be made more concrete on that occasion. I identify the integration of the children's rights and youth policy on the one hand and the development of an actual youth information policy on the other hand as important priorities.

I am indeed convinced that it is in the interest of the children and youngsters themselves to harmonise the instruments of the children's rights and youth policy. The observance of international obligations and the formalities linked to them cannot be an objective on its own if it does not result in an improvement of the situation of children and youngsters. The convention on the rights of the child provides an excellent framework to improve the position of children and youngsters in society. This position should always come first as the ultimate evaluation for a youth and children's rights policy. Not only for the government, but also for the CSOs (civil society organisations). That is my line of approach for your working group this afternoon.

CSOs therefore do not only observe the youth and children's rights policy, but realise it as well. As a cat among the pigeons, I dare say that CSOs should also assume responsibility instead of always relying on formalities. CSOs, just like the government, can in my opinion be expected to report in a self-critical way. In concrete terms, children's rights and youth organisations and the government have a joint responsibility to improve the different living conditions of children and youngsters.

Dear friends,

The European Union is often reproached for operating not very democratically and too economically. The ethical and legal principles of the children's rights discourse provide the means to counter this. I therefore hope that the conclusions of this forum will inspire the following meetings of the European Union Youth Councils and the 'Groupe de l'enfance'.

Finally, I would like to congratulate the organisers for their initiative, and I wish you all a very inspiring and productive forum!

***Bert Anciaux***

***Flemish Minister for Culture, Youth, Sport and Brussels***



# Session 1

The U.N.-Committee on the Rights of the Child and its interest for NGO-Coalitions for Children's Rights.

## The UN Committee on the Rights of the Child and its Interest for NGO Coalitions for Children's Rights-NGO Reporting Process

Laura Theytaz-Bergman, NGO Group for the CRC

### Why report

Many NGOs ask why they should spend their time reporting on the implementation of the Convention in their countries when they have many more important things to do – some are involved in emergency situations, others in conducting actual service delivery, others busy with information campaigns or advocating for changes with their national governments. It can however:

- u Provide a unique opportunity to bring concerns about the status of children to the international body legally responsible for monitoring the implementation of the Convention
- u Empower national NGOs by offering a legitimate external source to which children's issues can be raised and addressed
- u Begin of an open debate on the status of children in the country
- u Create a window of opportunity to have a serious dialogue with senior government officials about the State's efforts to comply with the standards and principles of the Convention
- u Influence the agenda of the country

### How

- u Through the submission of a coordinated written report prepared by a coalition of NGOs rather than individual NGOs because it:
  - Lends a greater legitimacy to information submitted

- Allows for more effective monitoring of the Convention due to the specialist knowledge, variety of points of view and ability to present a more comprehensive picture of the situation in the country
- Avoids governmental criticism that the information should be disregarded as that particular NGO is politically motivated, linked to the opposition, not reliable or is basing his information on fantasy rather than fact
- Allows for Committee members, who are under intense time pressure, to study one comprehensive report
- u Through participation in the pre-sessional working group meeting of the Committee by:
  - Providing a constructive, critical analysis of the government report
  - Responding to questions from Committee members
  - Clarifying issues
  - Identifying key issues for discussion with the government
  - Helping to set priorities

## Impact

Track record in European Union countries (25) for most recent reporting cycle:

- u Coordinated national level reports from 20 countries
- u Joint report received from two national NGOs from 1 country (Slovakia)
- u Reports received from single national NGO on 2 countries (Cyprus, Malta)
- u No reports received from national NGOs from 2 countries (Hungary, Portugal)

Track Record of non-EU countries (8) and EU candidate countries (4):

- u Coordinated national level reports from 6 countries (Bulgaria, Croatia, Norway, Romania, Switzerland, Turkey)
- u Joint report received from two national NGOs from 1 country (Iceland)
- u No reports received from national NGOs from 5 countries (Andorra, Liechtenstein, Monaco, San Marino, Vatican City)

Concluding observations can be an unparalleled tool for NGOs to stimulate a discussion at national level:

- u in setting priorities and mobilizing partners at national and local levels
- u to exert pressure on the government to follow-up on the recommendations made by the Committee

- u to lobby for changes in legislation and practice

No longer NGOs who are suggesting changes that need to be made but rather an international body of experts

Recent Survey of NGOs who have reported to the CRC showed that:

- u The concluding observations mostly reflected the concerns of the NGOs presented in the written report and in the pre-sessional working group meeting and that the recommendations made by the NGOs were reflected in the concluding observations
- u Almost all NGOs felt that the concluding observations made recommendations that could be realistically implemented in the country

Problems at national level will not disappear through reporting process but rather:

- u Helps to prioritise problems
- u Offers suggestions for improvements at national level
- u Generates public debate

Genuine change must come from national level but progress can be seen

- u Changes in attitude of governments towards NGOs – have come to see NGOs as partners in the implementation of the Convention – including them on national coordinating mechanisms, requesting their input into proposed legislation, seeking technical advice and assistance from them
- u Changes in law reform including the incorporation of CRC principles in child protection areas
- u The creation of national child rights institutions and national coordinating mechanisms

Change will not occur spontaneously but rather because NGOs have demanded change, lobbied for change and advocated for change. The CRC reporting process is one tool in this effort to ensure that children's rights are respected.

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## The UN-Committee on the Rights of the Child and its Interest for NGO-coalitions for Children's Rights – An Introductory Statement at the Fourth Regional Meeting of NGO-Coalitions in Europe

Lothar Krappmann, Committee for the Rights of the Child

Dear colleagues and friends,

I would like to thank you for the friendly words of welcome. I very well know that you were expecting the chairperson of the Committee on the Rights of the Child to come to your meeting. I bring his apologies for not appearing here in this conference today. He was strongly urged by UNICEF and Mr. Sergio Pinheiro, the director of the Study on Violence against Children, to express his clear and significant support to this study in a Latin American conference. He is regarded to be the authority who can convince the representatives of the Latin American states that now, after the collection of data, actions must follow. Jaap Doek hopes that you understand that he had to go to that conference. He asked me to extend his best wishes to this meeting. I would like to underline that our chairperson and all the members of our Committee are well aware, how much the quality of the CRC's work as well as the sustained effects of the Committee's work are dependent on the good cooperation between NGOs, National Coalitions and the CRC.

I had a long telephone call with Jaap Doek, in which I explained to him that it is not easy to replace him in such a meeting – the more as I am a relatively young member of the Committee and as I am not grown up in the network of NGO activities. You may have read that I come from research on the social and the emotional development of children, on the institutions of childhood outside the family, day care centres, schools, play grounds, and on children's more or less promoting experiences in these domains of their lives. This is an important perspective, when we examine whether children are protected against detrimental life circumstances, whether they are given all the opportunities needed for "the development of the child's ... abili-

ties to their fullest potential”, and whether their voice is heard “in all matters affecting the child” to quote the Convention. I will try to answer your questions, and if there will remain a problem unsettled – which is likely, because the Committee is on the way to start a new phase of its work – I will care for continued communication.

Let me start with some news about the Committee’s development and work:

Two weeks ago the regular elections of half of the members of the Committee took place. Seven of the nine members, whose term expired by the end of February, applied for re-election; five of them were re-elected and four new members will join the Committee. Although I personally regret that some members, with whom I liked to cooperate, are no longer with us, I highly appreciate the combination of continuity and change that was generated by the election. The proportions among the regions of the world have been slightly shifted, as an additional member comes from Sub-Saharan Africa. The Arab and the Latin American region have lost a member and a North American member, a Canadian, was included. Still there are five Europeans: Jaap Doek (The Netherlands), Lucy Smith (Norway, re-elected), Nevena Vuckovic-Sahovic (Serbia and Montenegro, re-elected), Jean Zermatten (Switzerland, new member), and myself (Germany).

The Committee will benefit from the relative stability in its composition, because a new phase of work begins. In December 2004 the General Assembly of the United Nations formally permitted that the Committee reorganizes its monitoring work in the form of a two-chamber system. The General Assembly also provided the financial means for this reorganization. These means are mainly needed for the translation and processing of an increased number of State Party reports and additional materials as well as for the administrative support to two parallel sessions of the Committee. In order to avoid misinterpretations I add that the Committee members will not cost a penny more (and you certainly know that the Committee members get no salary and are only reimbursed for the expenditure day by day of their active presence).

For this step we were waiting since the membership of the Committee had been expanded from 10 to 18 in 2002. It will help us to deal with the accumulated backlog of State Party reports:

- 1 the real backlog on the office shelves in Geneva, more than 30 reports,
- 2 the ought-to-be backlog consisting of the many reports that should have been submitted to the Committee, mainly second periodic reports – about 90 reports, and
- 3 the expected reports on the two Optional Protocols.

Up till now, the Committee did not dare to press State Parties to send delayed reports, because if State Parties would have sent these reports, we would have been unable to deal with them in foreseeable future because of limited work capacity.

So far, the Committee was in a position to deal with about 9 reports per session only, 27 or 28 per year. Since its beginning, the Committee has dealt with about 250 reports, that means: has internally discussed these reports, collected additional information from many sources, met NGOs and the State Parties, and prepared Concluding Observations.

From the start of the two-chamber system on, we will be in a position to deal with about 50 reports per year. Why not just twice as much? The transformation of the work is more complicated than you may imagine. For this reason I have to stay for some moments with this problem.

The working capacity of about 50 reports is a consequence of the Committee's decision that the Concluding Observations shall be discussed and adopted by the entire Committee and not by the two separated chambers only. Therefore, we will need about two more days for plenary sessions, and these days are not available for dialogues with State Parties. Thus, we will be able to process 17 to 18 reports within the three weeks of each session reserved for the monitoring dialogues with State Parties. Since we have three sessions each year, this will sum up to 50 and some more reports per year.

Why shall the Concluding Observations be adopted in plenary meetings? We want to prevent that two differing monitoring cultures emerge in the two chambers. In order to avert this outcome, we will also change the composition of the two chambers from session to session. This is not so easy, as we have to represent the regions of the world and the competencies of the members in both chambers in an adequate way. We will make sure that each chamber comprises members of all world regions, who are able to competently ask all relevant questions.

The Committee has approved another change in its work routine that will help to reduce the workload. Quite a number of second periodic reports are submitted at a time, when the third report in fact is due. I already told you that up to now it was not possible to remind and to urge State Parties to expedite their reporting process. Thus, for a limited period of time we adopted the rule that State Parties combine their third and fourth report and deliver this combined report at a date close to the originally planned submission of their fourth report. The two-chamber system and this combination of two reports will definitely help us to reduce, hopefully to end the backlog within two or three years. After two years, this course of action will be evaluated and adjusted to the situation reached at that time.

The division of the Committee in two chambers will increase the workload on Committee members. But also the workload on all the institutions and organizations, which assist the Committee, will increase. I think this is the right moment, in which I have to underline that the success of the Convention and its monitoring Committee

depends on the support of these institutions and organizations to a great extent. This dependency refers to the preparation of the dialogue as well as to the activities following the dialogue and the Concluding Observations of the Committee.

If the Committee had to rely just on the reports sent by the State Parties, our exchange with the delegations would have a small base, although many reports contain a lot of information, describe shortcomings, and convey self-critical considerations. What we need is another perspective – the perspective of those who focus on children and their rights in a determined pro-child perspective so that we get to the heart of the problem.

We all know that such a resolute perspective may turn into an over-commitment that may give a one-sided picture of the reality. Priorities may not become clear, when specialized organizations present their concerns side by side. For this reason, the Committee highly appreciates that child-right oriented organizations form coalitions that coordinate the various statements and opinions and help that our Committee can develop an up-dated, realistic, well-balanced and committed view. The NGO coalitions also may help to better be aware of the history, the lack of progress or achievements, and the intricacies of the problems. The Committee also is grateful that some months before the dialogue with the governmental delegation we have a discussion with the respective National Coalition, which always remarkably contributes to a better understanding of the situation.

All these steps are organized and coordinated by your office in Geneva. The activities of the office are highly valued by our Committee. I sincerely hope that the excellent cooperation is continued and even intensified. I will later present a number of suggestions, in which fields we should further strengthen the NGO-NC-CRC cooperation.

You know that we receive additional information from United Nations institutions as well, above all from UNICEF, UNHCR and UNESCO. These reports do not at all make your input in the work of the Committee redundant, because we benefit from the voice of experts and practitioners of the country who always have their distinctive point of view.

We also receive information from some international NGO associations, e.g. the international movement against all forms of corporal punishment, the organization that promotes breastfeeding and fights against milk substitutes, or the organization observing the maltreatment of children in armed conflicts. They also give feedback to the Committee on the impact that the dialogue and the Concluding Observations have had on the State Party's policy towards children. I mention this continuing relationship, since I have the idea that this continual exchange may be a model for the cooperation of National Coalitions and the Committee as well.

Let me underline that in the period that follows dialogue and Concluding Observations, the role of the National Coalitions is as important as in the preparation of the dialogue. It is the National Coalition that has a special chance to distribute information on the whole reporting and monitoring process. National Coalitions can make public, what was said in the dialogue and what is contained in the Concluding Observations. They can remind the Government of its announcements and assurances during the dialogue as, e.g., the promise to establish a national monitoring body or to elaborate a National Plan of Action, while the Committee in Geneva has no direct impact on these succeeding steps.

We, the Geneva Committee, have to rely on you – on concerned and committed forces within the country that pursue the goals specified in the Concluding Observations. Since the Committee on the Rights of the Child cannot sanction State Parties that do not meet their obligations, there are no other ways to approach the aims of the Convention than to remind and convince the State Parties, on the one hand, and to rely on committed organizations and their voice and vigour, on the other hand, so that the Government does not forget what it has promised to do.

Let me add something that in my view is very important, and I am sure that I have the consent of our chairperson who always states that we are a learning committee: The Committee is highly interested in your comment on our dialogue and in particular on the Concluding Observations. Please, tell us, when we misjudge a situation or are not enough aware of particular circumstances. *Inform us, whether the Concluding Observations do support forces in the Government and in civil society that try to improve unsatisfactory conditions of children's lives. Give us advice, how the Committee can better hit a special point or strike the right note to be understood.*

Besides the monitoring process there are more tasks of the Committee, although monitoring is the most time and energy consuming task. However, also the other tasks are relevant and contribute to the main goal, the implementation of the Convention and, therefore, need attention as well.

First, the Committee can use and has used its obligation to report to the General Assembly of the United Nations to draw the attention to problems of special relevance, as, e.g. some years ago done with regard to child soldiers (Art.45 c and d). The usual monitoring process showed that there existed and exists a tremendous problem, and the Committee used its insights to recommend a special study on violations of the rights of the child in armed conflicts. The results of such studies or special reports may inspire new measures, e.g., an additional protocol demanding supplementary efforts of State Parties. *Help us to identify such problems of special relevance.*

Second, the Committee may request from State Parties further information in order to shed light on a suspected problem (Art. 44 (4)). As far as I participated in the activities of the Committee, this provision was used only to ask for information complementing the State Party report. But Article 44 (4) may be used not only in reaction to an incomplete report, but also for active inquiries. On this base the Committee can make suggestions to State Parties and bring these suggestions and recommendations to the attention of the General Assembly as well. The heavy workload and the clear priority of the monitoring task hindered the Committee to actively use these instruments. There are also pragmatic considerations: The Committee should not start an investigation at its next meeting when others, for instance UNICEF, already have taken measures – example: trafficking of orphan children after the tsunami in Asia that was immediately effectively dealt with by UNICEF.

But death penalty for children, sorry to say, may remain a long-term problem and could be a special focus of the Committee. This idea is not stimulated by the recent development in the United States, but by the depressing fact, that Iran executed a young man who committed his crime as a seventeen years old, on the day, on which the Iran delegation told the CRC that the death penalty for juvenile delinquents was suspended. These instruments of actively collecting information and reporting to the General Assembly have to be used very carefully and economically. *One aspect of such a well-considered use would be intense consultation with national and international NGOs.*

Third, activities of this kind often begin when the Committee decides on the subject of the Day of General Discussion, which takes place every year in September. In 2003 the Committee invited to discuss about the “Rights of the indigenous child”, in 2004 about “Child rights in early childhood”, and in 2005 about “Children separated from their parents”. We always get many valuable suggestions of topics that urgently need to be debated on such a day. *National Coalitions should participate in the process of finding priority subjects and, of course, should join the discussions.*

Fourth, these discussions may motivate the elaboration of a General Comment on this subject by the Committee. Several General Comments are on the way: A comment on the rights of indigenous children, a comment on the rights of asylum-seeking children, and a comment on juvenile justice. We will continue this work that intends to give advice to State Parties, organizations, and individuals how to understand issues of concern in the light of a child-right approach. *Specialized NGOs and National Coalitions should join in discussions about subjects of these General Comments and offer their expertise in order to guarantee the highest level of knowledge and significance.*

Fifth, there is another problem of permanent concern of the Committee; this problem is the reporting guidelines given to State Parties, so that they can systematically organize their reports. How to organize a report is not only a problem of our Committee, but a problem shared by all treaty bodies. They all request quite a number of obligatory reports, so that State Parties since some time complain about the burden. The proposal to have just one comprehensive report is cleared up. There is agreement that the so called core document presenting basic data on the country and the human rights situation shall be expanded and improved. But, without any doubt, also the format of every treaty-body report must be reconsidered.

You know that our predecessors in the Committee have adopted a very transparent scheme of eight clusters that makes it relatively easy to find the information looked for. However, it is an all-round scheme that was useful at the start of the monitoring process, when the overview was needed, but that is in danger to obscure the priorities. Thus, it is difficult to focus the dialogue and the Concluding Observations. They may allude to every minor and major problem without expressing main concerns.

There is a tendency to reshape the Concluding Observations by formulating in-depth concerns and respective recommendations only with regard to the main and most urgent issues and to deal with other problems in a more summarizing way. And consistently, we consider asking the State Parties to spend a larger portion of their reports on the activities undertaken to deal with these most concerning issues.

The objection was raised that the State Parties may hide new problems, when they are not asked to give a complete overview. If the monitoring procedure would rely on the State Party report only, the objection would be irrefutable. However, since the Committee cooperates with NGOs and National Coalitions, the danger of being unaware of serious problems seems to be very small, as the National Coalitions certainly will point out the gaps in the State Party's presentation of the situation. Additionally, the Committee's country rapporteurs use many sources of information. Thus, it is very unlikely that an important issue will escape the Committee's attention. *But again: Close cooperation of the Committee with National Coalitions is very instrumental. I invite you to give your comment on these considerations.*

I would like to address a last issue. Members of the Committee, who come from the same regions of the world, have begun to establish a regional team in order to identify issues shared in the region, to cooperate and to jointly address governments and regional international institutions. Luigi Citarella from Italy, unfortunately no longer in the Committee, proposed that the European members also establish a working group in order to discuss European issues and to represent the child-rights perspective in front of European institutions. I am convinced that there are shared problems

in Europe and that the European institutions do not pay enough attention to children and their rights. To mention just a few: children's poverty, children's health (so called modern childhood diseases), neglect and violence, pornography and prostitution, xenophobia, discrimination of minorities, asylum-seeking children, participation – often the same terms are used also outside Europe, but still the reality is distinct. *I am eager for having an intense exchange of our CRC European subgroup with you, when the group is constituted.*

But already today every comment is welcome – not only with regard to this plan, but in view of all of the various issues which I have touched in my talk.

Let me just repeat, where I see the necessities of intense cooperation (see overhead):

**Monitoring process:**

- State Party reports and guidelines for reporting;
- NGO “shadow report” and other communication and comments;
- Concluding Observations and their revision.

**Other activities of the Committee:**

- Identification of problems apart from those mentioned in reports;
- Notification of central concerns to the General Assembly;
- Preparation of Days of General Discussion;
- Elaboration of General Comments;
- Treaty body reform.

**Activities of European committee members:**

- European working group.

Thank you!

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## **Session 2**

Children as partners in the CRC  
monitoring and Advocacy Process

## How can we Involve Children in the Reporting Process to the Committee on the Rights of the Child?

Charlotte Van den Abeele, Unicef Belgium

### 1 Inspired BY THE CRC itself

Actually the participation of children in the reporting process is inspired by the CRC itself. Children's participation is one of the four guiding principles of the Convention on the Rights of the Child. Article 12 recognises the child as an active subject of rights, and articulates the child's right to be involved in decision-making affecting him/her. This means that at all levels of society (family, school, community, national and international) and with regard to all aspects of a child's life, children's views and voices should be heard and taken into account.

The CRC reporting process presents an important opportunity for involvement of children. Articles 44 and 45 open the door for the participation of children in the reporting process.

On the one hand, the reports submitted to the Committee on the Rights of the Child (the international body charged with monitoring the implementation of the CRC) should "contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned". (art 44)

On the other hand, the Committee may invite "competent bodies to provide expert advice on the implementation of the Convention...". (art 45)

Applying the principle of participation to the CRC itself (based on the combination of articles 12, 44, 45), it is necessary that children should be consulted and directly contribute to the reporting process, since they are most competent to talk about their own rights.

Children are an important resource in the CRC reporting process. Facilitating their participation can guarantee they are no longer reduced to objects of mere assess-

ment. Children should be encouraged to become spokespeople of their own thoughts, experiences and feelings, and should have a voice in every aspect of the evaluation of their social position and respect for their rights.

The basic reason for children's participation in the context of the reporting-process is that it is a human right. Since the emergence of the CRC different world nations recognised that children have the right to express their views and to be involved in decision-making affecting them. It is simply their right.

## 2 The reporting process

Although the reporting process is formally the duty of the government, we can not deny that the implementation/application and the supervision are the responsibility of each and every one of us.

The reporting process provides an important opportunity for the involvement of children. In the past the children themselves were rarely involved in this process. They were rarely consulted when evaluations were made on how their rights are respected. But since some years, more and more countries are involving children in the reporting process in one way or another. And I would like to give some examples.

Considering the broad process of reporting, there are a number of moments and ways in which children can be involved.

The reporting process to the Committee on the rights of the child has 5 main stages. Some possibilities can include children

- 1 The government prepares the initial report and submits it to the Committee -The NGOs/other competent bodies submit information to the Committee (ex. in the form of an alternative report)
  - u children's views can be incorporated into the government report
  - u children's views can be incorporated into the NGO alternative report
  - u children can prepare their own "report" and submit it to the Committee
- 2 The Pre-sessional working group (private) – provides a forum for NGOs, UNICEF,... to give information to the Committee
  - u Children can be present and react to what the government has written: additional information. Children have the right to know which information has been collected about them and their situation and have the right to formulate their considerations.

- u Apart from the governments report, children give their views and opinions about the respect of their rights in their country
- 3 Plenary session (public): discussing the official report with the government
  - u Children can be present as observers and listen to what the government is telling to the experts of the Committee.
  - u Children that have participated in the creation of the government report, can be part of the official governmental delegation.
- 4 List of issues
- 5 Follow-up to the concluding observations – includes recommendations for action
  - u Children have to be informed about the concluding observations and can help to find ways to make the recommendations real...

Let's take a closer look at what the involvement can be of the national coalitions. How can they help to promote the participation of children in the reporting process?

- u The national coalitions can involve children in the development of the alternative report of ngos. For example for each subject, also ask a group of children (through the member organisations who work directly with children) to give their input. As additional information for the report the national coalition can also conduct a questionnaire amongst children. But never forget to use the already existing information within partner organisations and try to be complementary. Try to give special attention to those groups of children that have difficulties to participate in society and can't easily express their views in most of the participation projects.
- u The national coalitions can take the initiative to make an alternative report with children, next to the alternative report of ngos.
- u If the participation of children is not coordinated by the national coalition, but by an individual organisation, the national coalition can help with expertise and to make sure that the different reports are complementary.
- u The national coalitions can stimulate the government to involve children in the development of the official government report. They can stimulate the government to invite children to express their views through seminars in schools, debates, questionnaires, etc.

In many countries the views of children **are not directly present**. In some reports of the government and the ngos very few references to the participation of children are made. This is the case in Cyprus, France, Greece, Hungary, Letland, Malta and Spain.

In some countries only in the government report are some references made towards children's participation. This is the case for Denmark, Italy, Lithuania and Slovenia.

In the other countries only in the ngo report references are made towards children's participation. This is the case in Estland, Ireland, Luxemburg, Austria, Poland and the Czech Republic.

In some other countries references are made in both the ngo report and in the official government report. This is the case in Germany, Finland, the Netherlands, United Kingdom, Belgium and Sweden. These are also the countries with the most references and direct participation of children in the reporting process.

In many countries the views of children are **indirectly present** through information from **existing surveys** that are used as reference or a summary of the opinions of children from existing participation projects such as youth parliament, youth and children's councils, pupils councils, etc. This is for example the case of *the alternative report of ngos in Germany*. The national coalition believes it is necessary to include in the alternative report the opinions of children and young people as experts in their own interests. Results from different projects en questionnaires are included. For example a nation wide questionnaire were 120.000 children were questioned under the slogan "Children's rights Ballot", or the experience of children and young people who participated at the UN Special Session on Children (those children were accompanied by the national coalition).

In other cases **special surveys and questionnaires** are conducted for the reporting to the Committee. This is the case in *the alternative report of children from the Netherlands*, where they made a report through which young Dutch people are able to express their opinions regarding the rights of children in the Netherlands. With the help of a newspaper a questionnaire was completed and returned by a total of 6.600 young people. School pupils were asked to react on a number of propositions and a number of discussions were organised in primary school. There was also an effort to talk in the first place to children and young people for whom the correct protection of their rights is particularly important. Children who are not easily heard, such as disabled children, children whose children are relatively poor, children living in children's homes and refugee children.

In some cases children are **directly asked to react on the report** or are invited in **debates, discussion groups** to gather information about the respect for their rights. This is for example the case in *Italy* where *the government* intend to involve children themselves once the outline for the report has been approved by the Council of Ministers, by organising seminars in the schools which will discuss the implementation of the rights recognized in the Convention.

In the United Kingdom children are involved in both the preparation of the official government report and some alternative reports of ngos (different organizations for different regions). The degree of participation by children in the United Kingdom's

first report was very limited. But it has been possible to expand their contribution, both directly and indirectly, in preparing the second report.

The preparation of the report was significantly widened on this occasion to include consultation at local level **through NGOs who were able to reflect in their replies the views of children with whom they were in touch**. This consultation process was handled separately in England and Wales, Scotland and Northern Ireland, which included events aimed at drawing out the views of children. This process, and the much closer involvement of NGOs, has assisted greatly in broadening the basis of the report. There is no doubt room for further development. The degree of partnership between government, NGOs, and the voluntary sector continues to grow. It should provide the basis for closer cooperation and involvement of children by the time that the United Kingdom's next report becomes due. So it is important to stress that it is a process.

In Sweden the Minister responsible for child affairs set up a reference group composed of children and young people, with which she had 2 meetings. The group, which comprises some 35 lower- and upper secondary pupils from different parts of Sweden, has contributed to the deeper exploration and elucidation of certain issues in connection with the preparation of Sweden's third report to the Committee on the Rights of the Child. The young people in the group raised and disseminated these issues in their schools and classes. The views expressed during such encounters were collected and referred back to the group for further discussion. Thus the issues and the discussions they gave rise to found new forums outside the reference group itself.

**The NGO network who made an alternative report reacts on the participation of young people in the official report by stating that the working methods of the Government to invite a reference group of 35 young persons is a step in the right direction, but not enough to ensure young people's perspective on how the CRC is applied in Sweden.**

The NGO report is built on comments from the steering committee and the second part is based on the hearings by the young people.

Save the Children Sweden made **an alternative report with children and young people**. Save the Children Sweden's local associations have been invited to contribute to this report via a number of projects held in 2001 and 2002. Ninety-eight local associations took a questionnaire on racism and xenophobia to upper-secondary schools around Sweden. Together with local Save the Children Sweden associations, a group of 60 young people examined how they were treated and the extent to which they were allowed access to certain leisure activities. Twelve local associations compiled reports on an aspect of compliance with the UN Convention on the Rights of the

Child in their respective municipalities. The reports should be seen as illustrations of specific realities rather than a representative cross-section of Sweden's 290 municipalities. Save the Children Sweden also asked about 4,000 children to describe their situation in Sweden in 2001. This information was also used for this alternative report of children.

**In Belgium** in the alternative report of ngos participation of children is one of the subjects treated, but children are not directly participating in the alternative report of ngos. However an alternative report of children and young people is made within the What Do You Think?-project. This project was launched by UNICEF in 12 countries to stimulate the participation of children in the reporting process in one way or another. In Belgium we made an alternative report with a group of children, with the title "That's my opinion" They children have presented this report also themselves during the pre-session and were also present during the plenary session in the tribune as observer.

It is important to stress that the experts of the Committee took their time to listen to the children, that it was clear that they had read the report attentively. In the list of issues that was send to the government after the pre-sessional, several questions that the children raised, were present.

The two girls were also present as observers at the sessional, to listen what the government would tell to the Committee and how they would respond to the questions.

After the pre-sessional and the sessional, the two girls reported back to the other children of the steering group. Together with the whole group we took a look at the list of issues and the concluding observations. The children were happy to see that their participation had had an impact, that their main concerns were present in the concluding observations.

What Do You think? is in Belgium a project coordinated by UNICEF; but several other organizations are involved, as well as children themselves. After the first report was presented to the Committee, the project continued to work closely together with children to make their voices heard in society, but we are now focusing on specific groups of vulnerable children who don't have any possibility to make their voices heard, such as non accompanied minor refugee and children with disabilities.

We are planning to make a second report with children for the Committee for the rights of the child but are still searching how we will work together with the children, with other organizations, and with the child rights coalitions. One of the questions that can be raised is whether it is logical that UNICEF is coordination the project and that it is not the national coalition who has the lead.

### 3 Some key principles

It's important to stress that the exercise of making the report is far more important than the report itself. It's about a **process** where different actors are involved (governmental organizations, non-governmental organizations and children themselves) and where the reporting process can play a crucial role in stimulating the social dialogue on the rights of the child and the social position of the child in the society.

We cannot doubt that children have important ideas and a big sense of responsibility. They have lots of qualities, they are full of energy and they can approach most situations objective and critical because they are relatively independent from social institutions and interest groups.

The fact is however, that they often lack the stimulation, approval, appreciation etc. but also the appropriate framework to participate. It's clear that we cannot change all these aspects at once. Participation is a process, a **mutual learning process** as well as for adults as for children.

It is important to keep in mind that every child will participate in his or her own way, which may be different from what adults expect.

In the case of participation in the reporting process there is also the problem that not many adults nor children know the CRC. As many children and young people don't know about their rights, adults may in certain cases have to **initiate and facilitate** children's participation processes.

Genuine participation doesn't mean that children are to be considered adults. Children and adults are of course different, just like men and women are different but equal (in value). Their contributions to their living environment should have equal value and should not only be judged on the basis of adult-determined criteria, but also on the basis of children's criteria (= an equally important input). But how is this possible within a very rigid framework such as the reporting process towards the Committee?

The most important methodological premises are that children themselves are the protagonists and the project should build on ongoing initiatives to promote and guarantee children's participation.

It is important to inform the children who participate correctly. What is asked? What is their role? What can they expect? What not.

It is also very important not to forget to involve the children in the **follow-up**. To inform them about the impact of their contribution.

## 4 Different methods to let children participate

Different methods can be used to let children participate in the reporting process. A summary of some of the mostly used methods.

In several countries NGOs use surveys in order to reach a large number of young people (Sweden: 4000 children, the Netherlands: 6600 young people, Germany: 120.000 children and young people). There are internet-surveys, (Austria), questionnaires handed out in the schools (Sweden), or surveys via newspapers or specific magazines to reach certain target groups (the Netherlands). The topics in the questionnaires can be very broad (“How do you describe your situation as a child?”) or quite specific, about a certain theme (racism, child abuse, right to vote, etc.).

In contrast to surveys, through interviews one cannot reach a public just as large. But the interview has other advantages. Interviews seem to be used especially to get children and young people of certain vulnerable target groups involved that are often also more difficult to reach, such as children with a handicap, young people living in poverty, or minor asylum seekers (the Netherlands).

Next to more ‘individual’ oriented methods of participation (survey & interview), one has a whole range of ‘collective’ methods: discussions, panels, hearings, youth parliaments, etc.

Discussions with children could take place in schools (as in the ‘National Youth Debate’ in the Netherlands), as well as within certain conferences or councils, with ‘independent’ participants, or with representatives or members of organizations.

During the preparations for the report to the Committee of the Rights of the Child, the Swedish government consulted a reference group of 35 young persons. Swedish NGOs organize hearings with young people, regularly in the presence of politicians. A British NGOs traveled throughout the country to consult children.

The opinion of young people can also be collected at ‘ad hoc’ youth conferences (Germany: a two days meeting in the Bundestag, biennial Children’s Nature Summit, etc.). A more formal way is to create a youth parliament or youth forum that gathers on a regular basis, and ideally is regularly consulted as well (Scotland: Scottish Youth Parliament, Wales: youth forum ‘Llais Ifanc’, Switzerland: Eidgenössische Jugendsession, UK: Young People’s Advisory Forum, UK Youth Parliament, etc.) On a lower level there are also children’s community councils (Switzerland).

A different way to let young people participate more directly at the reporting on children’s rights, is youth (organizations) writing a report themselves, using also

some of the above mentioned methods. The British 'Article 12' is such a network of youngsters between 12 and 18 years old, who cooperate to promote the Convention on the Rights of the Child and who make their own report too. Together with her daughter organizations, the Indian 'National Movement of Working Children' (NMWC) made a report where the ideas, problems and proposals of working children were inserted through discussions organized at the local level.

However most of the time the reports come from 'adult' organizations whose reports are a kind of compilation of the different opinions of young people collected through surveys, panels, youth conferences, etc. (Save the Children Sweden, Netherlands Youth Report, the German Supplementary Report of the National Coalition)

## 5 Some difficulties met, learning points

- u Representatives of the children: the children involved should come from as much different organizations possible and it is important to make sure that not only the happy few are involved.
- u If you question children, do you choose to question as many children as possible and about as many aspects of their rights as possible. Or do you choose to focus on some of the most important problems and work preferably only with children that can't give their opinion through other participation channels. Do you try to be as complete as possible in the report of the children or do you try to be complementary to the alternative report of the ngos.
- u How do you make a complex procedure and structure such as the reporting process comprehensible for children? In Belgium we let a group of youngsters decide how they thought it would be best to participate in the reporting process. They decided to make an alternative report. For the structure of the report we took a closer look at the structure imposed on the governmental organizations by the Committee on the Rights of the Child. This structure was considered impractical for the reporting by the youngsters because it was seen as too distant from the young people's and children's day-to-day life. Together with the youngsters we developed a new thematic structure that we used in the reporting process. This thematic structure was used to collect as many information as possible from children about the different subjects in this thematically structure. Together with the children was decided that we wouldn't question children about how they feel about the respect for their rights in Belgium (which is to theoretical for children to respond to). But instead we asked more general questions: what would you like to change in your environment, at school, in your family, ... What do you like or dislike in your community? Together with the steering group of

youngster we decided to make two different reports. One, based on the same structure as the government report, which was send to the Committee. An other for the general public. The reason for this is that the children and young people from the steering group itself chose a clearly-defined structure for the report which seemed them the most accessible for all readers, children and adults (i.e. a subdivision by topic, such as school, family, violence, town), whereas in the report which was send to the Committee, for pragmatic reasons, the same structure was adopted as in the government report.

- u How far do you go with the participation of children? Do you only collect their opinions through a questionnaire? Or do you let the children actively be involved in the whole process: they can help with deciding how you can collect the information, they can help with writing down the questions, they can help to make a summary of the collected information, an to write the report.
- u It is important to inform all the children about the follow-up. But this is often very difficult. Because when you involve children through other organisations you can't always control if they pass the information or not. You don't have a direct contact with all the participating children.
- u How to involve young children in this process? You have to adapt your working methods for the different age groups with makes it far more difficult to get organised. You can ask young children instead of writing down their ideas to make a drawing, but then you need expertise to "read" these drawings.
- u How to make one report with the opinions of children and young people when it is such a divers group. "The child" doesn't exist. Some children have opposite interests.

***Charlotte Van den Abeele***  
***UNICEF Belgium***

## Belgian Participation Project: “What do you think?”

Charlotte Van den Abeele & Maud Dominicy, Unicef Belgium

### 1 Introduction

WDYT? is an international project initiated by UNICEF on the occasion of the 10th anniversary of the Convention on the Rights of the Child. It is an initiative to consolidate ongoing efforts and breathe further life into the Convention on the Rights of the Child, in particular, children’s right to participation. WDYT? is a process, which intends/aims to open avenues for participation, allowing children to directly express their views and for them to propose ways of improving respect for their rights and have them taken into account in the CRC reporting process.

WDYT? is situated at the interface between child participation and the supervision on the Convention on the Rights of the Child, more specifically the reporting process to the Committee on the Rights of the Child.

- u The project was launched in Belgium by the Belgian Committee for UNICEF with as main purpose to present the voice of children and young people to the United Nations Committee on the Rights of the Child in Geneva. WDYT? gives children the opportunity to shout their views from the rooftops, to say what they think about the respect for their rights and put their wishes, ideas and proposals on the table. WDYT? collects all these

UNICEF launched WDYT? in several countries with as aim to stimulate the participation of children in the reporting process in one way or another.

In Belgium children have made their own report for the Committee on the Rights of the Child (“That’s my opinion”) and have presented this report also themselves during the pre-session. Children were also present during the plenary session in the tribune as observer.

The Committee members have given their full support to the idea of children reporting on the respect for their rights. And they have warmly welcomed inputs from children and are stimulating to continue this process.

## 2 Why UNICEF?

UNICEF played an important role in the advocacy for the adoption and afterwards the ratification of the CRC.

The Committee can turn to UNICEF for additional information on the situation of children when evaluating the reports of the different countries. (art. 45)

The CRC also stipulates that UNICEF can be asked by the committee of a state party for technical support in the implementation process of the Convention and the recommendations of the Committee.

The CRC serves as the guideline for all activities of UNICEF.

- u Convince governments to pay more attention to children's interests in their policies (CRC in an important tool to advocate)
- u Elaborate special programmes for children in special circumstances (children in armed conflict, ...)

There is an evolution within UNICEF from responding to needs to all children in all situations where children are suffering from a lack of respect for their rights.

UNICEF is more investing in advocacy for children's rights in general and participation rights of children in particular. Of course this is also for and within UNICEF an ongoing process.

## 3 WDYT? in reality. Belgium as a case study

The project in Belgium is coordinated by the Belgian Committee for UNICEF but from the outset, a large number of partners were involved: non-governmental organisations, academics, government and, of course, children themselves.

From the beginning (1999), the Belgian Committee for UNICEF could also count on the moral support by the Royal Palace and the financial support of the government.

### Project Objectives

- 1 Stimulate the social dialogue on the rights of children and the social position of children

- 2 Raise awareness on children's rights and the need and importance of full-fledged participation of children in the reporting process on the implementation of the CRC.
- 3 Assist children in expressing, conveying, and advocating their views on how their rights are respected, as a contribution to the CRC reporting process.
- 4 Enable the sharing and dissemination of experiences of child participation among children and adults.
- 5 Develop and pilot creative tools and methodologies, which facilitate and contribute to enhanced child participation in reporting and monitoring.
- 6 Encourage national authorities to give due weight to the views expressed by children, in the context of their CRC reporting.
- 7 Encourage the Committee on the Rights of the Child to involve, directly and indirectly, children in its considerations and activities, and to give due weight to their views.

The most important methodological premises are that children themselves are the protagonists and the project should build on ongoing initiatives to promote and guarantee children's participation.

## In practise

In Belgium the supporting structure consists out of two steering committees. One steering committee of adults (fieldworkers, representatives from the government<sup>1</sup>, non-governmental organisations, the media, child participation initiatives and organisations working with children), experienced people to keep the project on the move. They take a close look at the suggested proposals from the youngsters and keep an eye on the way things are going ( Watchdog function).

One steering committee of 50 children and youngsters (French and Flemish speaking), with and without experience in children's participation, most of them between 13 and 18 years old. They had lots of propositions to work on the project. They also stressed the importance to work together with existing initiatives.

"Perhaps we should start by introducing ourselves. We are a group of around 50 children and young people. The youngest of us is 9 years old, while the oldest is now 20. Since the beginning of 1999, we have been meeting regularly in order to

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<sup>1</sup> The government was involved from the very start to let them take part in the thinking process. This is important because they are directly involved in the policy-making and can implement the outputs or even help with the WDYT?-process.

work on this report. Together, we form the “What Do You Think?” project steering group, and we contribute to deciding where the project is going and how this report should look.

In those two years, we have already done a lot of work together. We met in various locations for a day or a weekend. We spent a weekend in Brussels, Antwerp, at the seaside, in Lokeren, etc. In fact, we have been just about everywhere. We also come from just about everywhere in Belgium. Some of us speak Dutch, and some French, so it is not always easy to discuss things together.”

During the first year we worked with different working groups of adults and different working groups of children. Creating the framework for the project (structure, what, how, ...), the promotional materials (logo, leaflet, website,...) and starting with the stocktaking were the main/principal tasks. The children were actively involved in all three activities, as well in the development of the material as in the selection of activities.

Together with the children was decided that their participation in the reporting process would result in the creation of an alternative report from children, written by children, which would collect views, ideas and proposals from children about the respect for their rights in Belgium.

However the children’s report was not the only action developed within the project. Three other main actions were identified.

- A Disclosure of information and educational material on children’s rights
- B Stock taking of existing participation initiatives
- C Annual public event
- D The reporting process to the Committee on the Rights of the Child

The main activity of WDYT? is however the participation of children in the reporting process. All the other activities we developed are in one way or another linked with this process. The information from the inventory of participation initiatives as well as the information that results from the public events is used as input for the report from children to the Committee on the Rights of the Child.

## 4 The new step

In 2002 the first participation of children in the reporting process was finished. The question was: what next? Since the reporting process is a five year process and the next report only has to be finished in 2007, we decided not to restart the questioning of children on a large scale already in 2002, but to work each year round a

limited number of subjects, chosen by the children themselves and taking into account the recommendations of the Committee of the Rights of the Child. We tried to identify those children that are facing major problems in Belgium and whose voices are not yet heard.

For example in 2003 and 2004 we questioned children with disabilities and separated children and non-accompanied minors. For this questioning we developed educational guides which can be used by teacher and by youngster themselves to put their ideas on a certain subject on paper.

Together with the children we developed actions in which they themselves could actively be involved. For example some separated children and non-accompanied minors visited other refugee-centres to question the children living there about the problems they are facing in Belgium.

For the different themes we worked closely together with organisations specialised in these subjects. And with the children themselves of course.

At the end of the year debates were organised with politicians on the different subjects. A report of these debates is made which is send to all the relevant politicians in Belgium to make them aware of the problems children are facing.

The results of the collaboration with the specialised organisations, of the different actions of the questioning of children and of the debates, will be used as input for the next report of children for the Committee on the Rights of the Child.

A report of separated children and non-accompanied minors about the respect of their rights is also available.

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# Session 3

Balancing between Action and Study

## Balancing between Action and Study

Denise Allen, NGO Group for the CRC

### Introduction

National child rights coalitions have existed in Europe for at least ten years. The theme, balancing between action and study is part of a continuing discussion among coalitions on methods to improve their effectiveness in influencing their governments to fully implement the Convention on the Rights of the Child and other regional and international agreements and instruments that compliment the Convention. To open this discussion once more this paper will serve as a reflection on the way the child rights community and in particular national child rights coalitions, have developed working methods over the years. It is not a prescription but a description of how coalitions have handled 'action' such as campaigns, lobbies, and other forms of advocacy and 'study' such as law and policy review, case study and prognosis. The paper also makes a case that the lines between the two (action and study) are to a large extent blurred, as one seems to feed each other.

### Emergence of national child rights coalitions

There is, at least in Western Europe a fairly strong consensus on what characterizes national child rights coalitions, the essential features being that:

- u They are civil society networks that regard themselves as having responsibility in a country for the promotion of children's rights and awareness raising on associated issues;
- u They generally emerge in response to the wish to produce an Alternative Report to the United Nations Committee on the Rights of the Child
- u They mobilize civil society groups and organizations for support and action toward advancing children's rights.

The emergence of coalitions is largely due to external developments outside of the country, much more than internal developments and worthy of some examination. Article 45a of the Convention on the Rights of the Child<sup>1</sup> opened the way for independent, credible bodies to be sources of information to the Committee on the Rights of the Child in the reporting process of that Committee. But this was not unique as other longer existing treaty bodies had similar mechanisms for enabling competent bodies, such as human rights organizations, to submit alternative reports. Mainstream human rights organizations were therefore accustomed to reporting to other human rights treaty bodies. In Western Europe the traditional human rights organizations, especially in the field of civil and political rights, were fully acquainted and involved in the United Nations human rights mechanisms. This was not always the case with child focused NGOs that worked with and/or behalf of children. Nonetheless the provisions in the Convention gave child focused NGOs an unprecedented opportunity to have a new avenue for influencing government towards improving the conditions of children's lives. Along with the influence of second external group and series of events promulgated by that network, NGOs at national level saw the benefits of networking for children's rights. This external network is the NGO Group for the Convention on the Rights of the Child.

The NGO Group's historical experience in engaging with the United Nations human rights system in many ways exemplifies coalitions' emergence and work. In Nigel Cantewell's account of the beginnings of the NGO Group for the CRC, he stated:

**As early as 1979, when the United Nations Commission on Human Rights set up a special 'open-ended' Working Group to review the Polish government proposal for a Convention on the Rights of the Child and to draw up a definitive draft text, there was some attempt to foster inter-non-governmental organization (NGO) co-operation on this question. There was also a feeling however of considerable frustration among NGO representatives during those early years.**

**Very few NGOs had previous experience in working within the international context. It was in this climate that some of the NGO representatives present at the 1983 meeting of the Working Group decided that a change should be wrought- or**

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<sup>1</sup> 45a – The specialized agencies, the United National Children's Fund and other United National organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandate. The Committee may invite the specialized agencies, The United Nations and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities. (Convention on the rights of the Child)

at least sought. With logistical assistance from UNICEF-Geneva (particularly its NGO Liaison Officer), the NGOs convened an 'NGO Consultation' in May of 1983. Over 20 NGOs were represented, and the major decision from the meeting was that NGOs interested in the development of a Convention around child rights should form themselves into an *ad hoc* group, in order primarily, to foster remedies to the two major ills identified in NGO efforts to date: lack of preparedness and the lack of a coherent NGO position. This *ad hoc* group became known as The NGO Group. It was agreed that this Group also required a focal point and, Defence for Children International (DCI) was elected to serve as secretariat.<sup>2</sup>

During the 1980s the then known Ad Hoc Group for the Convention on the Rights of the Child made substantial contributions<sup>3</sup> to the drafting of the Convention, while at the same time instrumental in mobilizing the global NGO community not hitherto aware and involved with the Convention.<sup>4</sup> The Convention on the Rights of the Child was adopted by the UN General Assembly in 1989. Because of their successful cooperation during the drafting process, the Ad Hoc Group decided to form a permanent network called the NGO Group for the CRC and among other aims, to facilitate the creation and support the work of NGO networks that advance children's rights at

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<sup>2</sup> Excerpts from Cantwell, Nigel, *Non-government organizations and the United Nations Convention on the Rights of the Child*, Bulletin of Human Rights 91/12 the Rights of the Child, published by United Nations

<sup>3</sup> *Ibid.* The breadth of the expertise on which the NGO Group could draw goes a long way to explaining how it came to have an impact in so many of the fields covered by this unusually comprehensive treaty. In fact, at least 13 substantive articles or paragraphs in the approved text of the Convention were initially suggested by the NGOs.<sup>3</sup> The NGOs' proposals were not limited to the substantive articles. The Group developed a draft text for what are now article 42 and 45, and several of their ideas are reflected in the adopted provisions. These include such fundamental elements as the obligation of States parties to make the Convention known to children and adults in their respective countries (article 42) and certain roles given to the Committee on the Rights of the Child, UNICEF, and 'other competent bodies' (a term which, as the *travaux préparatoires* show, includes NGOs).

<sup>4</sup> *Ibid.* Beginning in 1987, the NGOs, both as a group and individually, became more and more involved with organizing and sponsoring meeting at all levels and throughout the world, aimed at making the future convention and its importance known. Many devoted considerable a space to it in their publications. Together, they advocated that special priority should be given to the appropriate formulation and timely adoption of the treaty. ... Through this awareness-raising exercise and contact with government representatives, both during and outside the Working Group meetings, the NGOs were instrumental in convening States and delegates to take the Convention more seriously. ... In 1987, they advocated, together with UNICEF, a target date of 1989 for completing the Convention. Co-operation between UNICEF and the NGO Group in fact reached such a level that there is still a belief in certain circles that the Convention is essentially the fruit of a joint UNICEF-NGO effort, which was submitted to the United National for approval.

national level. With that commitment the NGO Group both collectively and at individual membership levels promoted the creation of child rights coalitions throughout Europe. Organizations such as Save the Children, Defence for Children International and Terre des Hommes are the names that frequently mentioned in child rights coalition formative history.

## Action and Study

In a survey conducted by the NGO Group in 2002 coalitions from twenty nine countries described the work they did thus:

Types of Activities	Number of Countries
Preparation of CRC alternative report	25
Awareness raising activities	25
Advocacy activities	22
Representation	21
Monitoring the CRC	21
Forum of exchange among NGOs	20
Research	19
Media campaigns and publicity	18
Child rights training	18
Child participation activities	15
Direct services	9

Coalitions were then asked to state how many of their activities they were doing at the time of the survey. This question sought to assess the level of dynamism within these networks by the number of activities they were carrying out. Of the eight categories of activities mentioned, most coalitions were involved in at least four, with a modal average of six activities.<sup>5</sup> While the questionnaire did not make a distinction between action and study, the list above suggests a separation of the two but also links between them. For the purposes of this paper the terms are defined thus: Action – a thing done or the accomplishment of a thing usually over a period of time, in stages, or with the possibility of repetition.<sup>6</sup> Study – the devotion of time and attention to acquiring knowledge or a detailed investigation and analysis of a subject or situation.<sup>7</sup> These general definitions are applicable to the child rights advocacy context.

<sup>5</sup> NGO Group for the CRC and CRIN, 'A Profile of National Child Rights Coalitions – Findings of the Ngo Group for the CRC survey of national child rights coalitions.' Save the Children UK, May 2004.

<sup>6</sup> Merriam-Webster on line dictionary 10th edition

<sup>7</sup> Compact Oxford Dictionary

A further examination of the list above, identifying the key processes to determine whether they are action, study or essentially both, is quite revealing and possibly suggests that for child rights coalitions the two are intricately linked. The table below illustrates this point. The first column describes the list of activities mentioned in the 2002 survey, while the following columns lists the dominant processes used in fulfilling the action or study.

<b>Types of Activities</b>	<b>Action</b>	<b>Study</b>
Preparation of CRC alternative report	Mobilize constituency	Research
Awareness raising activities	Information dissemination, training	Target (s) needs assessment, data collection
Advocacy activities	Lobby, campaigns, marches, conferences, networking	SWOT analysis, agenda development,
Representation	Advocacy	
Monitoring the CRC	Representation, networking,	Research, documentation, studies, database development
Forum of exchange among NGOs	Mobilization	
Research		Study, forecasting, survey, participative research, investigations
Media campaigns and publicity	Information dissemination, awareness raising	Target(s) needs assessment, data collection
Child rights training	Conducting related actions	Research
Child participation activities	Mobilization, facilitation	
Direct services	Service provision	

Hence in reality child rights coalitions are involved in both study and action for the most part. It is also worth recognizing that within networks there are generally specialists in either sphere. As with all networks the relative influence of members and what they bring to the network in terms of expertise can define the network's strengths and weaknesses.

## The CRC Concluding Observations

In 2003 the NGO Group's Liaison Unit Programme did a survey to assess the use of the CRC concluding observations for monitoring the implementation of the Convention on the Rights of the Child at national level. The study was done in the form of a series of case studies. In cooperation with CRIN that study was recently produced as a second in the series of joint working papers. It illustrates once again the intricate link between action and study. See the appendix 1. For the respondents monitoring the application of the concluding observations, though primarily a process that employs various approaches of study also embraces other activities that are essentially action oriented, such as hearings, identifying and meeting with key government officials and investigations of violations. There is also a strong indication that coalitions' are utilizing and possibly increasing their capacities in monitoring as the chart indicates. Examination of laws and policies, impact studies, investigations of violations and the creation of databases demonstrate that not only is there a recognition for study in order inform action but also the necessity to be able to apply different methods. For effective advocacy the coalition must be a credible network. Such credibility depends on:

- u the coalition's standing and reputation in society
- u demonstrated experience, professionalism and work record in children's rights
- u the 'usefulness' of what the coalition has to offer in terms of analysis, expertise, on-the-ground information and access to relevant constituencies, among others.

There is a growing realization that the CRC concluding observations is a worthwhile tool for defining coalition activities in the intervening periods between the two reporting processes to the Committee on the Rights of the Child. In 1995 the German coalition developed a ten-year work plan based on the recommendations in the concluding observation from the Committee's initial review of Germany. Their list was largely action oriented but also served to keep members focused on the recommendations. Over the years coalitions have used the concluding observations in various way between the reporting process to the Committee on the Rights of the Child. Here are some examples that again the close relationship between action and study.

### Immediate post session period

Two to four months after the Committee on the Rights of the Child meeting with the government

- u Circulate widely the Concluding Observations (CO)
- u Meet government officials and other key duty bearers with regards implementing the CO

- u Hold a press conference
- u Analyse the CO to assess the degree of compatibility between the coalition's recommendations and the CRC Committee's
- u Send feedback to the NGO Group for the CRC on the CRC Secretariat on the pre-session and session
- u Conduct briefings with various duty bears, stakeholders and rights holders on the CRC reporting process, its outcome and the CO.

If the CO is to become a tool for advocacy national coalitions must be doing action oriented work to ensure that it is accepted, taken on and receives a fair degree of commitment from its membership, key stakeholders and rights bearers. It is the stage where the coalition to reflect on how the CO can be incorporated in its strategic plans.

### Short term period

Within first year of the session

- u Create methods and systems for monitoring the implementation of the CO recommendations
- u Get stakeholders involved in monitoring (e.g. professional associations, service clubs etc)
- u Promote the wide circulation of the CO and Convention by government
- u Conduct a country-wide (whether at national, regional and local levels) analysis of the factors that aid or hinder the implementation of the CO and CRC
- u Review current commitments (e.g. NPAs) and their compatibility with the CO
- u Ensure that children/youth groups and institutions are aware of the CO
- u Promote the inclusion of the CO in existing CRC training for professionals working with and behalf of children
- u Develop indicators for monitoring based on the CO
- u Submit the NGO alternative report to other treaty bodies (e.g. the Human Rights Committee) the relevant sections of the report and CO.

This phase is certainly characterized by various activities of 'study' as the basis is laid for effective monitoring. Coalitions that are not highly cohesive and active usually experience a great deal of difficulty in this area. Netherlands

### Long term period

Until the next State report is submitted

- u Conduct annual reviews of the CO and the CRC
- u Develop and hold other kinds of annual events around monitoring the implementation of the CO and the CRC

- u Do campaigns on CO related issues
- u Conduct studies and inquiries on issues reflected in the CO
- u Promote the creation of an effective multi-sectoral committee to monitor the CO and CRC
- u Develop an advocacy strategy on the CO
- u Make building broad based alliances a continuous process
- u Get involved in government initiatives for legal and policy reform that affect children to ensure that the CO recommendations are included where relevant
- u Seek annual meetings with government officials and local authorities on the CO and CRC
- u Submit relevant sections of the NGO alternative report and CO to other treaty bodies.

This phase reflects a fairly balanced interplay between study and action.

### **The discussion continues**

Based on the evidence so far there is every indication that national child rights coalitions employ both study and action as essential partners for affective advocacy. Their authority and credibility rest in both their abilities to act effectively for change and the initiatives are guided by reliable information. But the debate of how the two are balanced is not new. At the first European Forum held in Berlin Germany in 1998 where representatives from approximately twenty coalitions from the European Council region attended. Several working groups were convened and some made recommendations on 'action' and 'study'. One such was the working group that tackled the issues of monitoring, reporting and keeping children rights on the national agenda. The recommendations of this working group were:

#### *Working Group Group C – Keeping children's rights on the agenda*

- u Develop a common and systematic framework for monitoring to allow for better comparison across countries
- u Involve as wide a range as possible of organizations
- u Preparing an annual progress report to avoid a five-year gap in monitoring change
- u Ensuring the state of the rights of all children all ages are monitored
- u Identifying ways of giving children a voice
- u Ensuring that NGOs are aware of the government's monitoring processes and any other information from all sources of the state of children's rights
- u Using the CRC reporting guidelines from the Committee on the Rights of the Child

- u Deciding whether to focus on priority issues or on a more general and more comprehensive analysis of the situation
- u Inviting government representatives and the general public to a debate/hearing on both/either the draft government report and/or the NGO report
- u Lobbying, using the Committee's concluding observations as a tool
- u Translating information on the concluding observations into a child-friendly form

## APPENDIX 1

### Key:

1. **Indicators** – established ways of measuring (or indicating) whether progress is being achieved in the selected areas for monitoring
2. **Central government** – identified and observed government institutions/departments responsible for implementing the concluding observations
3. **Municipal/local governments** – the same as above
4. **Database** – developed a database with national/local newspaper articles, report, research findings and/or other documents on the issues covered in the Concluding Observations
5. **Hearing/Inquiries** – held meetings/hearings/Inquiries/ workshops with specific target groups to review progress and collect data
6. **Surveys** – conduct surveys/polls/interviews with various target groups for studies, data collection, and other research purposes
7. **Investigate violations** – Investigate cases of child rights violations
8. **Budget analysis** – whether through internal or external sources, conducted budget analysis on the national budget to determine how much is assigned directly or indirectly to children
9. **Case studies** – produce case studies for various purposes including impact studies, investigations of violations, surveys etc
10. **Comparative studies** – Comparisons between the areas for change outlined in the 11. Concluding Observations and the country reality
11. **Impact studies** – examine the impact of the Concluding Observations on children/young people through collateral groups, such as parents and other stakeholders, for example teachers and youth workers
12. **Examine law/policies** – examine the extent to which existing laws, policies compare with standards outlined in the concluding observations and the manner with which they are implemented

## Appendix 1

How the Concluding Observations are used in monitoring the implementation of the Convention on the Rights of the Child

Country	Indicators	Central Govt.	Municipal/Local Govt.	Data-base	Hearings/Inquiries	Survey	Investigate Violations	Budget Analysis	Case Study	Comparative Studies	Impact Studies	Examine Law/policies
Bangladesh	X	X		X	X	X	X	X	X		X	X
Canada	X	X		X	X	X	X		X	X	X	X
Georgia	X	X	X	X		X	X				X	X
Germany	X	X			X		X					X
India	X	X	X	X		X	X				X	X
Jamaica	X			X	X	X	X	X		X	X	X
Pakistan	X	X	X	X			X			X	X	X
Netherlands		X	X	X	X	X	X		X	X		X
New Zealand		X			X			X	X	X		X



# Session 4

Role of the European Union in  
Promoting Children's Rights

## An Overall EU Children's Policy

Mieke Schuurman, EURONET

### Introduction

I would like to start by saying a few words on Children's rights in the Constitutional Treaty for Europe. EURONET is delighted with the inclusion of references to children's rights in the Treaty establishing a Constitution for Europe. These references will improve the situation of children's rights in the EU. In particular, the references to the protection of children's rights in the internal and external objectives of the Union will ensure that, in areas in which the EU is permitted to legislate and adopt policies, the rights and interests of children will be taken into consideration. This means that finally the rights of the **EU's 90 million children** will be recognized in the European Constitution. EURONET has published a document analysing the complete European Constitution and its impact on children.

### EU Policies and legislation impacting on children

There are many EU policies and legislation affecting children. The reasons for the sudden interest in children within Europe were the Dutroux affair in Belgium, in which children were abused and killed, and externally, the use of children as child soldiers. Both of these issues led the EU to react by adopting guidelines on children in armed conflict and by prioritising work on sexual exploitation and trafficking. In the mean time the EU has enlarged with 10 more member states, a new Constitution has been adopted and the EU institutions have gained more interest in children's rights issues which have a cross border dimension. For example, within the European Parliament an MEP Alliance for Children's Rights meets regularly, the European

Commission has formed an inter-service group on children in which civil servants from different DG meet regularly to discuss children's issues and the EU Presidencies organise more child related events. For this reason EURONET has commissioned the researcher who wrote our first report Children's Policy in the EU Report in 1999 to write a new report on a Children's Policy in Europe, which we hope to have published in the autumn of this year.

In my presentation today I would like to touch on many areas that the EU is making policies on and which are affecting children, to give you an idea on the importance of the EU for children's rights.

## Justice, Freedom and Security

Several Directorate Generals in the European Commission are making policies and legislation affecting children. In the area of Justice and Home Affairs policies are made with regard to asylum seekers, including unaccompanied minors, sexual exploitation of children and trafficking in children.

With regard to the **unaccompanied minors/separated children** that enter the EU, the European Commission's recognition of this issue has been reflected in the financial support provided through the Odysseus Programme to the Separated Children in Europe Programme. Some directives have specific reference positive references to separated children but overall the legislative framework is not wholly positive.

Concerning the **sexual exploitation of children**, the EU has set up the Daphne Programme which supports NGOs and other civil society organisations in tackling violence against children and women. In the same area of Justice and Home Affairs a harmonization has taken place of penalties for offences against children. There is also a White Paper for the exchange of information between Member States of criminal convicts. This includes also convictions of offences against children.

The European Commission is also focussing on **trafficking of children**. It will issue a communication on trafficking and an EU experts group on trafficking has been set up and has now finished its report. The EU Human Rights Forum in 2003 also dedicated one of its topics to trafficking in children.

## Employment and Social Affairs

Within the Directorate General Employment and Social there used to be a family and children's unit. At the end of the 1990s the policies carried out by this unit were

challenged by the UK and Danish government. As a result the unit was closed, the main reason being the lack of a legal base. In some social areas children remained in the focus of attention of the Commission. This is the case in policies on social exclusion and poverty and the area of non-discrimination.

In the area of **social exclusion** the Commission adopted the Community Action Programme to combat social exclusion (2002-2006). This programme is including funding of activities to combat the social exclusion and poverty of children. In addition, the Commission published a thematic study on reducing and preventing child poverty (2004). The European Council has agreed that every two years all EU member states have to publish a National Action Plan against social exclusion (NAP/incl). The first ones were published in 2001. Several of these NAPs/incl included specific parts on the combating of child poverty and some included targets to reduce or eliminate child poverty by a certain date.<sup>1</sup> There were, however, also many NAPs/incl that did not cover child poverty specifically.

In the area of **non-discrimination** a programme to combat discrimination was adopted and a directive to combat discrimination. The EU has a legal base to combat discrimination on different grounds, including the ground of age. In practice the EU is focusing mainly on older workers and discrimination of the lower age range (children) is excluded.<sup>2</sup> Recently, the European Commission has developed a specific interest in the discrimination of the Roma population living within the EU and formed an inter-service group on this, which is coordinated by the non-discrimination unit in the Commission.

Another area that indirectly benefits children is the **reconciliation of work and family life**, although the focus in this area are the workers in the EU. The 1992 pregnancy directive sets minimum standards for the health and safety of pregnant workers and the 1996 directive on parental leave which gives working parents the right to three months unpaid leave following the birth or adoption of a child both fall within this category. In addition, the European Council has set a target at the Barcelona Council (2002) to make **child care** available to at least 90% of children between the age of 3 and mandatory school by 2010.

Related to work and employment is also **child labour** which is regulated by the EU young kids at work directive. However, child labour is still existing in the EU Member States and not only in the poorer Member States, but also in the rich Member States.

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<sup>1</sup> EURONET, the European Children's Network, analysed the NAPs/incl of 2001 in a report "Including Children: Developing a coherent approach to child poverty and social exclusion across Europe" (2002)

<sup>2</sup> See EURONET, the European Children's Network report "Challenging Discrimination against Children in the EU: a policy proposal by EURONET (November 2000)

On the practice of child labour in the ten new Member States no studies are available and the Commission has the idea to launch such a study on this.

## Media and Internet

New information services are coming into the home which are potentially difficult to control, including the internet and on-line services. In particular children can be vulnerable to abusers operating on the internet, such as those trading in pornography or even organising trafficking in children. The European Commission has an **Action Plan on promoting safe use of the internet**. This sets out initiatives in relation to hotlines for reporting potentially illegal material, filtering and rating systems, and awareness raising among the public and internet uses.

Another area of media affecting children is television. The EU is legislating on this by the **TV without frontiers directive** which is currently under revision again. This Directive provides protection for children from programmes which might seriously harm their development and protects them from TV advertising, although enforcement of this directive has been poor.

## Enlargement

In 2004 10 new member states acceded to the EU. More countries have applied for accession as well. Within many of the new member states and accession countries the living circumstances of children is often worse than in the former 15 member states. In particular with regard to poverty, children living in institutions, discrimination of Roma children, environmental degradation affecting children, street children, etc. Before countries can accede to the EU they have to comply with the **Copenhagen Criteria adopted in 1993**. Within these Criteria respect for human rights is one of the conditions for membership. The European Commission has acknowledged that the rights of the child are an integral element of human rights, and thus form a component of the criteria for membership. Some of the EU reports on accession countries have referred to children's rights, for example the situation of children living in institutions had to be improved in Romania before being able to accede to the EU.

## Consumer Affairs

Children have strong consumer interests as they are a relatively vulnerable and powerless group within society who need protection from risks to their health and safety.

The overall approach in adopting directives improving children's safety has been haphazard and in general children's rights have been ignored in consumer directives, although with a few positive exceptions. These include the 1988 directive intended to provide **minimum safety requirements for toys**, directives to establish standards for producers so that children cannot undo fastenings on potentially dangerous products. Recently, 2004, the Dutch EU Presidency proposed the adoption of a ban on **PVC in toys** for children under 3 years of age, which was after 6 years adopted by the Council of Ministers.

## Youth Programmes

The Youth programme (2000-2004) of the European Union has an age limit of 15 until 25 years, which excludes younger children. A proposal from the Commission for a new Youth Programme has extended the age range from 13 until 30 years. Though it is a step forward, the age could have been lowered further and this proposal has to be adopted by the Council of Ministers.

## External Policies

The EU has no clear strategies for children in development policies, although the EU is the largest donor to developing countries in the world. The EU strategy is that anything done for developing countries will also benefit children. It is recommended that a child rights policy in the EU developing policy will be developed.

The one area in external policies that the EU has taken action in, is the adoption by the European Council of guidelines on children in armed conflict (2003). These guidelines are a political instrument for action.

## Lack of programmes and budgets allocated towards children's policies

The European Union lacks programmes and budgets specifically allocated towards children. It is recommended to include children in more EU programmes and in remarks to existing budget lines.

## Need to extending participation of children

There is increasing support for the development of mechanisms at EU level to improve direct consultation with children and young people. In 1998 the Council of Ministers adopted the proposal of the Austrian Presidency for a Resolution on Youth Participation. However, after this adoption not much action has been taken to implement the proposal. Recently, there appears to be more interest again within the Commission and the European Parliament to stimulate children's participation at European level.

## Conclusion

Although in several EU areas children's rights are taken into consideration, there is still a whole area of policies that do not take children's rights into account. This will change with the inclusion of children's rights in the objectives of the Union's Constitutional Treaty and possibly with the references to children's rights in the Charter of Fundamental Rights, which will result in the mainstreaming of children's rights in all EU policies and legislation affecting children. There remains a role for children's NGOs throughout Europe to ensure the implementation of these new legal possibilities.

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## Children's Rights in the Constitutional Treaty

Diana Sutton, Save the Children

### Introduction

When Save the Children began working on EU children's policy in 1997, it was very obvious that the EU's ability to act on questions concerning children's rights was very limited. It became particularly apparent following the horrific child murders in Belgium that the EU's ability to respond and act was constrained by lack of legal base. In other areas too, legal actions by certain member states questioning the use of legal bases stopped most work that DG Employment and Social Affairs was carried out under the Family and Children budgetline. Children's rights NGOs came together to form Euronet to campaign for a legal base – finally after 7 years of work we have achieved this goal. I will not discuss the details of our campaign but rather the implications of the new texts in the constitutional Treaty. We have prepared a legal analysis which has just been published.

### Current status

Children's current status in the EU Treaty primarily focuses on the "citizen as worker" and sees children only as "victims" or "dependents" or "barriers to work" a contradiction to their legal status in the almost universally ratified Convention on the Rights of the Child (1989). This results in very practical consequences for children – children's best interests are integrated into EU legislation in an ad hoc manner or not at all. Children are only mentioned in Article 29 of the EU Treaty which refers to 'offences against children' which is intergovernmental. Moreover, the Article does not cover many other areas of concern for children in the EU, while there are many more European areas which affect children.

## Charter of Fundamental Rights

First it is important to mention the significance of the Charter of Fundamental Rights. Children are included in Article 24 of the European Charter for Fundamental Rights (adopted on 7 December 2000). The text of Article 24 includes the “best interests of the child” principle, references to children’s rights and references to the child’s right to participate. It states:

The rights of the child

- 1 Children have the rights 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.
- 2 In all actions relation to children, whether taken by public authorities or private institutions, the child’s best interests must be a primary consideration.
- 3 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 contradictory to his or her interests.

This Article was a welcome step to get children’s rights recognized in the EU. The Constitutional Treaty now acknowledges the high profile constitutional nature of the Charter and also makes it legally binding. As well as Article 24 the Charter includes relevant articles on the right to education, on equality and non discrimination and on the prohibition of child labour and the protection of working youth. However the Charter’s incorporation into the European Constitution is a significant step forward but this alone would not be sufficient, its scope of application is limited as it has no direct effect within a national context. This is why references in the Constitutional Treaty itself are essential.

## Constitutional Treaty

What does the new Constitution mean for children’s rights and most fundamentally for those of you working to develop policy at European level for children.

Part I, Article 3 of the draft Constitution, which contains the objectives of the Union, includes children’s rights in its internal and external objectives.

Article 3, paragraph 3, states that the Union *“shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of children’s rights”*.

Article 3, paragraph 4, which deals with the Union’s relations with the wider world,

states that the Union “shall contribute to (...) the protection of human rights and in particular children’s rights, as well as to the strict observance and development of international law, including respect for the principles of the United Nations Charter”.

The inclusion of children’s rights in the internal and external objectives of the Union means that children’s rights can now be mainstreamed into the EU’s legislation, policies and programmes for which the EU has a competence within the Constitution. This does not create a new competence for children at European level and it does not take away competences of national governments in the areas of children’s rights. But it ensures that the areas where the EU is allowed to legislate and adopt policies the rights of the child can be taken into account. This means also that the possible negative effects of EU legislation on children can be considered at the drafting stage.

In particular the reference to the “strict observance and development of international law” in the external relations of the EU means that the UN Convention on the Rights of the Child also needs to be taken into account.

The policy part of the draft Constitution, Part III, also includes some articles of direct concern to children. In the area of judicial cooperation there are two articles of relevance to children.

Article 168 of Part III concerns immigration policy and covers family reunion and the “combating of trafficking in persons, in particular women and children”. For these areas the EU shall establish measures by European laws or framework laws, which are binding legislative acts. This means that these laws are directly binding for the Member States of the EU.

Article 172 of Part III which covers judicial cooperation in criminal matters may establish minimum rules by European framework laws in different areas of crime with cross-border dimensions including “sexual exploitation of women and children”. When European laws for judicial cooperation in the area of the sexual exploitation of women and children were made these would also be directly binding for the Member States.

The constitution also contains Article 182 of Part III which covers education, youth and sport. It does not directly refer to children, but to youth. Up till now youth has been defined by the EU as young people aged 15 until 25 years. Article 182 (e) encourages “the participation of young people in democratic life in Europe”. The EU will encourage cooperation between Member States in this area and it will, if necessary, support and complement their action. This means that no European laws will be made on young people’s participation, but that it can be stimulated and good practices exchanged.

It is important also to mention Article III-8 combating discrimination on grounds including age. This is an existing Treaty Article (currently article 13). Age has always been understood by the European Commission to only include older people and has not resulted in legal texts or action programmes which include children. This is despite many discussions with the Commission.

## So what will a legal base mean?

In terms of legal opportunities, it will ensure that EU legislation is “child proofed”. When the EU passes legislation – there would be a duty to consider the best interests of the child – in the same way that Member states have a duty to do so. In other words, the best interests of the child could be considered systematically something which is not the case today.

It will give a legal bases for a number of political actions for children – eg a Communication or policy guidelines. Whilst this is technically possible the political reality is that only on the most extreme cases (children affected by armed conflict in external policy with the CAAC guidelines) and sexual exploitation and trafficking (in internal policy) have resulted in EU action – because of the political pressure on these issues.

The legal basis, whilst technically not a legal base for budgetary expenditure and action programmes, would assist justification of expenditure on children. This would complement the budgetary remarks on children’s rights which exist today but are hardly implemented.

On a political level, the most important change is that EU institutions can no longer blame the lack of a legal base for not addressing children’s rights. In other words, the Commission can take action on children’s rights in areas which fall within community competence. This is of course a very important consideration now as planning is taking place in a number of key areas, the Post Tampere II programme, the Social Policy agenda, on going work of the Commission and member states on trafficking and child safety on the internet. On the external policy side the implementation of the Children in Armed Conflict Guidelines and the Millenium Development Goals review. Politically, it is also a clear signal from the Member States that they have understood that EU policy can affect children in a positive and negative way. This is an important step, which took more than 7 years work to achieve.

## Accession to the ECHR

The Constitution also gives the Union a legal personality which means that it can accede to the ECHR and also other international Conventions – for example the Convention on the Rights of the Child 1989. However accession to the ECHR would not bring very significant benefits for children as it is a relatively child blind legal instrument (fuller text on this is available).

## Conclusions

However, a legal basis will not solve all problems that we are faced with in relation to children's rights in EU policies and practice today. Proper implementation is a key word of course – be it in terms of legal basis, EU Guidelines, mainstreaming policies and budgetary remarks.

*Diana Sutton, Save the Children Europe  
Childrenintheconstitution/igconvention2/ouranalysis*

## Analysis of the Treaty Establishing a Constitution for Europe: the impact on Children EURONET, The European Children's Network

Annex

### Executive Summary

EURONET, the European Children's Network, has campaigned for the inclusion of children's rights in the European Treaties since 1995. EURONET's campaign gained the active support of the European Convention, which included members of the European Parliament, Government Ministers, former Heads of State and Commission officials, who prepared the draft Constitution for Europe.

EURONET welcomes the new references to children's rights in the Treaty establishing a Constitution for Europe. In particular, the inclusion of children's rights in the internal and external objectives of the Constitution and the inclusion of the EU Charter of fundamental rights strengthen the rights of the child. The analysis assesses the articles which are likely to impact on children. The executive summary gives an overview of the main results of the assessment.

### Part I

#### Article 1-3 – the Union's objectives

The inclusion of children's rights in the internal and external objectives of the Union will ensure that children's rights will be mainstreamed into relevant legislation, policies and programmes for which the EU has a competence as set out in the Constitution. The Union will have a duty to consider the "best interests" of the child (Article 3 UN Convention on the Rights of the Child (UNCRC)) in the same way that Member States have a duty to do so. This Article will give the Union competence for political actions with children as a target group and it will allow for the provision and commitment of budgetary funds for children in existing budgetary lines. The inclusion of children's rights also means it will become part of the *acquis communautaire* of the

EU. With regard to the observance and development of international law in the external relations of the Union, the Union has to take the UNCRC into account when developing external policies.

#### Article I-4 – fundamental freedoms and non-discrimination

This article gives children the right not be discriminated against because of their nationality.

#### Article I-7 – legal personality and I-9 – fundamental rights

That the Union will gain legal personality means that the Union can accede to international Treaties and Conventions. This could be positive for children's rights. Discussions on accession to the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR) have been going on for some time. The ECHR has several articles with a direct impact on children and although the impact of the ECHR has been limited to date, the recent Pini and Bertani & Manera and Atripaldi v. Romania case of 22 June 2004 has changed this positively.<sup>1</sup> In this case the Court considered the best interests of the child and also included their views in the proceedings. In view of this case and the references in the ECHR to children EURONET believes that accession to the ECHR can have a positive impact on children in the Union.

#### Article I-47 – the principle of participatory democracy

EURONET believes that this article means that organisations, representing children, can engage in broad consultation with the EU institutions to ensure the proper implementation of the Union's objectives to protect children's rights. It also means that a million children can ask the Commission to submit a proposal on matters where they consider that their rights should be implemented.

### **Part II: The Charter of Fundamental Rights**

EURONET welcomes the Charter of Fundamental Rights in the European Constitution and in particular article II-84 is a welcome step to achieving recognition for children's rights in the Union. However, it should be noted that the incorporation of the Charter into the European Constitution is not sufficient to ensure the protection of children's rights because its scope of application is limited and its provisions have no direct effect within the national context.

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<sup>1</sup> In this case, the adoptions of two Romanian children by Italian families were stopped.

Relevant Articles are:

**Article II-65 on the prohibition of slavery and forced labour**, including the prohibition of trafficking in human beings. However, it only contains a limited definition of trafficking which is not consistent with the UN's Palermo protocol to prevent, suppress and punish trafficking in persons, especially women and children (2000)

**Article II-67 on respect for private and family life**: the basis of this article is article 8 of the ECHR which was positively applied in the Pini and Bertani case (June 2004, see above).

**Article II-74 on the right to education**. In this article there is no link to Articles 28 and 29 of the UNCRC which state that the child has a right to education and that education should develop respect for the child's own cultural and national values and those of others.

**Article II-84 on the rights of the child**. Because the principles included in article II-84 are lower than the ones in the UNCRC and only refer to a limited set of children's rights, EURONET believes it is crucial that a reference has been made to the UNCRC in the explanatory note to the Charter. Although this article within the Charter is welcomed, EURONET believes that a legal base for children's rights is a simpler and better way of incorporating children's rights into the EU Treaty.

**Article II-92 on the prohibition of child labour** is welcomed by EURONET in that it aligns the minimum age of admission to employment with the minimum school leaving age.

The first part of **Article II-93 on family and profession life** which ensures legal, economic and social protection of children living in families is welcomed by EURONET. The second part is focussing on workers' rights to combine family and professional life and forgets about the rights of children. The latter also applies to **article II-94 – social security and social assistance**.

### **Part III: the policies and functioning of the Union**

Several articles within the policy area of the Union have a direct or indirect effect on children. The most relevant ones are:

#### **Declaration to Article III-116 on domestic violence**

EURONET welcomes this Declaration as children are often victims of domestic violence. As a declaration it does not have legally binding obligations on Member States, however within the context of eliminating inequalities between women and men, this is a welcome addition.

### Article III-124 – non-discrimination

EURONET's concerns remain the same as for the former article 13 (TEC), since it has severe limitations as unanimity is required which makes action in this area very limited and since it does not have direct effect. This is concerning since children are among the most vulnerable groups in society to experience discrimination. This includes Roma and traveller children, children with disabilities, children in the youth justice system and children living in severe poverty (although the latter two do not fall within the grounds of discrimination). However, EURONET welcomes the inclusion of a non-discrimination clause on the grounds of age in the Treaty of the European Union.

### Articles III-209 and III-210 on social protection and combating of social exclusion

These are no new articles. It can provide a legal base for the continuation of the Union's work in this area including the combating of child poverty and social exclusion.

### Area of Freedom, Security and Justice

**Article III-266 (d) combating trafficking in persons, in particular women and children.** This inclusion is of importance to EURONET, but it concerningly places trafficking as an issue of migration management and not as a human rights and protection issue. Children are particularly vulnerable to the effects of trafficking and need to be offered a protective framework if they arrive into the EU having been trafficked.

#### **Article III-269 judicial cooperation in civil matters**

This article can in particular be used to cover cases for example concerning the custody of children when parents separate and go to live in different countries in the EU.

#### **Article III-270 judicial cooperation in criminal matters**

This article includes the rights of victims of crime, which includes children. It is not a new article and has been used to harmonise penalties for sexual abuse and exploitation of children as well as several other framework decisions on trafficking.

#### **Article III-271 judicial cooperation in criminal matters**

This is a new article including, the areas of crime: trafficking in human beings and sexual exploitation of women and children. It confers a new power on the Union to develop framework laws on definitions of criminal offences. This article whilst welcome also places the issue of trafficking in children in the arena of criminal penalties rather than victim protection. Therefore it may be useful in dealing with the criminal

elements of the trafficking process but may only provide a limited legal framework for EU protective measures for children and other victims.

**Article III-282- Education, youth, sport and vocational training**

EURONET welcomes this article and in particular the emphasis on children's involvement in democratic life. This article encourages young people's participation within a broad educational context. EURONET believes that young people should include children from the age of 12 years onwards. EURONET also welcomes paragraph G, which acknowledges the important role sport plays in the lives of millions of children throughout the Union. Sport can be a positive influence and beneficial to the health and well-being of children.

## Foreword

The following is an analysis of the impact of the Treaty establishing a Constitution for Europe<sup>2</sup> on current and future children's policy at European level. The analysis is based on the document agreed by the Conference of Representatives of the Governments of the European Union (EU) Member States on October 29<sup>th</sup> 2004.

EURONET has been actively campaigning for the inclusion of children's rights in the European Treaties since 1995. We are delighted that this ten year campaign has resulted in several references to children's rights in the Treaty establishing a Constitution for Europe. EURONET welcomes these references, in particular in the internal and external objectives of the Union, and the inclusion of the EU Charter of Fundamental Rights in the Constitution. We believe these references will help give children the rights they are entitled to as European citizens.

This analysis has been produced by the European Children's Network (EURONET) and co-written by Mieke Schuurman (Secretary-General, EURONET), Diana Sutton (European Officer, Save the Children, Brussels) and Tara Hopkins (European Adviser, NSPCC, UK)

## Acknowledgements

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<sup>2</sup> CIG 87/2/04, REV 2, Brussels, 29 October 2004.

## Introduction

*“The European Meeting of Ministers in charge of Childhood wishes the introduction of mainstreaming for Childhood and the rights of the child in all policies of the Union.” (European Meeting of Children’s Ministers, 9 November 2001, Belgium)*

The EU should be brought closer to its 90 million youngest citizens, and to achieve this, children’s rights must be respected, as laid down in the United Nations Convention on the Rights of the Child (UNCRC) which has been ratified by every EU Member State. The UNCRC is the most comprehensive, international expression of a holistic view of the rights of the child (all persons below the age of 18). The UNCRC must be the basis for all EU policies and legislation affecting children.

EURONET began its campaign for the recognition of children’s rights in the EU Treaties when the Treaty of Amsterdam was being drafted in 1997, and although the Amsterdam Treaty included a reference to children, it has a very limited scope. Since 1997, EURONET has continued to argue for a legal base for children.

The EURONET campaign received the active support of the European Convention who prepared the draft text of the Constitution for Europe. The Convention included members of the European Parliament, Government Ministers, former Heads of State and European Commission officials.

This analysis is EURONET’s assessment of the articles in the Constitution for Europe which are likely to have an impact, directly and indirectly, on children. It should be noted that the Constitution still has to be ratified by Member States; therefore these provisions will not come into force until 2006 at the earliest.

## A legal base is vital for children’s rights

To achieve a Union which is closer to its youngest citizens, EURONET has long since recognised that a legal base for children’s rights in the Treaty of the European Union (TEU) was necessary for the following reasons:

- u The current legal status of the child in the TEU is extremely unclear. In practice children are only considered in an ad hoc manner in EU legislation. In EU law children are usually seen as “victims”, “dependents” or “barriers to work” which is in contradiction to their status in the UNCRC.

- u The EU passes legislation with direct and indirect bearing on children and yet, as a legislative body, the EU has no obligation to respect the UNCRC.
- u Article 6 of the TEU states that, the “EU is founded on ... the respect for human rights”. This article also states that the “Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950...”
- u EU legislation can negatively affect children since there is no legal obligation to assess the impact of EU policies on them as a group. The failure to recognise children in the TEU has resulted in children’s rights being developed in a piecemeal manner. In some cases children’s rights have had to be established by taking cases to the European Court of Justice, which is both inefficient and costly. Integration of the rights of the child into the EU’s legislative processes would have made such cases unnecessary. The lack of a legal base has also resulted in time wasting debates in the EU institutions. For example: the delay in the adoption of the Daphne Programme in 1998, because of a lack of a proper legal base resulted in long discussions to decide which article could be used for this programme.
- u Children have yet to be accepted as holders of human rights in the current Treaties even though animals achieved legal recognition in 1997, under Protocol 33 on the protection and welfare of animals.

## Framework of the Constitution for Europe

The Constitution for Europe consists of four parts, preceded by a preamble.

- u **Part I** includes the definition and objectives of the European Union, its institutions, the exercise of its competences, the democratic life of the Union, its finances, its immediate environment and Union membership. This is a completely new text which did not exist in previous Treaties.
- u **Part II** includes the Charter of Fundamental Rights of the Union.
- u **Part III** includes the policies and functioning of the Union. This covers all the existing policies of the EU Treaties and incorporates provisions in the areas of freedom, security, justice and external affairs which used to be in the non-binding EU Treaty inter-governmental articles.
- u **Part IV** contains general and final provisions.

Two Addendums are attached to the European Constitution. **Addendum I** includes several Protocols and **Addendum 2** contains a list of declarations, including a Decla-

ration on domestic violence (Declaration to III-116) and a Declaration on the Charter of Fundamental Rights.

## PART I of the Constitution for Europe

### Article I-3 – The Union’s objectives

- “3. The Union shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance. It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child. It shall promote economic, social and territorial cohesion, and solidarity among Member States. It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe’s cultural heritage is safeguarded and enhanced.
4. In its relations with the wider world, the Union shall uphold and promote its values and interests. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.”

### EURONET comment

#### **A Mainstreaming children’s rights in the Union’s legislation and policies**

EURONET welcomes this article which is a direct result of the EURONET campaign for the inclusion of children’s rights in the Constitution for Europe. We particularly welcome the inclusion of the reference to children’s rights in the internal and external objectives of the Union.

This inclusion means that children's rights can be mainstreamed into relevant legislation, policies and programmes for which the EU has a competence.<sup>3</sup> In other words, children's rights will have a *horizontal influence* on all the Union's policies and this should ensure that EU legislation is 'child proofed'. When the EU passes legislation there will be a duty to consider the 'best interests' of the child (Article 3 UNCRC) in the same way that member states have a duty to revise legislation in line with the principle "*...in all actions concerning children, the best interests of the child shall be a primary consideration*" (Art. 3, para 1).

This article ensures that, in areas in which the EU is permitted to legislate and adopt policies, the rights and interests of children will be taken into consideration. Therefore if EU legislation could impact negatively on children, this can be considered at the drafting stage.

## **B Competence for political actions**

In addition, this article gives the EU competence for political actions with children as the target group, such as a communication or specific guidelines.

## **C Budgetary expenditure**

As children's rights have been included in the objectives of the EU, this should allow for the provision and commitment of budgetary funds for children in existing budgetary lines, and the inclusion of children within action programmes based on articles in Part III of the Constitution.

## **D Children's rights as part of the 'acquis'<sup>4</sup>**

With the inclusion of children's rights in the objectives of the Union, children's rights now become part of the "acquis". This means that when countries enter association or membership negotiations with the EU, respect for the rights of the child will be assessed. Respect for the rights of the child will now be explicitly part of the Union's objectives, as opposed to being subsumed within the 1993 political Copenhagen criteria which include the protection of human rights and respect for the rights of minorities.

As the European Council signed the Constitutional Treaty on 29 October 2004, the text may now be considered as part of the *acquis communautaire* even though all

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<sup>3</sup> EU having valid legal authority to legislate as laid down in the Constitution.

<sup>4</sup> Acquis – this means the laws and standards of the EU - so that when new members join, they are obliged to meet certain EU standards and laws and this is called the "acquis".

Member States still need to approve of the text in their national parliaments and/or referenda.

## **E Mainstreaming of social exclusion and discrimination**

Article 3.3 indicates that the Union’s social objectives are not subordinate to its economic objectives and that the combating of social exclusion and discrimination will be mainstreamed throughout the policies of the Union. This will have an indirect effect on the social exclusion of, and discrimination against children. (See further EURONET’s comments to PART III: Article III-124 on discrimination and Articles III-209 and III-210 on social exclusion).

## **F Observance and development of international law**

The specific reference to children’s rights in the external objectives of the EU and the statement on the ‘*strict observance and development of international law*’ in the external relations of the EU, means that children’s rights must be taken into account when developing external policies. Although the UNCRC and its optional protocols are not specifically mentioned, since it is part of international law and the most widely ratified international Convention, it is implicit that this should also be taken into account.

## **Specific articles affecting children in Part I**

### **Article I-4 – Fundamental freedoms and non-discrimination**

“2. Within the scope of the Constitution, and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited.”

#### *EURONET comment*

This article gives children the right not to be discriminated against because of their nationality. But as it refers to provisions “within the scope of the Constitution”, it has only a limited effect on children: only articles that directly affect children and which are included in this analysis.

This could apply, for example, to non-national children receiving differential treatment from national children (which is contrary to the principle of the UNCRC (article 2)), where this is within Community law. An example of differential treatment of non-national children regards the right to education, which is denied in several EU Member States to refugee or illegal immigrant children. This article also means that it will only be applied to children who are EU member state nationals.

## Article I-7 – Legal personality

“The Union shall have legal personality.”

### *EURONET comment*

The fact that the Union will gain legal personality means that the Union can accede to international Treaties and Conventions. The Union has not had a legal personality previously. This is a positive development for children’s rights because the Union will now be in a position to accede to the UNCRC, its two Protocols, and to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

Discussions have been taking place for some time over the possibility of the EU acceding to the ECHR. References to the ECHR are already frequently made by the European Court of Justice in its case law. The impact of an accession to the ECHR on children’s rights is examined in the comments to Article I-9.

## Article I-9 – Fundamental rights

- “1. The Union shall recognise the rights, freedoms and principles set out in the Charter of Fundamental Rights which constitutes Part II.
2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union’s competences as defined in the Constitution.
3. Fundamental Rights, as guaranteed by the European Convention on the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union’s law.”

**Protocol 32 and Declaration 2**, both relating to Article I-9(2) state that accession to the ECHR will preserve the specific features of Union law and that a regular dialogue between the Court of Justice and the European Court of Human Rights will be reinforced when the Union accedes to that Convention. Article III-325 lays out the procedure for the Union to accede to the ECHR.

### *EURONET comment*

#### **Accession to the European Convention on Human Rights (ECHR)**

This article provides for EU accession to the ECHR (1953). In principle, the human rights within the ECHR are also applicable to children, but in practice this is not always the case. Although children hold rights in legal instruments such as the UNCRC, there is no agreement over the issue of children's legal competence.

Because such a competence has not been recognised, "specific" human rights instruments have been created for children at the universal and regional level.<sup>5</sup>

Within the ECHR there are only two articles that directly refer to children, whilst a series of indirect references, particularly in interpretation (jurisprudence) can also be found.

Children are directly mentioned in respect of illegal detention (Art. 5) and special protection in the reporting of trials (Art. 6.1). Indirect references are found above all in Article 8.1, which concerns the right to respect for private life and family life (the basis for the Pini and Bertani case (2004)) and Article 8.2, which refers to non-interference in private life, which applies to children.

Although the impact of the ECHR on children has been limited to date, the recent case of Pini and Bertani & Manera and Atripaldi v. Romania of 22 June 2004 has changed this positively. In this case, the adoptions of two Romanian children by Italian families were stopped. The case relied on Article 8 of the ECHR: the right to respect to family life. The Court considered in this case the best interests of the child and also included their views in the proceedings. The children did not want to be adopted abroad in Italy and wanted to remain in Romania. The views of the children prevailed over the views of the prospective adoptive parents.<sup>6</sup>

In view of these references and the recent Pini and Bertani case, EURONET believes that accession of the Union to the ECHR would have a positive impact on children in the Union.

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<sup>5</sup> Eugeen Verhellen, "Children's Rights in Europe" in Understanding Children's Rights, Ghent Papers on Children's Rights – No. 6, University of Ghent (Belgium) – December 2000.

<sup>6</sup> The Court's judgement is accessible on <http://www.echr.coe.int>.

## Article I-10 – Citizenship of the Union

- “1. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.
2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Constitution. They shall have:
- u the right to move and reside freely within the territory of the Member States;
  - u the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;
  - u the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
  - u the right to petition the European Parliament, to apply to the European Ombudsman, (...).”

### *EURONET comment*

*“The advice I have received...is that the reference to all persons who have citizenship of a Member State covers everybody, including children.” Gay Mitchell, Irish Foreign Minister, representing the Irish Presidency of the EU, 1996<sup>7</sup>.*

This is a general article referring to citizenship of the Union for all nationals of Member States. The definition of EU citizenship is closely related to the role of the citizen as a worker. Given that children are not part of the active labour force (unless they are over 15 and working), they are usually excluded from many of the rights which are conferred by EU citizenship. The rights they do enjoy are usually derived from the circumstances of their parents. ECJ rulings have helped to elaborate the concept of European citizenship in the Treaties and to extend citizenship rights to non-workers in certain cases.

<sup>7</sup> In a ‘Children’s Policy for 21st Century Europe: First Steps’, EURONET report, written by Sandy Ruxton, 2000.

Although in theory this article means that children are citizens of the Union and enjoy the rights provided for in the Constitution, in practice these rights have very limited application to children. For example, children cannot participate in elections since these are based on national legal minimum age requirements, workers rights only apply to children after the school-leaving age.

Moreover, there is no Article on education that would give EU citizens a right to education in the EU. The right to free movement, however, is applicable to children and could for example cover a situation concerning the payment of child benefit (or other social security benefits which are targeted at children) to children who are resident in a different member state, although in practice entitlements usually depend on parental circumstances and contributions.

There may still be a situation where children from third countries are excluded from EU citizenship, which will not be solved by this article, because in several EU countries citizenship depends on parental nationality rather than the birthplace of the child. In this way, entire families can remain in a country without host country citizenship, e.g: Germany. See also EURONET's comments to Article I-4 on non-discrimination and the exclusion of children from third countries for EU citizenship.

## Article I-18 – Flexibility clause

“1. If action by the Union should prove necessary, within the framework of the policies defined in Part III, to attain one of the objectives set out in the Constitution, and the Constitution has not provided the necessary powers, the Council of Ministers, acting unanimously on a proposal from the European Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures.”

### *EURONET comment*

This article can be used when there is no article in Part III of the Constitution that allows for action in a certain area. Unanimity in the Council is necessary to implement this article. In practice it will be difficult to obtain unanimity to adopt such measures and therefore it is not likely to have a serious effect on children's rights.

## Article I-47 – The principle of participatory democracy

1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.
2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.
3. The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.
4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Constitution. European laws shall determine the provisions for the procedures and conditions required for such a citizens' initiative, including the minimum number of Member States from which such citizens must come."

### *EURONET comment*

*"We are consulted to death yet there is little evidence that action is taken in response to the issues and concerns we raise." Scottish Children in EURONET Consultation on the Future of Europe, 2003.*

EURONET welcomes the inclusion of the principle of participatory democracy and the opportunity given to civil society to have regular dialogue with the Commission. The power of initiative of a group of European citizens is also welcomed by EURONET.

For children this means that organisations representing children can have broad consultations with the EU institutions to ensure that the Union's objective to protect children's rights is implemented by coherent and transparent actions.

**Clause 4** means that a million children, who are European citizens, can ask the Commission to submit a proposal on matters where they consider their rights should be implemented.

## PART II: The Charter of Fundamental Rights of the EU

EURONET welcomes the incorporation of the Charter of Fundamental Rights in the European Constitution and believes it is a significant step forward. In particular the article on children's rights II-84 (former article 24) is a welcome step to get children's rights recognised in the Union. Other than this specific article, there are several other articles in the charter of relevance to children. Before analysing the impact these articles have on children, EURONET stresses that the incorporation of the Charter done into the European Constitution is not sufficient to ensure the protection of children's rights. Its scope of application is limited and its provisions have no direct effect within the national context.

### Scope of application

The Charter of Fundamental Rights of the Union, which was developed and adopted in 2000, has been incorporated in full in the European Constitution. This means that the fundamental right, as laid down in the Charter, will be legally binding on all Member States. However, the scope of the application is limited as it will only be legally binding for the EU institutions and bodies and the Member States when implementing Union law:

"They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the other Parts of the Constitution." (Article II-111, Field of application).

This means that there is no direct application within a purely national context. In other words, a violation of the rights of the Charter cannot be taken up by national citizens within the European Union with the Court of Justice of the Union. Only if a right within the Charter is violated by the EU institutions and the Member States in their legislation, policies or activities can the case be brought before the European Court of Justice.

The Courts of the Union and the Member States shall interpret the Charter with the guidance of the explanations relating to the Charter. (Article II-112, Scope and interpretation of rights and principles).

These explanations are laid down in **Addendum 2** of the European Constitution.

## General remark on the rights included in the Charter of Fundamental Rights

EURONET believes that not only Article II-84 (former Article 24) on the rights of the child is relevant but also other human rights articles in the Charter are applicable to children. The more general articles such as the right to life (II-62), human dignity (II-61), prohibition of slavery and forced labour (II-65), freedom of expression and information (II-71), are also relevant to children.

*The Preamble of the Charter of Fundamental Rights states:*

“Enjoyment of these rights entails responsibilities and duties with regard to other persons, to the human community and to future generations.”

In this paper the analysis of the Charter of Fundamental Rights and its implications for children will focus on the articles specifically referring to or covering children’s rights. The analysis includes the references to the explanatory comments in **Addendum 2**.

## Specific articles for children in the Charter of Fundamental Rights

### Article II-65 – Prohibition of slavery and forced labour

“3. Trafficking in human beings is prohibited.”

#### *EURONET comment*

The explanatory comments refer to the definition of trafficking for sexual purposes and for profit included in the annex to the Europol Convention which states “(...) and assault of minors or trade in *abandoned children*.” The explanatory note also refers to the Convention implementing the Schengen Agreement and the framework decision adopted by the Council on 19 July 2002 on combating trafficking in human beings.

EURONET believes that this article can contribute to the combating of trafficking in children as a breach of their fundamental rights, although the definition of trafficking is limited and not consistent with the internationally agreed definition in the Palermo protocol<sup>8</sup>. Article III-172 brings this into the criminal justice area. (See further comments on Article III-172)

## Article II-66 – Right to liberty and security

“Everyone has the right to liberty and security of person.”

### *EURONET comment*

The explanatory note refers to Article 5 of the ECHR and indicates that this article has the same meaning and scope. Article 5 of the ECHR directly refers to children and states in Paragraph 1:

“Everyone has the right to liberty and security of the person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority.”

In this way children’s rights to liberty and security of the person are specifically protected except in certain cases, for example for educational supervision or lawful detention when brought before legal authorities. However EURONET notes that, despite guarantees in the ECHR, the Charter of Fundamental Rights and article 37 of the UNCRC, children continue to be detained, particularly migrant and asylum seeking children, in some Member States.

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<sup>8</sup> Article 3 of the Palermo Protocol stipulates that “Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitations, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

## Article II-67 – Respect for private and family life

“Everyone has the right to respect for his or her private and family life, home and communications.”

### *EURONET comment*

EURONET welcomes the inclusion of this right and believes that this right guarantees the respect for children’s rights within the family and recognises the importance of families for the growth and well-being of children, as stated in the preamble of the UNCRC. This article also guarantees respect for a child’s privacy. The explanatory note states that this article corresponds to the rights guaranteed by article 8 of the ECHR, which has been interpreted positively for children’s rights by the Court of Human Rights (see comments under Article (I-9)).

## Article II-69 – Right to marry and right to found a family

“The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.”

### *EURONET comment*

The explanatory note states that this Article is based on Article 12 of the ECHR, allowing men and women of marriageable age to marry and found a family, with a modernisation of words to cover cases in which national legislation recognises arrangements other than marriage for founding a family. EURONET believes that family life is important for the growth and well-being of children (UN CRC Preamble)

## Article II-74 – Right to education

- “1. Everyone has the right to education and to have access to vocational and continuing training.
2. This right includes the possibility to receive free compulsory education.

3. The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.”

### *EURONET comment*

*“I cannot go to high school because I will have to work as soon as I finish primary school. I would have liked to learn more.” Roma boy, 9 years old, Greece<sup>9</sup>.*

EURONET regrets that this article lacks the full text of Article 28 of the UNCRC (the right to education). EURONET welcomes paragraph 1, the inclusion of free compulsory education for children which is in line with Article 28 of the UN CRC.

The explanatory note states that paragraph 2 implies that: *“each child has the possibility of attending an establishment which offers free education”*. The Article has a positive wording as *“everyone has the right to education”* whereas Article 1 of Protocol I of the ECHR is worded in a negative way *“no person shall be denied the right to education”*. For the Union this article means that in its training policies, the Union must respect free compulsory education, but this does not create new powers for the Union.

Regarding the rights of parents in paragraph 3, *“it must be interpreted in conjunction with the provisions of Article II-84”* is stated in the explanatory notes. EURONET believes that in relation to this paragraph (Article 28 and 29 of the UNCRC should have been taken into account). Paragraph 3 stresses that it is more of a parent’s right to decide education upon their religious base, etc. Article 28 (UN CRC), on the other hand, states that the child has a right to education and Article 29 provides that education should develop respect for the child’s own cultural and national values and those of others.

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<sup>9</sup> *“Denied a Future? The right to education of Roma/Gypsy & Traveller Children in Europe”*, Save the Children, 2001.

## Article II-81 – Non-discrimination

- “1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Constitution and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited.”

### *EURONET comment*

EURONET welcomes this article because it strengthens the right of the child not to be discriminated against, on grounds such as sex, race, colour, ethnic or social origins, religion, disability, age, sexual orientation, etc, by the Union’s institutions when they exercise their powers and adopt laws and policies.

EURONET believes, supported by legal advice and a EURONET report on non-discrimination published by EURONET, that discrimination on the grounds of age includes children.<sup>10</sup> The other positive achievement for children is that the article includes discrimination on grounds of disability, which is not included as an explicit ground for discrimination in Article 14 ECHR.

However, the explanatory note refers to article III-124 of the Constitution on non-discrimination and explains that this article has a different scope and purpose: “Article III-124 confers power on the Union to adopt laws, including harmonisation of the Member States’ laws and regulations, to combat certain forms of discrimination.” (See EURONET’s comments on *Article III-124*). Article II-81 “only addresses discrimination by the institutions and bodies of the Union themselves (...) when they are implementing Union law.”

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<sup>10</sup> “Challenging discrimination against children in the EU: A policy proposal by Euronet”, Gerison Lansdown, November 2000.

## Article II-84 – The rights of the child

- “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.
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.
3. 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.”

### *EURONET comment*

While EURONET welcomes a specific article on children’s rights in the Charter, we believe that these are not the only children’s rights that need to be guaranteed by the Union. We believe there needs to be a reference to the UNCRC in this article, which is not the case, although the explanatory note to Article 24 does refer to the UN Convention on the Rights of the Child (1989). For interpretation purposes this reference is crucial. Moreover, not all key principles of the UN CRC have been incorporated in Article 24 of the Charter of Fundamental Rights or are lower than those in the CRC. The principle of the ‘evolving capacity of the child’ is not included as well as the principle of non-discrimination, which is one of the key principles of the UN CRC. The guiding principles and norms of the UN CRC must be reflected in EU legislation to avoid lowering the already adopted international human right standard on children’s rights. The principles are:

- u The best interests of the child shall be a primary consideration (Art. 3 UN CRC)
- u The rights of the child shall be respected and ensured without discrimination of any kind (Art. 2 UN CRC)
- u The right to life, and the State’s obligation to ensure the child’s survival and development. (Art. 6 UN CRC)
- u The child has the right to express his or her opinion freely and to have that opinion taken into account in any matter or procedure affecting the child (Art. 12 UN CRC)

*"A Child is free to express his opinion and fulfil his dreams. Unfortunately, their fulfilment is not up to him. Adults decide for us. What a pity! We know what is good and bad. We wish to be listened to and we promise you a better world!"* 13-year old Romanian boy, taking part in EURONET Consultation on Future of Europe, 2003.

With regard to paragraph 1, which refers to children's participation, children "*may express their views freely*", is not replicating the wording of **Article 12** of the UNCRC, which states

"States Parties shall assure to the child who is capable of forming his or her views, the right to express those views freely in all matters affecting the child and be given due weight."

The 'right to' express their views, is far stronger than 'may' express their views. Finally the text of **Article 84** does not contain the principle of taking the child as an individual with its own human rights as expressed in the UN CRC.

The impact of this article on children is that the Union, in its legislation and policies, must take children's rights into account, as described in this article. EURONET believes that a legal base for children's rights is a simpler and more effective way of incorporating children's rights into the EU Treaty.

Article 84 only refers to a limited set of children's rights, as explained above. A legal base would be simpler, since there would be a reference to children's rights which would ensure that all EU legislation and policies having an impact on children would have to comply with the rights of the child.

Next to the Union's institutions, the Member States also have to adhere to the rights in this article when implementing Union legislation. This article compliments article I-3.3 and I-3.4 (objectives of the Union), but because of its limited scope could never replace it!

In paragraph 3 of article II-84, the explanatory note states that this takes account of the fact that Union legislation on civil matters can have cross-border implications, for which Article III-269 confers power. This may include, notably, visiting rights ensuring that children can maintain regular personal and direct contact, with both his or her parents, unless this is contrary to his/her interests. EURONET values the inclusion of this paragraph.

## Article II-92 – Prohibition of child labour and protection of young people at work

“The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations.

Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.”

### *EURONET comment*

EURONET welcomes the alignment of the minimum age of admission to employment with the minimum school leaving age. EURONET believes that the protection of young people at work should be in line with article 32 of the UNCRC. EURONET believes that the Union should use its powers to ensure that this article is implemented in the laws and policies it adopts and ensure full and proper implementation by Member States.

As the explanatory note states, this article is based on Directive 94/33/EC on the protection of young people, Article 7 of the European Social Charter and points 20-23 of the Community Charter of the Fundamental Social Rights of Workers. Under directive 94/33/EC on the protection of young workers, Governments are required to protect the health and safety of persons under 18s, and specific requirements have been introduced covering certain types of work, working hours, rest breaks and night work. The directive is in line with article 32 of the UNCRC, which requires States to protect children “*from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.*”

## Article II-93 – Family and professional life

“1. The family shall enjoy legal, economic and social protection.

2. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.”

### *EURONET comment*

EURONET welcomes paragraph 1, which ensures that children living in families shall enjoy legal, economic and social protection.

Paragraph 2 focuses on workers and their rights to combine family and professional life and not on the rights of children, which is an omission in this article.

## **Article II-94 – Social security and social assistance**

“3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices.”

### *EURONET comment*

The first two paragraphs of this article focus exclusively on workers and their rights. Paragraph 3 has to be read in conjunction with Article III-210 (social exclusion) and should be read with the objective of ensuring that children have a decent existence. The implementation of this Article can only be done by the Member States and by the Union based on Article III-210. (See EURONET comments on Article III-210)

## **PART III: The Union policies and its functioning**

### **Section I: Equality and Non-Discrimination**

## **Article III-108 (ex Article 141 TEC) – Equal Pay for equal work**

- “1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.
2. For the purpose of this Article, “pay” means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.(...)”

3. European laws or framework laws shall establish measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value. They shall be adopted after consultation of the Economic and Social Committee.”

#### *EURONET comment*

Whilst not directly relevant to children’s rights, this Article could bring benefits, as it refers to equal treatment for men and women in matters of employment and occupation. This could, for example, have a bearing on issues such as parental leave and child care.

### **Declaration on Article III-116 – Domestic Violence**

The Conference agrees that, in its general efforts to eliminate inequalities between women and men, the Union will aim in its different policies to combat all kinds of domestic violence. The Member States should take all necessary measures to prevent and punish these criminal acts and to support and protect the victims.

#### *EURONET comment*

EURONET welcomes this Declaration as children are often victims of domestic violence. As a Declaration to the Constitutional Treaty, this clause does not place legally binding obligations on Member States to combat domestic violence. However, within the context of eliminating inequalities between women and men, this is a welcome addition.

### **Article III-117**

In defining and implementing the policies and actions referred to in this Part, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

### *EURONET comment*

This is a new article and it aims to ensure mainstreaming the fight against social exclusion within the policy part of Part III of the Constitution. Including child poverty here means that in all measures taken by the EU based on the articles in Part III, the fight against social exclusion needs to be included. This article should be read in combination with comments to Articles III-124 (non-discrimination) and III-210 (social exclusion).

### **Article III-124 – Non-discrimination (ex Article III-8 & ex Article 13 TEC)**

- “1. Without prejudice to the other provisions of the Constitution and within the limits of the powers assigned by it to the Union, a European law or framework law of the Council may establish the measures needed to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council shall act unanimously after obtaining the consent of the European Parliament.
2. By way of derogation from paragraph 1, European laws or framework laws may establish basic principles for Union incentive measures and define such measures, to support action taken by Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, excluding any harmonisation of their laws and regulations.”

### *EURONET comment*

This article confers powers on the Union to adopt legislative acts, including harmonisation of Member States’ laws and regulations, to combat certain forms of discrimination. The specific reference to children in the new Constitutional Treaty will give a much stronger legal basis for Community action to combat discrimination on the different grounds included in this article. EURONET welcomes the inclusion of a non-discrimination clause on the grounds of age in the EU Treaty.

*“Everyone has the right to be treated equally.”* British children in EURONET Consultation on the Future of Europe, 2003.

Children are amongst some of the most vulnerable groups in society to experience discrimination. This includes Roma and Traveller children, refugee and asylum seeking children, children with disabilities, children in the youth justice system, and children living in severe poverty. These latter two groups do not fall within the EU's definition of grounds for discrimination as poverty per se is not a ground for discrimination. Many of these groups are excluded from mainstream education and other vital services. EURONET is concerned that this article has severe limitations:

#### **1. Unanimity Required**

All measures proposed under Art. III-124 require unanimous agreement of all EU Member States. Therefore one state can block proposals. Given there is now a Union of 25 Member States, unanimity could make action within this area very limited.

#### **2. No Direct Effect**

This clause does not have 'direct effect' which means that it cannot be used by an individual in a court of law and cannot be used in the European Court of Justice. Therefore a child, experiencing discrimination, cannot rely on this article in either a European or national court of law. It can only be activated by all Member State Government's agreeing on specific measures, and it therefore only has a Community dimension (see also comments Art. II-81)

## Section II: Free movement of persons and services

### **Article III-135 – Exchange of youth workers**

Member States shall, within the framework of a joint programme, encourage the exchange of young workers.

#### *EURONET comment*

EURONET welcomes this new article, which is aimed at encouraging the exchange of young workers. Programmes of this kind can provide valuable opportunities for young people and contribute to combating youth unemployment. This article is also linked to other guarantees for workers which can have implications for young workers, including the Young Workers Directive (1994) which requires Member States to protect the health and safety of workers under 18. (see comments to article II-92)

## Section II: Social policy

### Article III-209 (ex Article 136 TEC)

The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between the social partners, the development of human resources with a view to lasting high employment and the combating of exclusion. (...)

### Article III-210 (ex Article 137 TEC)

"1. With a view to achieving the objectives of Article III-209, the Union shall support and complement the activities of the Member States in the following fields: (...)

- (i) equality between men and women with regard to labour market opportunities and treatment at work;
- (j) the combating of social exclusion;
- (k) the modernisation of social protection systems without prejudice to point (c).

2. To this end:

- (a) European laws or framework laws may establish measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States; (...)"

### *EURONET comment*

The principle legal significance of this article is that it creates a legal basis for actions to combat social exclusion. Children are one of the most at risk groups from social exclusion (or poverty), and in most countries child poverty rates are higher than those of the population as a whole.<sup>11</sup> This is not a new article and as such can provide a legal basis for the continuation of the EU's work in this area which has included research on child poverty, projects funded on child poverty and an action plan on key political priorities which include eliminating child poverty. Included in this article is also a provision to modernise social protection systems and to integrate those excluded from the labour market.

It is however important to note that this article explicitly excludes the harmonisation of legislation and is designed to ensure sharing of best practice and exchange of experience and achievement of political but not legislative goals between the member states.

*"Poverty cannot be a reason for children to end up in institutions (...) the children of Europe won't take it anymore!" 16-year old Irish girl, taking part in EURONET Consultation on the Future of Europe, 2003.*

## Section II: Demographic reports

### **Article III-216 (ex Article 143 TEC)**

The Commission shall draw up a report each year on progress in achieving the objectives of Art.III-209, including the demographic situation in the Union. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.

### *EURONET comment*

This article, which is not a new Article, is relevant for children in that a children's perspective should be included in reports on the demographic situation. In particular

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<sup>11</sup> A thematic Study Using Transnational Comparisons to analyse and identify what combination of policy responses are most successful in preventing and reducing high levels of child poverty, Final report March 2004 Submitted to European Commission – DG Employment and Social Affairs by Petra Hoelscher, University of Dortmund.

more work is needed on age disaggregated data including at the lower end of the age range. There are several issues in the demographic debate which are relevant for children, in particular the issue of the declining birth rate and ageing population in Europe.

## Section VI: Consumer protection

### Article III-235 (ex Article 153 TEC)

“1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.(...)”

#### *EURONET comment*

Children are consumers and their interests and needs should be taken into account in Union legislation in this area. Much EU consumer policy directly impacts on children and young people, e.g: tobacco advertising, toy safety and television advertising directed at children. There is no specific reference to children in this article which would guarantee that this would happen, however the overall reference to children’s rights in the objectives of the Union, combined with this Article could be used to ensure that much greater attention is given to the issue of children as consumers. This could include product harmonisation, responsible advertising to children and the effects of new media on children.

## Chapter IV: Area of Freedom Security and Justice

### Article III-266 (points 3 and 4 of ex Article 63 TEC)

“1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the pre-

vention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2. To this end, European laws or framework laws shall establish measures in the following areas:
  - (a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;
  - (b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;
  - (c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;
  - (d) *combating trafficking in persons, in particular women and children.*
3. The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States.
4. European laws or framework laws may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.
5. This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.”

### *EURONET comment*

This article (not new) gives the EU a competence to legislate in the areas listed in the article. Of particular interest and importance to EURONET is the specific reference to combating trafficking in children. Children are particularly vulnerable to the effects of trafficking and need to be offered a protective framework if they arrive into the EU having been trafficked. This article could be used as a basis for a legal instrument to frame protective legislation for children who have been trafficked. However the emphasis in the article is on combating illegal immigration and trafficking which implicitly places the issue of trafficking as one of immigration control rather than placing the rights of victims at the centre.

This article, in particular Part 2b, will define the rights of third country nationals who are resident in the EU. However, often children who are trafficked will be illegally resident in the EU and what is needed is a protective legal framework for these children.

*"We want people to notice the trafficking situation that exists in our own society." 17-year old Swedish girl, taking part in EURONET Consultation on the Future of Europe, 2003.*

### Section III: Judicial cooperation in civil matters

#### Article III-269 (ex Article 65 TEC)

1. The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and decisions in extrajudicial cases. Such cooperation may include the adoption of measures for the approximation of the laws and regulations of the Member States.
2. To this end, European laws or framework laws shall lay down measures, particularly when necessary for the proper functioning of the internal market (...);
3. *Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be laid down in a European law or framework law of the Council. The Council shall act unanimously after consulting the European Parliament. The Council, on a proposal from the Commission, may adopt a European decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament."*

#### *EURONET comment*

This article gives the Union the power to develop cross border harmonisation in civil matters. Part 3 covers family law and in particular can be used to cover cases concerning the custody of children when parents separate and live in different countries in the EU.

## Section IV: Judicial cooperation in criminal matters

### Article III-270 (ex Article 31(1) TEU)

- “1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article III-271.(...)
2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, European framework laws may establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States. They shall concern:
- (a) mutual admissibility of evidence between Member States;
  - (b) the rights of individuals in criminal procedure;
  - (c) *the rights of victims of crime*;
  - (d) any other specific aspects of criminal procedure which the Council has identified in advance by a European decision, for the adoption of this decision, the Council shall act unanimously after obtaining the consent of the European Parliament. Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.”

#### *EURONET comment*

This article concerns judicial cooperation in criminal matters, including the rights of victims of crime, which includes children.

It is not a new Article and has also been used to harmonise penalties for sexual abuse and exploitation of children (Council Framework Decision 2004/68/JHA 22 December 2003 on combating the sexual exploitation of children and child pornography) as well as several other framework decisions on trafficking. It could also be used in the future for additional harmonization in this area.

## Article III-271 (new)

- “1. European framework laws may establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis. These areas of crime are the following: terrorism, *trafficking in human beings and sexual exploitation of women and children*, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime. On the basis of developments in crime, the Council may adopt a European decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.
2. If the approximation of criminal legislation proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, European framework laws may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such framework laws shall be adopted by the same procedure as was followed for the adoption of the harmonisation measures in question.”

### *EURONET comment*

This is a new article which confers a power on the Union to develop framework laws on definitions of criminal offences. This article whilst welcome, places the issue of trafficking in children in the arena of criminal penalties rather than victim protection. Therefore it may be useful in dealing with the criminal elements of the trafficking process but may provide only a limited legal framework for EU action on the protective framework legislation that is necessary for children and indeed other victims.

## Chapter V

### ARTICLE III-278 – Public Health

- “1. A high level of human health protection shall be ensured in the definition and implementation of all the Union’s policies and activities.  
Action by the Union, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to physical and mental health.(...)”
3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health. (...)”
5. European laws or framework laws may also establish incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, as well as measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee(...)”

#### *EURONET comment*

This is not a new article. It provides the Union with a supportive and coordinating role in the field of public health, to be performed through the adoption of guidelines or incentive measures, or by facilitating the exchange of information about best practice.

Although there is no specific reference to children in this article, many of the EU’s public health policies directly impact on children and young people, including tobacco and alcohol prevention and programmes to combat obesity. Given the reference to children’s rights in the Objectives of the Union (Article I-3), public health programmes, measures and actions under this Article will be obliged to take account of the best interests of the child.

## Article III-282 – Education, youth, sport and vocational training

“1. The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and complementing their action. It shall fully respect the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function. Union action shall be aimed at:(...)

(e) *encouraging the development of youth exchanges and of exchanges of socio-educational instructors and encouraging the participation of young people in democratic life in Europe;(…);*

(g) *developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially young sportsmen and sportswomen.(…)*”

### *EURONET comment*

Article III-282 has a supporting, coordinating and complementary role while respecting the responsibility of Member States for education systems. EURONET welcomes this article and in particular the emphasis put on children’s involvement in democratic life. As EU citizens, children have a right to participate in Europe’s democratic life. This article encourages such participation within a broad educational context (see also EURONET comment on Article I-10 – Citizenship of the Union). EURONET believes that young people should be read here as including children from the age of 12 years onwards. The current age for youth programmes is 15-25 years and is based on a Council decision. EURONET believes that this age should be lowered or no age limit should be included at all.

EURONET also welcomes paragraph G, which acknowledges the important role sport plays in the lives of millions of children throughout the Union. Sport can be a positive influence and beneficial to the health and well-being of children. EURONET particularly welcomes the Union’s commitment to protect the physical and moral integrity

(...) especially of young sportsmen and women'. It should be noted that children compete, professionally and as amateurs, at very young ages throughout the Union (e.g. as young as nine in professional football clubs, swimming and gymnastics).

## EURONET member organisations

- u BICE, Bureau International Catholique de l'Enfance (**EU Office**)
- u International Save the Children Alliance (**European Office**)
- u EACH, European Association for Children in Hospital
- u ENSCW, European Network on Street Children Worldwide
- u OMEP, World Organisation for early Childhood Education (**EU Office**)
- u Austrian Coalition of Child Rights NGOs, represented by Die Kinderfreunde (**Austria**)
- u Kinderrechtencoalitie Vlaanderen vzw (**Belgium**)
- u Center for the Study of Childhood & Adolescence (**Cyprus**)
- u Red Barnet (Save the Children **Denmark**)
- u Pelastakaa Lapset (Save the Children **Finland**)
- u COFRADE (French coalition of children's NGOs) (**France**)
- u German National Coalition (**Germany**)
- u Institute of Child Health (**Greece**)
- u ISPCC, Irish Society for the Prevention of Cruelty to Children (**Ireland**)
- u Save the Children Italia (**Italy**)
- u Save the Children Lithuania (**Lithuania**)
- u FICE (**Luxembourg**)
- u DCI, Defence for Children International (**Netherlands**) (on behalf of Dutch Children's Rights Coalition)
- u Polish Forum for Children's Rights (**Poland**)
- u Instituto de Apoio à Criança (IAC) (**Portugal**)
- u Plataforma de Organizaciones de Infancia (**Spain**)
- u Rättnads Barnen (Save the Children – **Sweden**) (on behalf of Swedish Children's Rights Coalition)
- u Save the Children Fund (**United Kingdom**)
- u NSPCC, National Society for the Prevention of Cruelty to Children (**United Kingdom**)

### **Associated Organisations**

- u Friends of Europe (Bulgaria)
- u European Children's Television Centre (Greece)
- u ARSIS (Greece)
- u Salvati Copii (Romania)

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# Session 5

A world Fit For Children: developing and monitoring National Plans of Action for Children

## A World Fit for Children: developing and Monitoring National Plans of Action for Children

Lesley Miller, UNICEF, Regional Office for Europe

I am pleased to be here today on behalf of UNICEF, and welcome the opportunity to exchange ideas with you. As you probably know, UNICEF places great importance on the work of NGOs and sees collaboration with NGO coalitions as key to advancing our common efforts for children's rights.

Because you are all the experts on the NPA processes taking place in your own countries, I will not even attempt to highlight specific country action across the region. I hope that during the working groups you will have time to share your specific experiences and lessons learned with each other. In the meantime, I will make a brief, general introduction, highlighting overall trends, and trying to flag some areas which you might pursue further in your discussions.

The UN General Assembly's Special Session on Children resulted in an outcome document containing a long menu of non-binding commitments by governments to do more and do better for children. These include many, but certainly not all, of the rights guaranteed to children under the Convention on the Rights of the Child, to which all of your States are legally bound. However, despite the obligation to implement the Convention, many gaps remain and the Special Session was an attempt to mobilize additional energy to address them.

To ensure follow-up to these commitments, States have promised to develop or strengthen national action plans with specific, time-bound, measurable goals and targets.

As we just saw, a majority of countries have adopted or are developing national plans of action. How these plans were developed varies from country to country. On the whole, most NPAs have been developed through a broad consultative process involving civil society. NGOs and NGO coalitions have been part of national consultations, working groups and drafting committees throughout the region, in some cases,

even taking a leading role in coordinating certain aspects of the NPA development process. In a number of countries participation has gone beyond “organized civil society” to include hearings and roundtables to inform and solicit inputs from the general public. In others, the internet was used to provide the public with the opportunity to share their views.

Although the degree to which NGO inputs were faithfully incorporated into the final products may vary, there seems to be wide consensus that national policy development and planning processes on children’s rights cannot take place without the broad support and involvement of civil society.

Happily, civil society involvement has not been limited to adults only. The involvement of children themselves in the development of plans and policies has become increasingly accepted and welcomed by governments. Here too, a range of processes have been developed to facilitate children’s direct and indirect participation in NPA planning. Special consultations with children and ensuring child membership on working groups and coordination committees have been combined with participatory research and opinion polls as channels to ensure that children’s voices are heard. In some countries children presented

their views and recommendations to the head of state, a lead ministry or parliament for discussion.

Was this participation “meaningful” and seriously taken into account by governments, we don’t know for certain. There are some indicators that might raise questions in our minds. For example, because NPA development happened primarily at the national level, often the children’s participation followed-suit, resulting in processes that were removed from the local and more immediate reality of children’s lives. In addition, such national processes have a greater risk of excluding groups of more vulnerable and marginalized children, as the number of children participating is limited and the selection processes not necessarily conducive to their involvement.

It might be interesting for NGO coalitions to look more closely at the impact children’s participation has on government decision-making processes. Identifying the “key ingredients” for successfully influencing government policies and decisions would help to ensure more meaningful and effective children’s participation in many settings. The more we can demonstrate that children’s participation makes an important contribution to advancing the children’s rights agenda, the more likely governments may be to take children’s views seriously.

Moving on to the “bottom line” of the NPAs, we find that budgeting continues to be a challenge. While governments may be willing to articulate their commitments and plans in an NPA, they are not always so ready to “put their money where their mouth is”, so to speak. Without a clear decision to allocate resources to an NPA, its

chances of being fully implemented are limited. This constraint can, in part, be attributed to the lack of influence and power that ministries of children or social welfare have in most countries. Another might be lack of resources more generally, particularly in the new EU member and accession countries.

A third challenge is that of decentralization. We see in many European countries that government structures are either federal or highly decentralized down to the local or municipal levels. I won't even attempt to use our host country as an example, but you will certainly understand what I mean! In such circumstances, it is often all too easy for the central government to "delegate" responsibility to the sub-national level, without providing any additional resources. In addition, disparities among states or municipalities can quickly result in unequal implementation of a plan, and de-facto discrimination.

NGOs can play a key role in advocating both for specific budget allocations for the implementation of NPAs, but also for child-friendly budgeting more generally. I know this is an area that Save the Children has done quite a lot of work on, and it would be useful to share experiences and lessons-learned in this regard.

As far as monitoring is concerned, let's begin with a quick overview of the agreements contained in A World Fit for Children. Governments have committed themselves to conduct periodic reviews at national and sub-national levels of progress achieved and remaining obstacles. In addition, states parties to the CRC have been encouraged to integrate information on measures taken in follow-up to the Special Session into their CRC reports. UNICEF has been assigned special responsibility for collecting and disseminating progress reports in implementing the WFFC commitments. And the UN Secretary General has been requested to report regularly to the General Assembly on progress made.

Not all NPAs have incorporated a monitoring plan or strategy and this is one of our major challenges as we move forward from NPA development to implementation. In some countries monitoring is the responsibility of the particular ministry which coordinated the NPA, in others it is an inter-ministerial committee or commission. Civil society participation in the monitoring

process may or may not be for-seen. In almost all cases, monitoring is envisaged at the national level, which brings us back to the difficulties of working in a decentralized context.

Of course an important aspect of monitoring is the regular collection and analysis of data. While this may not immediately strike us as a major problem in European countries, there are some aspects which continue to prove challenging. In particular, we are often missing comprehensive data on some of the child protection issues. Most striking, perhaps, is the question of violence against children, which we know

is not always captured accurately in statistics of reported cases of child abuse. The strengthening of monitoring and reporting systems on all forms of violence against children could be an important step forward both in terms of follow-up to the Special Session on Children, but also linked to the UN Study on Violence Against Children. Other child protection issues suffer as well, including sexual exploitation and trafficking, resulting in their remaining largely invisible in real terms.

Another problem in many European countries is the way data are disaggregated. In some instances laws actually prevent national statistics from being disaggregated by ethnicity, again resulting in significant disparities remaining invisible behind the averages. This is a specific problem for Roma children, as well as the children of some immigrant groups who remain socially disadvantaged and marginalized.

Some countries in Europe have established National Observatories on Children's Rights, and these institutions may be an important partner in making progress toward addressing these gaps.

Of course we are not starting from scratch when it comes to monitoring children's rights. The reporting process on the Convention on the Rights of the Child is definitely our most powerful and effective mechanism. For both governments and NGOs alike, the CRC reporting process has become a key vehicle for focusing attention on how children's rights are (or are not) being respected in a given country. How to use this process to motivate the more detailed monitoring which may be required for the NPAs is our challenge.

The Committee on the Rights of the Child is open and willing to contribute. As you are probably aware, they are currently revising their reporting guidelines. In the current draft, as it stands, they explicitly ask for information on the follow-up given to the International Plan of Action of "A World Fit for Children". The specific questions include:

- u Is there are National Plan of Action?
- u If so, what is the state of its implementation, involvement of children, NGOs/civil society, budgetary allocations?
- u Progress made, problems encountered?

Beyond these process-oriented questions, the guidelines also cover the substantive issues of A World Fit for Children, including health, education, HIV/AIDS and child protection.

So, while the CRC reporting process would seem to be the logical vehicle for NPA reporting as well, there is some concern about harmonizing the timing and periodicity of the reporting, as well as the level of practical detail. The CRC reports provide an excellent framework for understanding how children's rights are being imple-

mented in a country – particularly the legal framework, but they do not always provide the analytical detail on what works and what doesn't, or on what is happening at the sub-national level. In addition, the Committee has noted that often reports are particularly weak on statistical data, which would be essential to ensuring robust monitoring of the implementation of an NPA.

We know that governments tend to be reluctant to engage in several monitoring and reporting processes which they perceive to be overlapping. Therefore, another of our challenges will be to find a way to combine a permanent process to continuously monitor progress at national

and sub-national levels with the CRC reporting obligations. Decentralising the monitoring to the local or municipal level may be one way to ensure a more regular collection of information. This, of course, then raises the questions of NGO capacity to advocate for and participate in monitoring at that level, as well as how children can be involved.

A few words about follow-up and monitoring at the global level. Those of you who have carefully reviewed paragraph 59 of A World Fit for Children, will have noticed that it doesn't only call for specific national plans of action to be developed, but alternatively for the integration of the WFFC goals into national policies, development programmes, poverty eradication strategies, and sectoral plans.

If this sounds complex, then you're right...it is! As you are aware, in 2000, the UN General Assembly adopted the Millennium Development Goals and Millennium Declaration, which lay out an ambitious plan for improving the lives of all people, particularly children by 2015. Progress towards these goals will be discussed at a follow-up meeting in New York in September this year.

The goals of a World Fit for Children are seen by the UN as a major contribution to achieving the Millennium Development Goals, seven of which directly address the rights of children. That being said, we believe the World Fit for Children goals are much more detailed and specific in the areas of child health, education, HIV/AIDS, and of course child protection, on which the MDGs are silent.

Despite their shortcomings, because the MDGs benefit from widespread support from the UN agencies and international financial institutions whose mandate is not specifically for children, they are seen as an important vehicle for placing children high on the agenda of the international development community. At the same time, in many countries, they have overshadowed and sometimes even "swallowed" the World Fit for Children goals.

In addition, the MDGs have been widely adopted as the guiding force for global poverty alleviation. The result is that governments as a whole – including the powerful ministries of finance and planning – have been mobilized to a greater extent behind

the MDGs. Linked to this is the imperative on the poorest countries to develop Poverty Reduction Strategy Papers (PRSPs) which are themselves becoming a central strategy for achieving the MDGs and have been used in many countries as a vehicle to integrate WFFC goals and targets.

All this to say that we have a challenge before us to keep the specific content of A World Fit for Children high on the global agenda.

The decisions on exactly how governments will report on A World Fit for Children will partly depend on the UN General Assembly. UNICEF will propose that countries prepare a "Special Session plus-five" progress report by the end of 2006, in advance of the 2007 Commemorative Event scheduled by the General Assembly. NGOs may wish to reinforce this position in their advocacy with their own governments and at international level. The final decision should be taken later this year, and we will certainly keep you posted on developments.

As you can see, I do not have all the answers (in fact I have very few!!). But by working together, sharing experiences and lessons learned, we will surely be able to find a way forward. The establishment of permanent structures to monitor progress towards the full realization of children's rights, looking at both process and impact will be essential. Our discussions at this meeting may take us some steps forward in this quest, and I am eager to learn about any innovative systems in place in your countries which might serve as a model for others.

Thank you.

*Lesley Miller*  
*UNICEF Regional Office for Europe*



# Session 6

The Relationship between NGOs and  
Government: balancing between  
Cooperation and Independence

## Promoting Children's Rights: NGO Authority, Legitimacy and Accountability – Time for some Self-reflection?

Niels Hjortdal, Danish Children's Rights Coalition

While the international law sets the legislative framework for the promotion of children's rights, and rests the obligation for the implementation with the State Party, civil society has an increasingly important role to play. While the size and role of the state in many countries is diminishing, NGOs are in turn filling out the new space and grow both in numbers and in strengths. Many different types of private organisations are in existence and emerging, and it is expected that their role in relation to cultivation of human rights in the society will continue to be critical. But while Governments are directly accountable to their citizens, what are the authority, legitimacy and accountability of NGOs? How should we understand NGOs as agent for social change and define them as different from the government, but still with a very important and useful role to play in the society?

### Non-governmental organizations as change agents

While social movements are more loosely organised, Allan Fowler points out the ambiguity inherent in the use of two negatives to characterise NGOs: non-governmental, and non-profit-making. He argues that a more positive description is that they are purposeful, role-bound social units. They are groups of individuals who know the purpose of the organisation and their role within it.

Fowler defines NGOs in positive ways without resorting to the double negatives of non-governmental and non-profit. The definition gives of NGOs is that:

"They are not established for and cannot distribute any surplus they generate as a profit to owners or staff. They are not required nor prevented from existing by law, but result from people's self-chosen voluntary initiative to pursue a shared interest or concern. Formed by private initiative, they are independent, in that they are not

part of government nor controlled by a public body. Within the terms of whatever legislation they chose to register themselves, they also govern themselves. Registration means that the founders wish to have social recognition; this calls for some degree of formalisation and acceptance of the principles of social responsibility<sup>1</sup>”

## Human rights and children’s rights NGOs and their accountability and legitimacy

This definition of NGOs offers some justification for their participation in work for social change. NGOs may claim to be acting in the interest of the people and see part of their role as holding governments and international institutions to account. But who holds the NGOs to account? NGOs and especially human rights NGOs have a responsibility to critically assess and question their own legitimacy and accountability in this respect.

Where NGOs used to report on what they did: the money raised and spent, the number of people reached, and the administrative costs of raising and spending the money, this accountability has broadened to also cover what they said, as Hugo Slim puts it: “the questions NGOs have asked themselves concentrate on how their voice relates to the people they are primarily concerned about – the poor, people whose rights are violated, and the victims of war [...] Arguments of NGO voice accountability are essentially prepositional and hinge on the nature of their relationship with the poor or the victims of human rights violations<sup>2</sup>”.

How NGOs answer these questions determines the nature of their legitimacy. Slim defines legitimacy as “the particular status with which an organisation is imbued and perceived at any given time that enables it to operate with the general consent of peoples, governments, companies and non-state groups around the world”

Though NGOs create their own mandates they gain legitimacy from operating legally under national or international law and by referring to international human rights law, whereby they can be seen as reminding people of human rights duties, and in so doing, meeting their own responsibilities and duties under human rights law. Legitimacy is also generated from the fact that the NGO works on the values of

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<sup>1</sup> Fowler, Allan: Striking a balance. A Guide to Enhancing the Effectiveness of Non-Governmental Organisations in International Development, London, 1997

<sup>2</sup> Slim, Hugo: By What Authority? The Legitimacy and Accountability of Non-Governmental Organisations. International Council on Human Rights Policy, Geneva, 2002.

human equality, dignity, impartiality, justice, freedom and personal and collective responsibility – a morally derived codex.

NGOs legitimacy is thus manifested through a number of qualities. Through the direct support from the people it seeks to help its members, supporters and admires, its ability to engage meaningfully with them, and to be able to report back on how the organisation performs, learns and what actions are taken in order to improve performance.

Legitimacy can also be generated through NGOs' expertise and knowledge, and its connections and relationships. Good performance and evidence based impact of the work is extremely important, together with the more intangible qualities such as goodwill: credibility, reputation, trust and integrity.

A definition of NGO accountability will then have to include the three aspects of reporting, involving and responding, and Slim summarizes it to: "the process by which an NGO holds itself openly responsible for what it believes, what it does and what it does not do in a way which shows it involving all concerned parties and actively responding to what it learns".

## NGOs and the Committee on the Rights of the Child

These criteria used here for defining NGOs cover a broad range of organisations. The definition of NGOs referred to above is in line with the spirit of what the Committee on the Rights of the Child has articulated in the Guidelines for the Participation of Partners in the Pre-sessional Working Group of the Committee on the Rights of the Child<sup>3</sup>: "The Committee will only invite NGOs [to the pre-sessional working group] whose information is particularly relevant to its consideration of the State Party's report. Priority will be given to partners who have submitted information within the requested time-frame, who are working in the State Party and who can provide first-hand information that is complementary to information already available to the Committee<sup>4</sup>".

Cultivating legitimacy and maintaining a high level of accountability will enhance the position of an NGO wishing to meaningfully participate in the work of the Committee on the Rights of the Child or any other human rights work. It means that NGOs will need to account in a range of ways to different groups of stakeholders, and at the

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<sup>3</sup> CRC/C/90, Annex VIII, 'Guidelines for the Participation of Partners (NGOs and Individual Experts) in the Pre-sessional Working Group of the Committee on the Rights of the Child

<sup>4</sup> *ibid*, paragraph 4

same time show how they are responding to what they have learnt and what their stakeholders are telling them. They will need to do this by informing and involving people in the process.

## Summing up and raising questions

Where social movements and NGOs have played a critical role in relation to human rights work, it would be most meaningful to define NGOs in the context of work around children's rights as organization that wants to pursue a common interest or concern, formed by private initiative, and thus independent and not generating profit for members.

In recent years, there have been discussions going on regarding the NGOs role, and their legitimacy has been contested. Where NGOs in the past was seen as being the most effective means to reach the targets efficiently, emerging literature on the subject questions if NGOs are always the best, and who they are accountable to? In relation to NGOs working on children's rights and participating in the work of the Committee, it is assumed that they would be able to show appropriately the required accountability in relation to the three critical aspects of reporting, involving and responding. It is seen as a meaningful precondition for being able to be invited by the Committee to take part and provide information that is particularly relevant to its consideration of the State Party report, as expressed in the guidelines for participation of partners. But it might also be the best instrument to maintain independence, integrity and to build credibility so as to get the public support which is necessary to make an impact which will contribute to promote the respect for children's rights.

*Niels Hjortdal*  
*Danish Children's Rights Coalition*

## The Relationship between NGOs and the Government: balancing between Cooperation and Independence

Eddy Boutmans, former Belgian Secretary of State for development cooperation

As I have consecutively been a member of many civil rights, third world solidarity and cultural groups, have been a local party leader (on a voluntary basis), a member of parliament and a member of government, responsible for development cooperation, a sector with a small but varied and active civil society, I can take a view of the relations between non profit non governmental organisations and state bodies from both sides.

I have been asked to reflect on three questions: about the funding of ngos (private sponsoring vs. subsidies) and the influence on their independence; on networking with parliament and 'government administration' and on the role of ngos in reporting to the Children's rights committee. On this last subject you have discussed earlier during this meeting and I have read Niels Hjortdal's text and as I think it is quite complete and I agree with nearly everything in it, I will not go into further detail.

My main concern for ngos is: both you and the politicians should always bear in mind that you are NON governmental, with the strength and limitations that implies. So, do not get too close to power, but do realise that – certainly in advocating children's rights – one of your foremost aims is to influence politics – so distance, but also dialogue and critical engagement would be the position to defend.

**About funding.** My first advice would be to avoid one single source of financing. Try and get as much financial support from your membership and sympathisers, people who would fund your organisation because they think it is important to have children's rights defended. This will strengthen your position both vis à vis commercial sponsoring and state subsidies and it is the kind of support that is most likely to be unconditional, or to imply only one condition: that your supporters perceive your

actions as useful and efficient. This will require some investment in information, motivation and feedback. In many countries, tax deduction is offered for private donors, and if it is not in your country, it might be a good idea campaigning for.

Can you accept commercial funding or sponsoring. I would say yes, but it depends and you should realise that the sponsor is not acting on your sole interest. Sponsoring should never influence your position or actions, and as it will mostly have to be mentioned on your publications or even correspondence, ask yourself (and your sponsors) the questions that the public might have! There will generally speaking be very little risk if you get some sponsoring from a local business, or from a printers office, or a book publisher and so on. Shoes seem very innocent – but aren't they produced by child labour? Or if they're not, is it a good idea to support the idea that one brand of shoes is 'pro youngsters', implying that others aren't? A bank seems the place par excellence to get money from... but aren't banks trying to sell their services to ever younger children? Is this entirely negative, no. Is it entirely positive, no. Will it influence your position on regulation of bank accounts for children, if you accept their money? I'm not sure, but at least you should be conscientious of the ambiguous relation that might be established. Similar questions might rise with chocolate or sweets, or alcohol. May be, you can draw a code of ethics with a sponsor. An interesting and not in general problematic source of funding might be with private foundations (genre Ford foundation, Bill Gates foundation etc...)

Well known artists or celebrities might be good sponsors of course, either by giving money – some literally burst with money! – or publicity. In general, no ties will be attaches, it is just a variety of non commercial sponsoring. Even so, tying your name to Michael Jackson might have seemed a good idea a few years ago, I'm not sure it would be today... Anyway, he seems to be out of money.

Apart from ethical concerns, there might also be other problems. For instance, if you get sponsoring from one newspaper, are you sure that the other media will still adequately report on your actions?

So, reflect before you sign and prefer not to depend on one sole sponsor. I would prefer five smaller donations to one big sum of money.

## What about public money?

It should be realised that accepting state money ALWAYS implies accepting state control on the use of that money. It is tax payer's money and therefore seeing to the correct spending is not only the governments right, but even their duty. But this control should not be of political content, it should be on spending the money for the purposes it was allowed for.

My experience with development ngos is that they get tax deduction for private gifts AND state funding since many years, but this has not kept them from criticising the government and the development minister in particular. The main rule seems to be: if the subsidies are allowed following pre-established rules, which guarantees objectivity and equality, than the perils are limited. So the subsidy should not be a favour, but as largely as possible a predictable decision, if possible valid for a few years, based on a substantiated request, a good dossier, examined by unbiased civil servants (that is to say: as unbiased as possible) – and if the final decision and responsibility is a political one, it should be regulation based and the reasons for the decision should be explicit. A positive interaction between state and civil society is part of the *European model* and we should defend that, always realising that it is important to safeguard the respectful distance between both. Having said that, it is not a relation which is guaranteed to be without problems – I would rather suggest the opposite.

In countries where this is the case, the real danger is: taking it for granted. In countries where it does not yet exist, it could be part of the platform's campaign.

By the way, there's not only central government – try also to get money from different public sources – the opportunities might be very different from country to country of course. Federal countries might have subsidy systems at state or provincial level; regional, municipal funds can also be created.

## Non-financial relations with politicians

The government being the government, they are likely to be your first interlocutor, and they can realise progress on some or most of your issues. As I said: talking and working *with* the government should not be the same as working *for* it. The government is supposed to work for the general interest and defending human rights and particularly children's rights is part of the official policies of any government that signed up tot the Convention. Active, critical and respectful seems to be your best implication with the government and state agencies.

In some countries one minister might have children's rights in his portfolio, at least as a coordinating level, as children's' rights are a horizontal matter. It might or it might not be the right thing to focus only on this specific minister, it really depends on the country specific situation, as does the accessibility of ministers and high level civil servants. I suppose in a small county it should be easier to gain access to the highest level than in a large country. When I was in government, and especially from 2001, when Belgium held the presidency of the European Union, the minister of

foreign affairs and I had more or less regular meetings with NGOs active on international human rights, peace and development policies. They were meant to be regular, but it was not easy to maintain this; anyway, they have been held more than a few times, and in most case both members of government attended the meeting.

Recent and even more or less confidential information (on diplomatic matters e.g. – not really *secret* information though) was given in answer to questions from the ngos. It certainly contributed to a good relation between us and the ngo world, they were taken seriously and I have never known of any abuse from their side – although we perfectly knew that the given information could not be kept really confidential. Some might call this *repressive complicity* (give them the impression you are open to them, and they will not openly criticise you), but I think this would at least be a one-sided view... As long as *both sides* keep in mind that they are not identical, that civil society is not part of government, this kind of open dialogue is an enrichment for both, I think.

## Parliament, parties

Most ngos will be non partisan. If they are tied to a particular party, this should by definition give them easy access to this party and it's MP's, but it might be difficult to come close to any one else. If you are tied to a party, be open about it of course.

In most countries, MP's are very accessible to civil society groups – in fact that is part of their job. How to approach them best, is different from country to country.

If you are not, you will find that in most political groups, a particular spokesman or interested MP will be your main contact. This has pros and cons, but by all means be aware that the MP – however genuine his interest in children's rights might be – has his own agenda (he wants *his* name in the media, because this is his only way of securing the support of his constituency, of his party and of getting re-elected). It may be important to avoid an exclusive relation, as this might give you the idea that you are advancing, while you are just being informed one-sidedly, and your preferred MP might have kept other doors closed.

Try to have meetings with a parliamentary committee as a whole (cross party), or with a cross party group interested in your issues, if there is not a specific committee.

***Eddy Boutmans***

***Former Belgian Secretary of State for development cooperation***



**CRIN's support  
for national  
NGO coalitions**

## CRIN's support for national NGO coalitions

Tom Hewitt, CRIN

CRIN supports some 1500 child rights member organisations across the world. The majority of these organisations are in Africa, Asia and Latin America, and most of them are NGOs. In the early days (the mid-1990s), the emphasis of CRIN information services was: 1) supporting the CRC committee with relevant NGO-based information; 2) Supporting members in the ratification of the Convention on the Rights of the Child (CRC) in their respective countries; and 3) fostering the exchange of child rights information between members.

A decade later, the ratification of the CRC has been almost universally achieved and the character and availability of information has undergone big changes. Turning the promises of the CRC into a reality for the world's children is the challenge now. CRIN has responded to this by various means: 1) ensuring that flows from the information rich reach out to the information poor; 2) processing and targeting information so that overload is replaced by relevant and useable information; 3) translating information into different languages and interpreting information from the international system into a form that is relevant to small, under-resourced organisations; and 4) segmenting information for specialist purposes whilst responding to the need to make child rights more visible in the development community at large.

The challenge for child rights activists and governments has been in the operationalisation of the articles of the CRC and responding to the changed child rights environment, in particular the outcomes of the Special Session on Children – A World Fit for Children – and the alignment to the Millennium Development Goals. In addition, CRIN tries to respond to specific information needs such as, for example, on children and violence in support of the UN study or to support practitioners of rights based programming.

As our name suggests, the heart of CRIN is its members. Membership has grown steadily since 1995 when there were 65 member organisations. By 1999 this had grown to 806 members and has continued to climb to the present. Membership is

now 1,550 organizations based in over 125 countries. Twenty-six per cent are in Africa, 28.5 percent are in Asia, 29 per cent in Europe and seven percent in Latin America and the Caribbean. Members are mostly NGOs (large and small) – 86% – but also include inter-governmental organisations; government agencies, and research and educational institutions.



Services to CRIN members include:

- u A resource-rich website ([www.crin.org](http://www.crin.org)) also with specialist areas (see [www.therightsapproach.org](http://www.therightsapproach.org) and [www.childrenandviolence.org](http://www.childrenandviolence.org)). Key sections also in French and Spanish.
- u Newsletters: Thematic
- u CRINMAIL (English, French, Spanish, Armed Conflict, Rights-based Programming, Child Rights at the Commission on Human Rights, Violence against Children)
- u Directory of Child Rights Organisations: online and hard copy
- u Annual reports and working papers
- u General child rights information support from email, phone and postal enquiries
- u 'Sketches': member's newsletter
- u Member's News: online page dedicated to members' articles

Through such services CRIN plays a part in making the convention on the Rights of the child a meaningful tool for the child rights community. In particular we support civil society organisations with pertinent information in order to bring governments to account. Thus CRIN:

- u Keeps practitioners, policy makers and researchers up to date
- u Acts as a depot (storage, retrieval and distribution) for the sharing of experience, the redistribution of information
- u Provides information and tools for advocacy ("information for action")
- u Interpretation of information into useful formats (from UN-speak to plain English, French and Spanish; from diverse sources to single point of call; from recognised experts into thematic publications)
- u A library / databank / resource centre for child rights research and information.

**Tom Hewitt, CRIN**



# **Annexes**

## Call for Action from Vilnius, Lithuania

Annex 1

*Participants from 15 countries in Europe, all NGOs working in networks to promote implementation of the Convention on the Rights of the Child (CRC) took part in the meeting.*

The aim of the Vilnius Regional NGO meeting is to explore how national NGO networks can work more effectively and efficiently, building on the work undertaken in the two previous forums (Berlin, March 1998 and Stockholm, May 1999). The meeting provided an opportunity to share NGO experiences across Europe and strengthen capacity and practice in promoting the rights of the child. The NGO community is aware of many groups of children whose rights are ignored and disrespected. Many experience discrimination, including Roma children, ethnic minority children, refugees and children with disabilities. Other children are living in institutions or on the streets, held in detention, being sexually exploited and trafficked, facing violence, poverty, and exclusion. Governments are not meeting the obligations they undertook in ratifying the Convention for these and many other children. Accordingly, the meeting calls upon political decision-makers at national and European level to commit to making the Convention a reality for children in Europe. We also encourage states parties of the CRC to integrate in their reports to the Committee on the Rights of the Child, any measures taken to develop National Plans of Action following the UN Special Session on Children in May 2002.

The past ten years has witnessed a dynamic growth of networks throughout Europe, committed to promoting and monitoring implementation of the CRC. These networks, comprising a wide membership of organisations throughout society, are accumulating a growing body of evidence of the failure of governments to comply with their obligations under the CRC. They are concerned to see a greater commitment to full implementation of children's rights. In pursuit of this goal, we urge all national NGO networks to undertake the following:

## Actions

- u To campaign and lobby national governments and members of the Convention on the Future of Europe, to include the rights of children in the revised EU treaty, currently being drafted;
- u To urge, in the EU enlargement process, that children's rights are included as indicators of progress both during and after the accession to the EU, according to the Copenhagen Criteria 1993 on '*human rights, and respect for and protection of minorities*';
- u To maintain a commitment to participating in the reporting process to the Committee on the Rights of the Child and to develop follow up mechanisms for promoting implementation of the concluding observations. These follow up mechanisms should include dissemination and media campaigns, including to children, to raise awareness of failings on the part of government to meet its obligations under the CRC;
- u To explore and implement new and creative methods of promoting children's active involvement in decisions which affect their lives from the local, community, national through to European levels;
- u To promote understanding on why children's active participation is essential in the work of NGO networks, and to develop and share strategies for actively engaging children and young people in their work;
- u To stimulate the creation of children's organisations run by and for children themselves, and to recognise and provide support for adults working to facilitate the development of these organisations;
- u To encourage and enable children in making their own reports to the Committee on the Rights of the Child whenever the states party is due to report;
- u To ensure that national action plans and strategies being developed by governments to achieve the goals of the Special Session on Children 2002 are fully compatible with the Convention on the Rights of the Child and reflect the views of NGOs, other sections of civil society and children themselves;
- u To promote the establishment of independent statutory human rights institutions/commissioners/ombudsmen for children, according to the standards set by European Network on Children's Ombudsmen (ENOC);
- u To encourage the creation of all party groups of parliamentarians to focus on the implementation of the Convention on the Rights of the Child, and to encourage similar structures within the European Parliament.

## Strategies

In order to strengthen national NGO networks in undertaking these tasks, the following strategies are recommended:

- u To make greater use of existing services, such as CRIN ( Children’s Rights Information Network) to develop an email network, for sharing information;
- u To work towards strengthening NGO networks on the rights of the child through co-operation with other national networks such as those working in the fields of human rights, disability and environmental issues etc, both at country level and within the European region;
- u To commit to mentoring and information exchange and collaboration between older and newer networks, in order to strengthen capacity and effectiveness;
- u To hold forums every two years in Europe to exchange and share progress and to give consideration to mechanisms for including children in this process.

## Fourth Regional Meeting of NGO Coalitions in Europe – Program

Annex 2

### >> Tuesday, March 8th

Building of the Flemish government (Markiesgebouw)  
Rue du Marquis 1, 1000 Brussels

- 09.00-10.00: Registration and coffee  
Presidency of the day by Benoît Van Keirsbilck, chairperson of the French-speaking NGO-coalition
- 10.00-10.10: Welcome Address by Karin Maes and Benoît Van Keirsbilck, chairpersons of the Flemish and French-speaking NGO-coalitions
- 10.10-10.20: Welcome Address by Loreta Trakinskiene, Member of the Steering Committee, Save the Children Lithuania
- 10.20-10.30: Welcome Address by Bert Anciaux, Flemish Minister of Youth and coordinating Minister of Children's Rights

#### ***Session 1: The U.N.-Committee on the Rights of the Child and its interest for NGO-Coalitions for children's Rights***

- 10.30-11.00: Introduction by Lothar Krappmann  
Member of the U.N. Committee on the Rights of the Child
- 11.00-12.00: Plenary Discussion
- 12.00-13.30: Lunch

***Session 2: Children as partners in the CRC monitoring and advocacy process***

- 13.30-14.00: Introduction by Charlotte Van den Abeele, Child Rights Officer, Unicef Belgium
- 14.00-15.30: Working groups:
- 1 What Do You Think? project Belgium  
Charlotte Van den Abeele and Maud Dominicy  
UNICEF Belgium
  - 2 'Securing children's participation rights in the work of the Children's Rights Alliance for England'  
Carolyne Willow  
Children's Rights Alliance for England
  - 3 Dutch participation project  
Majorie Kaandorp, Kinderrechtencollectief Nederland  
Caroline Vinck, NIZW International Centre Netherlands
- 15.30-16.00: Presentation of the conclusions of the working groups in plenum
- 16.00-16.30: Coffee break

***Session 3: Balancing between action and study***

- 16.30-17.00: Introduction by Denise Allen  
Liaison Officer, NGO-group for the Convention on the rights of the Child
- 17.00-18.00: Plenary Discussion
- 18.00-19.00: Welcoming Reception
- 19.00-20.00: Free time
- 20.00 : Dinner in Restaurant '*La Manufacture*'  
Rue Notre Dame du Sommeil 12-20, Brussels

**>> Wednesday, March 9th**

Building of the Flemish government (Markiesgebouw)  
Rue du Marquis 1, 1000 Brussels

09.00-09.30: Welcome and coffee  
Presidency of the day by Jef Geboers, coordinator Flemish Children's Rights Coalition

***Session 4: Role of the European Union  
in promoting Children's Rights***

09.30-09.50: Introduction by Diana Sutton  
European Officer, Save the Children

09.50-10.10: Intervention by Mieke Schuurman  
Secretary-General, EURONET (European Children's Network)

10.10-10.30: Intervention by Prof. Olivier De Schutter  
Professor at the Faculty of Law of the Catholic University of Louvain,  
coordinator of the European Union network of independent experts  
on fundamental rights

10.30-10.45: Coffee Break

10.45-12.00: Plenary Discussion

12.00-13.30: Lunch

***Session 5: A World Fit For Children: developing and  
monitoring National Plans of Action for Children***

13.30-14.00: Introduction by Lesley Miller  
Project Officer Child Protection, UNICEF Regional Office for Europe

14.00-15.30: Working groups:

- 1 Benoît Van Keirsbilck  
Chairperson of the French-speaking NGO-coalition
- 2 Kurt De Backer  
Ondersteuningstructuur Bijzondere Jeugdzorg (OSBJ)
- 3 Didier Reynaert  
Flemish Children's Rights Coalition

15.30-16.00: Presentation of the conclusions of the working groups in plenum

16.00-16.30: Coffee break

***Session 6: The relationship between NGOs and the government: balancing between cooperation and independence***

- 16.30-17.00: Introduction by Eddy Boutmans  
Former Belgian Secretary of State for development cooperation
- 17.00-18.00: Plenary Discussion led by Niels Hjortdal, Danish Children's Rights Coalition
- Free time

**>> Thursday, March 10th**  
City Hall of Brussels

- 09.30-10.00: Welcome
- 10.00-10.10: Welcome by Faouzia Hariche, Counselor of Youth, City of Brussels
- 10.10-10.40 The role of CRIN in supporting NGO-coalitions  
Tom Hewitt, coordinator Child Rights Information Network
- 10.40-11.30: Vilnius call for Action: progress and way forward  
Denise Allen, Liaison Officer, NGO-group for the Convention on the rights of the Child
- 11.30-11.45: Coffee break
- 11.45-12.15: Final Declaration  
Frédérique Van Houcke and Jef Geboers, coordinators French-speaking and Flemish Children's Rights Coalition
- 12.15-12.30: Closing Session  
Karin Maes and Benoît Van Keirsbilck, chairpersons of the Flemish and French-speaking NGO-coalitions
- 12.30-13.30: Reception
- 13.30-14.30: Press conference
- 16.00-17.30: Guided visit to the European Parliament

## Fourth Regional Meeting of NGO Coalitions in Europe – List of participants

Annex 3

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KINDERRECHTENCOALITIE  
VLAANDEREN

Since the CRC came into force in 1989 and subsequently ratified by all UN member States of the European Region, there has been a growing movement among NGO's and civil society organizations in support of the Convention's implementation. Many of them have formed networks, particularly in response to the opportunity provided by article 45a in the Convention, which invites input from experts. Over the years there has been a steady growth in the children's rights coalitions across the European region. Currently, there are some 30 NGO-coalitions within the Region.

Following previous meetings in Berlin (1998), Stockholm (1999) and Vilnius (2002), the fourth Regional Meeting of national Children's Rights coalitions was held on 8, 9 and 10 March 2005 in Brussels. As from the first of May 2004, the European Union welcomed 10 new member states. The meeting in Brussels provided an unique opportunity to meet with child rights coalitions and NGO's from the new countries and deepening the NGO commitment in promoting and supporting the implementation of children's rights throughout Europe.

During the conference topics such as the U.N.-Committee on the Rights of the Child and its interest for NGO-Coalitions for children's Rights, Children as partners in the CRC monitoring and advocacy process, balancing between action and study, the role of the European Union in promoting Children's rights, developing and monitoring National Plans of Action for Children and the relationship between NGO's and the government were discussed.

This document is not an end of an event, but a step in an ongoing process of sharing NGO experiences across Europe and strengthen capacity and practice in promoting the rights of the child.

*"The UN Committee on the Rights of the Child welcomes very much this process as it is the Committee's experience that an active NGO community can contribute in a significant way to the implementation of the UN Convention on the Rights of the Child."*

Jacob E. Doek, Chairperson  
UN Committee on the Rights of the Child