

DISCUSSION PAPER

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MAINSTREAMING CHILDREN'S RIGHTS IN EU LEGISLATION, POLICY AND BUDGET

LESSONS FROM PRACTICE



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EXECUTIVE SUMMARY

This study provides guidance on how effective child rights mainstreaming can be undertaken in the EU's internal policies, budget and legislation. It offers **“seven steps for effective mainstreaming of children's rights”**, based on interviews with European Commission and European Council officials as well as contributions from national children's NGOs and academics.

There are many examples of EU law and policies, which did not take children's rights adequately into account. Several Commission and Council officials interviewed highlighted a need for guidance on how to mainstream children's rights. The Eurochild expert group on children's rights has made proposals on what needs to be in place for effective mainstreaming, based on their national experience. These are presented as '7 steps for effective mainstreaming in the EU institutions' and it is hoped that these can guide the future work of the European Commission when deciding the follow-up to the EU Agenda on the rights of the child.

Eurochild defines mainstreaming as the mechanism of ensuring that all actors involved in EU legislative and policy processes as well as programme design and implementation comply with children's rights, including those that do not explicitly work on children's rights. **For this to happen effectively, Eurochild believes seven steps need to be in place and transparency needs to be an integral part of these steps:**

- 1) **Political will & leadership**
- 2) **Awareness, capacity and resources within the services responsible**
- 3) **Commitment to use the UNCRC as the starting point**
- 4) **Application of mainstreaming tools to legislation, policy and funding and throughout the policy cycle**
- 5) **Systematic use of impact assessments in policy formulation and implementation**
- 6) **Consultation and involvement of stakeholders in decision-making**
- 7) **The views and experiences of children and young people themselves are sought and taken seriously**

KEY MESSAGES

The following key messages are complementary areas of action that would **facilitate the achievement of the seven steps** to be in place to ensure that EU legislative and policy processes comply with children's rights. Mainstreaming of children's rights in policies, legislation, budgeting, programming and judicial proceedings needs to be a **transparent process** and it does not stop with the adoption of a legislative act, a policy, programme or budget but **continues throughout the implementation process**.

THE EUROPEAN COMMISSION

1. A robust successor to the Agenda on the Rights of the Child

A first step for the European Commission would be to **propose a comprehensive and robust successor to the Agenda on the Rights of the Child**. Such a Framework would include two pillars. **One pillar focussing on specific time-bound and well-resourced actions with ambitious and measurable objectives**, where the EU can have the greatest added value and accompanied by an **action plan**. The **second pillar would include putting in place and resourcing effective mainstreaming of children's rights in all EU processes**, including in the EU's internal and external policies.

2. A high-level children's rights co-ordinator

The **European Commission's coordinator on children's rights is a key focal point within the Commission's services** regarding the mainstreaming of children's rights in EU legislation, policies and budgets. It is therefore important that this position is accorded the necessary power, autonomy and resources.

3. An Internal Tool on Child Rights Mainstreaming

The European Commission is encouraged to further develop its idea of a **manual or tool¹ on children's rights mainstreaming, including capacity building and sufficient allocation of resources**, to support inclusion of children's perspective in the work of all its services. This manual or tool could integrate the seven 'mainstreaming' steps identified by the Eurochild expert group on children's rights.

4. Training modules for European Commission Staff

Linked to the manual or tool on child rights mainstreaming, it is recommended to develop and implement 'tailor-made' training modules for the European Commission services on specific issues. Such trainings should also **support more interdisciplinary and inter-sectorial working** within the European Commission.

¹ Though the external dimension of the European Commission's work is different from the internal level, the *EU-UNICEF Child Rights Toolkit 'Integrating Child Rights in Development Cooperation'* (UNICEF, 2014) could be used as inspiration for such manual or tool.

5. Critically analyse the “EU acquis and policy documents on the rights of the child”

The regular updating and publication of the “**EU acquis and policy documents on the rights of the child**” is a very helpful exercise that contributes to transparency, coordination and coherence of EU action on children’s rights. However the EU is encouraged to gradually add an analytical critique to the instruments and identify ways in which they can be strengthened to protect children’s rights.

6. Peer Reviews on child rights mainstreaming

Provide the resources to support peer reviews and exchange of good practices on child rights mainstreaming between EU member states and share these at the annual EU children’s rights Forum.

THE EUROPEAN PARLIAMENT

7. Strengthen institutional capacity of the European Parliament on children’s rights

A permanent mechanism needs to be created in the European Parliament with explicit responsibility for protecting and promoting children’s rights across all policy sectors in internal and external affairs. The next European Parliament must hold EU institutions to account for the implementation of existing legal obligations. It must also be at the forefront of advancing **new and more ambitious EU legislation and policy** on children’s rights and ensuring **greater coherence between the stated objectives of EU internal and external action and the actual impacts on children’s lives**, be they direct or indirect.

The European Parliament should take leadership for promoting children’s rights by inviting the **Committee on Civil Liberties, Justice and Home Affairs** (LIBE) to question the Commission and the Council on children’s rights matters and by using the 2012 Note “EU Framework of Law for Children’s Rights”.

THE COUNCIL OF MINISTERS

8. Be a Driver for implementing Children’s Rights

The **Council of Ministers** should take leadership, be a driver for the implementation of children’s rights within the EU and establish within the Council Secretariat a child rights focal point, similar to COHOM for external relations.

9. Bridge gap between internal and external dimensions

Implementation of European External Action Service (EEAS) Child Rights Guidelines and the DG DEVCO instruments, including the EU-UNICEF Child Rights Toolkit '*Integrating Child Rights in Development Cooperation*' will generate considerable learning about applying children's rights in programming. It is important to bring these lessons into internal policy development and debate.

OVERARCHING RECOMMENDATIONS TO ALL EU INSTITUTIONS

10. Strengthening capacity and involvement of civil society

Civil society plays a critical role in innovation and empowerment and engagement of children and young people, as well as in advocacy. Their involvement in decision-making can strengthen the link between policy and practice and support a better understanding of what works.

11. Reinforce Inter-institutional co-operation

The European Union would benefit from greater collaboration with the UN Committee on Children's Rights and the Council of Europe so as to build on the extensive policy guidance already endorsed by EU member states.

INTRODUCTION

It is widely acknowledged that the EU needs a more comprehensive approach to the promotion and protection of children's rights now that the Agenda has matured and legal and policy measures relating to children have proliferated. Mainstreaming children's rights allows for a comprehensive approach to any key priority such as children's rights and enables children's rights to be firmly embedded in EU processes which, in turn, achieve sustainability and rigor in the EU's future children's rights activities. The question, however, is how can this be achieved in an EU context? What lessons can be drawn from other mainstreaming models, both nationally and internationally?

The key aim of this study is to report on the findings of a year-long study carried out by Eurochild, which was aimed at developing a child-mainstreaming model to guide EU processes and activities relating to EU legislation, policies, budgetary decisions and judicial decision-making. Our primary focus is EU internal policy, since the Eurochild network promotes the rights and well-being of children in Europe. Nonetheless we recognise the importance of ensuring coherence with the EU's external policy, including enlargement, neighbourhood, development cooperation, trade and external action. In particular we welcome the recent adoption of the EU-UNICEF Child Rights Toolkit on Integrating Child Rights in Development Cooperation². Implementation of the Toolkit in development programme can usefully inform the development of a more robust internal mainstreaming mechanism.

The study is intended for officials in the EU institutions and should be seen as complementary to '*Realising the rights of every child, everywhere: Moving forward with the EU*' a publication of Eurochild and UNICEF³. Mainstreaming children's rights in EU processes should be one of the two key pillars, next to a pillar with concrete actions, in a new EU Framework on Children's Rights.

BACKGROUND TO THE STUDY

The study has been supported by Eurochild's '*Expert group on the impact of the Lisbon Treaty on Children's Rights*' and is based on interviews carried out with a range of EU officials (European Commission, Council of the European Union and input from the European Parliament⁴). Fourteen officials from the European Commission and three officials from the European Council Secretariat were interviewed about how children's rights are mainstreamed into their current work, including preparing current and recent legislative proposals and policy proposals. This included questions on their knowledge of the UNCRC and EU legal mechanisms to guarantee children's rights. Suggestions for improving the mainstreaming of children's rights were also taken on board. Officials were asked about their cooperation with civil society and their expertise on children's rights and whether they had consulted with children themselves.

² EU-UNICEF Child Rights Toolkit, Integrating Child Rights in Development Cooperation, UNICEF 2014.

³ Eurochild and UNICEF, '*Realising the rights of every child, everywhere: Moving forward with the EU*', February 2014.

⁴ European Parliament, DG for Internal Policies, Policy Department C, Citizens' Rights and Constitutional Affairs: Note '*EU Framework of Law for Children's Rights*', PE 462.445, 2012.

The Commission officials interviewed included nine desk officers, three heads of unit, a Commissioner's Cabinet member and the children's rights co-ordinator. The following Directorate Generals took part:

- **DG Justice**
- **DG Home Affairs**
- **DG Education, Culture, Multilingualism and Youth**
- **DG Employment, Social Affairs and Inclusion**
- **DG TRADE**
- **DG Health and Consumers**
- **DG Communications Networks, Content and Technology**
- **DG Enterprise and Industry**

In general, all of the officials were aware of the content of the UNCRC, though some had more knowledge than others, because of previous work experience or due to trainings and education. All of the persons interviewed were aware of the inclusion of children's rights in the objectives of the Lisbon Treaty and the Charter of Fundamental Rights, though this did not always make a difference for including this in legislative proposals according to some officials.

In addition, a literature review was carried out, analysing academic articles on mainstreaming of children's rights. The Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime (further referred to as the '*EU's Victims Directive*') was explored in more detail because it is considered as an example of children's rights having been effectively mainstreamed. Next to EU best practices a range of national best practices of mainstreaming children's rights have been identified with support from the Eurochild's '*Expert group on the impact of the Lisbon Treaty on Children's Rights*'.

CHILD RIGHTS MAINSTREAMING: A LITERATURE REVIEW

The concept of mainstreaming is already firmly embedded in EU policy and legislative processes for a host of cross-cutting issues: gender equality, fundamental rights, disability, health care⁵, environmental protection, consumer protection and culture – supported by specific provisions of the Treaty on the Functioning of the European Union⁶.

Though there is a less explicit Treaty obligation to mainstream children's rights across the Union's areas of activity, there is a **reference to children in the objectives of the Treaty (Article 3 TEU)**.⁷ **With that in mind**, incorporating the needs of children into law-making processes is not only desirable, but also necessary if the objectives of Article 3 TEU are to be achieved⁸.

The most prominent area in which mainstreaming has been developed and applied is in the gender equality arena,⁹ and a number of commentators have explored the possibility of applying a similar model to children's rights. For example, Drywood argued that incorporating the needs of children into law-making processes is not only desirable, but also necessary, in a legal system, such as the EU, that purports to uphold the rights of young people in Article 3 TEU. However, the Treaty lacks the specificity to be recognised as imposing a constitutional duty to mainstream.¹⁰

Moreover, **mainstreaming is identified by the Commission as a central plank of the EU's developing children's rights agenda:**

*'The EU's commitment to the rights of the child requires a coherent approach across all relevant EU actions. This objective can be reached by using the Treaties, the Charter of Fundamental Rights of the European Union and the UN Convention on the Rights of the Child (UNCRC) as a common basis for all EU action which is relevant to children. The "child rights perspective" must be taken into account in all EU measures affecting children'*¹¹.

⁵ 'Health in all policies' is one of the key principles of the EU Health Strategy. Implementation of the health strategy is supported by a Council working party on public health meeting at senior level and an inter-service group on public health, in which more than 20 departments are represented, including sub-groups on dynamic health systems, global health, health and the environment.

⁶ See Article 8 on gender mainstreaming; Article 152 on public health; Article 153 on consumer protection; Article 151 on culture and Article 174 on the environment.

⁷ Drywood E., 'Child-proofing' EU law and policy: interrogating the law-making processes behind European asylum and immigration provision', *International Journal of Children's Rights* 19 (2011) 405-428.

⁸ Drywood E. has used Bell's definition, who stated that mainstreaming should be regarded as an equality issue and defined it as the 'integration of equality considerations into all aspects of policy formulation, implementation and evaluation' (Bell, 2004: 252)

⁹ The definition of gender mainstreaming is '...the (re)organisation, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies at all levels and at all stage, by the actors normally involved in policy making'. Council of Europe, 1998.

¹⁰ Drywood E., 'Child-proofing' EU law and policy: interrogating the law-making processes behind European asylum and immigration provision', *International Journal of Children's Rights* 19 (2011) 405-428

¹¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'An EU Agenda for the Rights of the Child', COM(2011)60 final, Brussels, 15.2.2011.

In the same vein, **a study commissioned by the European Parliament Committee on Civil Liberties, Justice and Home Affairs, in its Note 'EU Framework of Law for Children's Rights'**¹² includes specific recommendations regarding the development of a more comprehensive mainstreaming strategy.

Recommendation 6 of the Note states: 'The European Parliament should call on the Commission to develop a plan for the *mainstreaming of children's rights* in all areas of EU competence, informed by the principles of the UNCRC. The elements of such a plan might include, for example: 1) taking further into consideration children's rights and needs within the EU institutions such as varying childhood and adolescence situations including disadvantage and exclusion; 2) further enhancing children's rights expertise within the EU institutions; 3) coordination within EU institutions aimed specifically at addressing children's rights; 4) on-going monitoring to evaluate the impact of the mainstreaming process'.

Integration of the **principles of the UNCRC would act as a 'child-proofing tool'** and ensure that the EU abides by the Convention. According to the UN Committee on the Rights of the Child, a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the impact of the implementation) has to take place at all levels of government and as early as possible in the development of policy.¹³ As De Vylder stated, all stakeholders have to bear in mind that **no policy is child neutral**¹⁴. This means that any policy can have unintended consequences for children as the examples detailed below illustrate. Therefore a process to legislate or develop policies and budgets needs to anticipate its impact on children with a view to mitigating their negative impact and maximising their positive impact.

Studies reveal inadequate attention to children's rights in EU legislative processes

Several academics have dived into the impact assessment work of the Commission to trace where children's rights have come in. Eleanor Drywood has looked in particular at **the EU's asylum and immigration law** as a case study¹⁵. Children can experience these procedures differently from adults even if these regulations are supposed to be age-neutral. Drywood refers to the inconsistent attention to children's rights across the EU asylum and immigration directives, some directives make explicit reference to the importance of upholding the best interests of the child¹⁶, whilst others do not include a single reference to the children's rights principles.¹⁷ Another criticism is that even where reference is made to a children's rights principle, **on the whole a fairly low level of children's rights protection is endorsed**. For example the apparent endorsement of detention centres to house child asylum-seekers have been heavily criticised by children's rights NGOs.¹⁸

Similarly, Amandine Garde challenges the inadequacy of mainstreaming of children's rights within the EU's **internal market and consumer policies**, and illustrates this with two examples, the **Unfair**

¹² European Parliament, DG for internal policies, Policy Department C: Citizens' Rights and Constitutional Affairs; Civil Liberties, Justice and Home Affairs, April 2012. <http://www.statewatch.org/news/2012/apr/ep-study-childrens-rights.pdf>

¹³ UN Committee on the Rights of the Child, General Comment N. 5 on the General Measures of Implementation of the UNCRC, 2003, CRC/GC/2005/5, para. 45

¹⁴ De Vylder, 'Macroeconomic issues and the rights of the child'. In *Understanding Children's Rights: Collected Papers Presented at the Seventh International Disciplinary Course on Children's Rights*. Ed. A. Weyts (Ghent: Children's Rights Centre, University of Ghent, 2004) 431.

¹⁵ Drywood E., 'Child-proofing' EU law and policy: *interrogating the law-making processes behind European asylum and immigration provision*, *International Journal of Children's Rights* 19 (2011) 405-428.

¹⁶ Asylum procedures directive (Article 18(1) Directive 2003/9/EC).

¹⁷ Long-term residents' directive (Directive 2003/109/EC).

¹⁸ See for example, the lobbying activities of the Save the Children Europe Group, <http://tinyurl.com/ps0573q>

Commercial Practices Directive (UCP Directive) and the **Audio-visual Media Services Directive**, that children's rights have failed to be adequately protected.¹⁹ Directive 2005/29 on unfair business-to-consumer commercial practices (UCP Directive)²⁰ explicitly recognises that children constitute a group of particularly vulnerable consumers deserving, as such, special protection, and age is referred to as a relevant criterion for determining the impact of a commercial practice on consumers²¹. However, according to Garde, the **wording of the Directive is too restrictive** to support the argument that the UCP Directive upholds the best interests of the child. She refers to the *travaux préparatoires*, which do not contain any evidence that the question of whether advertising to children is inherently unfair has been at all discussed.

Moreover, she identifies, on the basis of an analysis of the wording of Article 5(3), several gaps in the protection the Directive offers to children. In particular, she points out that the Directive allows 'the common and legitimate advertising practice of making exaggerated statements or statements which are not meant to be taken literally' – even though children are the very consumers most likely to take exaggerated statements literally.

The **Audio-visual Media Services Directive (AVMS)**²² includes provisions to protect children from advertising and harmful contents, but while the AVMS Directive provides that 'audio-visual commercial communications shall not cause moral or physical detriment to minors' by directly targeting minors, the use of the word 'directly' restricts the scope significantly, according to Garde. She also argues that the AVMS Directive does not sufficiently **protect children from the harmful effects of alcohol and HFSS food**²³ (...) and it is recommended that the protection of children's health should be strengthened within this Directive in light with existing evidence on the impact of alcohol and food marketing on children's consumption patterns and purchase requests²⁴.

Regarding the EU's work-family reconciliation framework, consideration of children's needs have been missing according to Grace James²⁵. Reconciliation measures have traditionally been developed, promoted and critiqued as a means of promoting gender equality and economic growth within the EU and, according to James, it is an area that does not welcome assessment from a children's rights perspective. For example the **Pregnant Worker's Directive** (Council Directive 92/85/EEC), which entitles women to a minimum of 14 weeks leave has underestimated the plurality of pregnancy and birth experiences and their impact on children's needs.²⁶

¹⁹ Garde A, 'Advertising Regulation and the Protection of Children-Consumers in the European Union: in the Best Interests of ... Commercial Operators?', *International Journal of Children's Rights* 19 (2011) 523-545.

²⁰ The European Consumer Agenda COM(2012)225 states:

"As part of its work to report on the functioning of the Unfair Commercial Practices Directive, the Commission will assess in 2012 whether the current rules aimed at protecting children from misleading advertising, also in the digital environment, need to be enforced better. It will continue to focus on the specific situation of minors buying or using digital content online."

²¹ Article 5(3) and Point 28 of Annex I to the UCP Directive.

²² OJ 2010 L 95/1

²³ Foods and beverages high in fat, trans-fatty acids, salt/sodium or sugars, whose excessive intake is not recommended as part of a balanced diet, are so-called HFSS food.

²⁴ Bartlett, Oliver (Durham University) and Amandine Garde (Liverpool University), 'Time to Seize the (Red) Bull by the Horns: The EU's Failure to Protect Children from Alcohol and Unhealthy Food Marketing', *European Law Review* 38 (2013) 498. See also A. Garde, *EU Law and Obesity Prevention* (Kluwer Law International, October 2010), chapter 5 on marketing to children specifically.

²⁵ James G. (2012): 'Forgotten children: work-family reconciliation in the EU', *Journal of Social Welfare and Family Law*, 34:3, 363-379.

²⁶ James G. (2012): 'Forgotten children: work-family reconciliation in the EU', *Journal of Social Welfare and Family Law*, 34:3, 363-379.

Studies such as these reveal the shortcomings of EU legislative provision for children and stress the mandate for the EU to mainstream child rights. The evidence from these studies underline that mainstreaming is currently not being done well enough and has led academics to come up with a range of criteria for mainstreaming children's rights. These coupled with the outcomes of the interviews with EU officials and best practice models identified at national level, has led to the development of **seven steps, which will lead to effective child rights mainstreaming**.

CHILD RIGHTS MAINSTREAMING: *LESSONS FROM PRACTICE*

INTRODUCTION

It is recommended that the EU takes seven steps into account to ensure that **children's rights will be at the heart of all that the EU does and to ensure that transparency is an integral part of these steps.**

- 1) **Political will & leadership**
- 2) **Awareness, capacity and resources within the services responsible**
- 3) **Commitment to use the UNCRC as the starting point**
- 4) **Application of mainstreaming tools to legislation, policy and funding and throughout the policy cycle**
- 5) **Systematic use of impact assessments in policy formulation and implementation**
- 6) **Consultation and involvement of stakeholders in decision-making**
- 7) **The views and experiences of children and young people themselves are sought and taken seriously**

To illustrate how these steps can be applied in practice, **good practices examples from within EU member states** have been collected. **These examples illustrate where children's rights mainstreaming has led to a real improvement for children and/or their rights** and the processes in place. It should be noted, however, that the selected good practices examples are not presented as "perfect" cases of mainstreaming, which meet all seven criteria. Rather, the selection aims to highlight how particular aspects of our mainstreaming model can be achieved effectively. In addition, **mainstreaming should lead to specific targeted measures in order to address specific child rights issues.** For example, in the context of unaccompanied children (asylum seekers, trafficked children, young migrants, etc.) there is a need to develop specific provisions to ensure competent guardianship for such children – an issue which can never be fully addressed by following only a mainstreaming approach. Ideally there should always be a double-strategy of mainstreaming of an issue complemented by targeted action, which, for instance, should also be reflected in funding programmes.

Eurochild believes that the EU can learn lessons from the national practices and **believes that the seven criteria can inspire and support the EU when developing guidelines to mainstream children's rights by the Children's Rights Unit in DG JUST and can form one of the pillars of the follow-up Framework to the EU Agenda on Children's Rights.** The seven steps or criteria should be encouraged to be widely distributed among all Commission DGs and the other EU legislative institutions, the European Parliament, the Council Secretariat, Member States, EESC and the Committee of the Regions.

1) Political Will & Leadership

⇒ *What does it mean?*

Without giving leadership and political will children's rights will not be mainstreamed consistently in the EU's legislation, policies and budgets. It was political will that led to the inclusion of children's rights within the Treaty on European Union and which has supported the development of a number of child-focused measures within the EU's *acquis*. The DG Just unit on fundamental rights and children's rights regularly updates a list of **EU *acquis* and policy documents on the rights of the child**²⁷, which includes a compilation of all EU legislation and provisions, as well as major policy documents and Commission proposals for legislation with an impact on the rights of the child. This provides an invaluable practical reference tool for Commission officials and other stakeholders.

National example from the Welsh government: The Children's Rights Scheme

The Welsh government has laid down guidelines in a **Children's Rights Scheme** to mainstream children's rights in its national policies. It sets out the arrangements that Welsh Ministers will have in place to make sure that they, and Welsh government staff, comply with the duty placed on them by the Measure – to “have due regard” to children's rights, when working on or developing proposed new legislation, proposed new policies and any review of, or change to, an existing policy.²⁸

'Six Steps to Due Regard'

Under the Welsh process, staff will need to follow six steps:

• Step 1 – What's the piece of work?

Staff needs to identify whether they are working on a new policy or legislative proposal, or a change to, or review of, an existing policy. If they are, the due regard duty applies.

• Step 2 – Which UNCRC rights does the work help to realise or affect?

This is where staff will use the UNCRC Impact Assessment Tool. This helps them to identify which UNCRC rights are relevant to their piece of work. Over time, the Welsh government aims to develop more guidance about what particular rights mean. They hope to make use of external expertise to do this.

• Step 3 – Respecting rights and giving greater effect to the UNCRC

Once staff has identified relevant rights, they need to check that the proposed policy or legislation does not breach any of those rights. They then need to consider ways in which the proposal could give further effect to them.

• Step 4 – What action could the Welsh Ministers take next?

If staff have identified that a right would be breached by the proposal, they need to consider how it could be changed to stop that happening. If they have identified that the proposal could give further effect to a right in a particular way, they need to consider all the other factors, which are relevant. Different factors will be relevant to different proposals. Examples could be time

²⁷ 'EU *acquis* and policy documents on the rights of the child'; Directorate General JUST. C1/MT

²⁸ Welsh Government 'The Children's Rights Scheme, Arrangements for having due regard to the UN CRC in the Welsh Government's work on policy and legislation' – 27 March 2012

constraints or resources. Other statutory duties will need to be considered, such as equality duties. Staff will need to give an appropriately weighted consideration to the UNCRC and all the other relevant factors.

• **Step 5 – Ministerial Decision**

Staff will provide options and advice to Ministers on the policy or legislative proposal. They will put together this advice having had due regard to the UNCRC as described in the steps above. Ministers are responsible for taking decisions and having due regard to the UNCRC when taking those decisions. The options and advice from Welsh Government staff will help them to carry out those responsibilities.

• **Step 6 – Keeping Records**

Records will be kept of how the due regard duty has been complied with. These will be used to inform the governments' reporting to the National Assembly for Wales.

⇒ *Why is it relevant to the EU?*

Leadership and political will to implement children's rights is relevant to all decision making levels, including local, regional, national and the EU. Leadership within the **European Commission** needs to be provided by the European Commissioners and should not only be left to a single fundamental rights and children's rights unit within DG JUST. In this respect the divide between internal and external dimensions should be bridged by using the EEAS Child Rights Guidelines and the EU-UNICEF Child Rights Toolkit on integrating child rights in development cooperation.

The European Parliament as co-legislator and budgetary authority needs to be encouraged to take leadership for promoting children's rights and should be championing children's rights through their inclusion in all European Parliament political documents and processes. The Committee on Civil Liberties, Justice and Home Affairs (LIBE) leads on children's rights, though due to its workload the focus on children's rights remains limited. In an informal exchange with Eurochild in 2012, the LIBE Committee secretariat declared that mainstreaming children's rights currently remains the only realistic possibility to advance the children's agenda. According to Eurochild, supported by many MEPs, **a permanent child rights governance system needs to be installed within the European Parliament with explicit responsibility for protecting and promoting** children's rights across all policy sectors in internal and external affairs. This could be done in different ways, such as establishing an intergroup on children's rights, appointing child rights focal points in all EP committees, setting up a Task Force dealing with children's rights (according to the example of the Disability Task Force²⁹), setting up a specific committee or sub-committee on children's rights or other ways. The extent to which any of these options will be taken up depends on the will and vision of the newly elected European Parliament in May 2014.

With regard to the **Council of Ministers**, the extent to which they mainstream children's rights depends on their willingness and knowledge. This is something of a challenge given that the Council needs to deal with 28 different Member States, with different cultures on children's rights and the rotating Presidencies, which all have different priorities. However, **the EU Presidencies can be a driver for children's rights**. For example, the Belgium EU Presidency in 2010 contributed a lot to the development of the Commission Recommendation Investing in Children,

²⁹ The Disability Task Force was set up by the European Parliament in December 2013.

while the Spanish Presidency in the same year adopted gender and children's rights, in particular unaccompanied minors, as its key priorities.

According to Drywood, there is a need for a **willingness among the key actors** to drive forward a children's agenda and one has to overcome the myriad competing agendas that exist in any area of legal and policy activity³⁰.

EU Example: The Gender Mainstreaming Process: an inspiration for child rights mainstreaming?

An area that is often looked at as a good practice example for child rights mainstreaming is **gender mainstreaming**. The gender mainstreaming process would not have happened without political will. The gender mainstreaming process is based on a gender mainstreaming strategy, '*Strategy for equality between women and men 2010-2015*³¹', which refers to girls and clearly works on the equality of men and women. Girls are referred to in relation to violence and stereotypes. Article 8 of the Treaty of the European Union (TEU) endorses the principle of gender mainstreaming in all EU policies and legislation.

The Gender Equality Unit meets with an inter-service group (ISG) representing most DGs, every half year to look at progress of the EU's strategy on gender mainstreaming based on a list of actions adopted by the Member States every 3 years. Training programmes are offered by the **Gender Equality Unit** and include the **discussion of case studies**.

Key features underpinning the success of the EU's gender mainstreaming model are:

- **A legal base in the Treaty (Art. 8)**
- **The Inter-service Group**
- **Training**
- **A programme with concrete actions:** '*Strategy for equality between women and men*'

These are **lessons to be learned from this for children's rights mainstreaming**.

The Gender Equality Unit checks the Commission work programme for issues where the gender dimension might be relevant, and when these have been identified, the Unit contacts the responsible DGs to discuss the need to include the gender dimension by offering their support and advice. The selection of issues to be acted upon is based on the Unit's knowledge of gender issues. The proposals selected are followed throughout the complete legislative process and monitoring of its impact is made in cooperation with their partner unit (legal unit) when it comes to the implementation of the legislation.

According to the European Women's Lobby (EWL), the risks, which are identified with the gender mainstreaming process are outweighed by the opportunities it brings. According to the EWL an institutional framework is needed to drive the process, which includes political will, bringing several actors on board, data, impact assessment, financial means, human resources, training and the participation of the people concerned at the different stages of the process.³²

³⁰ Drywood E., 'Child-proofing' EU law and policy: interrogating the law-making processes behind European asylum and immigration provision', *International Journal of Children's Rights* 19 (2011) 405-428.

³¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 21 September 2010 - [Strategy for equality between women and men 2010-2015](#) [COM(2010) 491 final].

³² Report from Eurochild-EURONET event on "Mainstreaming children's rights in EU policy", European Parliament, Brussels, 9 October 2007.



Political will may fall when political changes take place; therefore a mainstreaming process needs to be in place.

2) Awareness, capacity and resources in the services responsible

⇒ *What does it mean?*

Assessing legislation and policies alone does not guarantee that mainstreaming is successful. Officials and politicians developing policies and legislation need to be informed and trained on children's rights.

Next to training and awareness-raising among officials and politicians, **changing public opinions and mobilising individuals to act** is equally important. Both adults and children must be informed and convinced about children's rights and understand this in practice. This step is rooted in General Comment No. 5 (Art. 42 UNCRC), which states that States have to make the UNCRC known to adults and children. The reason for this step is that the public is the main decision-making authority, even though not always obvious. Politicians gauge public opinions (and also belong to the public).

The example of the anti-bullying campaign in Lithuania (*see example under 7, children's representation and participation*) showed positive outcomes of participation of children and young people in a campaign targeting public opinions. In Hungary, the awareness raising was focused around the dissemination and use of the UNCRC Implementation Handbook among professionals, parents and children.

EXAMPLE: 'You have the right!' project in Hungary

In 2006, the Family, Child, Youth Association in Hungary developed a EU-funded project called 'Van jogod!' ('You have the right!') intended to raise awareness on children's rights among professionals and children. According to a Eurobarometer survey³³, the Hungarian children know the least about their rights among their EU peers, although the UNCRC has since 1991 been an integral part of the Hungarian legal system.

Part of the project was the translation, publication and free distribution of the Implementation Handbook for the UNCRC with a supplementing CD in it, including the free access to it through the Internet. Two smaller Handbooks were also prepared on the most relevant issues concerning child rights, one for professionals and parents and another one for children helping them getting information on their rights, on discrimination and techniques how to prevent the latter. These are also available on the [website](#) of the Association. There were also trainings provided to professionals and children on the rights of the child to prevent discrimination and raise awareness on its importance.

³³ 'The Rights of the Child' (No 273) in 2009

An important impact of the project has been the use of the UNCRC Implementation Handbook at the different Law Faculties, and a special course at the Budapest University ELTE and at Pécs University on child rights, based on the Handbook. The ombudsman offices are also using these documents and there are now regular consultations between the ombudsman's office and the Association. The Association has also disseminated the information on the availability of the publications at conferences, training courses and in the media. Academics, police, pedagogues and social workers are using the handbook and courts are quoting from the handbook. Thanks to EU funding, the handbook has been translated into Hungarian, distributed and disseminated via the internet, which contributed to the sustainability of the project.

⇒ *Why is it relevant to the EU?*

Within the European Commission Inter-service Group on Children's Rights (*ISG*), members have been calling for more training, including on mainstreaming of children's rights. From interviews with officials in different DGs it turned out that officials would like to have specific targeted trainings in the area of their work and within their DG. It was also raised that trainings should not only focus on the usual 'suspects in the ISG', but also broaden outside this group. A further **investment in training and awareness-raising among key personnel within the EU is important** to develop the appropriate level of capacity to mainstream children's rights.

To ensure sufficient capacity is available within EU services to carry out the mainstreaming process, **sufficient human and financial resources** need to be made available.

There is a **widespread need across the EU for awareness-raising on the UNCRC**. This is **confirmed by outcomes of the Eurobarometer surveys on the Rights of the Child** of the past years³⁴. These outcomes show that the knowledge on the UNCRC among children and young people is low.

Eurochild's work with children in vulnerable situations, including Roma children, children in alternative care, children in juvenile justice institutions, disabled children, etc., showed that among these groups of children the knowledge on the UNCRC is even lower.³⁵



Not only provide training and raise awareness with officials already working on issues related to children, since 'no policy is child neutral'.

³⁴ Eurobarometer reports 2010, 2009 and 2008 (www.tinyurl.com/eurobarometer-2008, www.tinyurl.com/eurobarometer-2009, www.tinyurl.com/eurobarometer-2010)

³⁵ Speak Up! Project: Projects & European Years, <http://www.eurochild.org/?id=454>

3) Commitment to use the UNCRC as the starting point

Rights-based assessment of all EU processes

⇒ *What does it mean?*

The UN Convention on the Rights of the Child (UNCRC) is the most comprehensive statement of children's rights, applying to all aspects of their life, with broad international consensus. If the EU assesses its policies against the UNCRC it will promote positive outcomes for children.

The process to legislate, draft policies, programmes and budgets has a basis in the international standard consolidated by the UNCRC and its' Optional Protocols. Particular reference can be made here to the third Optional Protocol, establishing a Communications Procedure, which allows individual children to submit complaints regarding specific violations of their rights under the Convention, which strengthens their positive impact on children.

Experience shows that placing the UNCRC at the centre of primary law (e.g. national constitution) facilitates inclusion of a children's perspective in secondary legislation and budgetary instruments. This has been demonstrated in 2012 in Austria and in 2013 in Ireland.

EXAMPLE: Inclusion of Children's Rights into the Austrian Constitution

The UNCRC was ratified by Austria in 1992, but was given a low legal standing. Its constitutional status was denied, and Parliament also prevented its direct application by the Austrian authorities. The Convention could not be relied on in courts, or provide a legal basis for initiating child rights impact assessment of draft legislation nor for checking compliance of existing laws with CRC standards. Consequently, it had little meaningful legal impact in practice.

Once this regretful gap was identified, the Austrian National Coalition for the Implementation of the CRC engaged in a lengthy lobbying action to raise the legal status of the Convention. The main objectives of the action were to clearly and comprehensively establish **children as holders of constitutional rights, to end the questioning their capacity to hold and to claim rights, and to establish a binding legal basis for mainstreaming of children's rights into legislation, policy and practice.**

The "**Federal Constitutional Act on Children's Rights**" (Bundesverfassungsgesetz über die Rechte von Kindern) was **adopted and entered into force in 2011**. Although not as comprehensive as advocated by civil society it contains seven substantial Articles on key principles and rights, some of them taken almost literally from the CRC and a final Article on the responsibility of the entire government for its implementation. Furthermore, **budgetary legislation effective as of 2013 imposes mandatory impact assessment of draft legislation on children**, and its accompanying

guidance documents make explicit reference to the CRC and the Children's Rights Act. It is hoped that this new instrument becomes the foundation for effective ex ante child rights impact assessment of draft laws. Although the formal assessment of the impact of the Children's Rights Act is yet to be undertaken, it can already be confirmed that constitutional guarantees such as the ones introduced in Austria can certainly have a significant potential for making law and policy more child-friendly and CRC-compliant.

EXAMPLE: Referendum on Constitutional Amendment on Children in Ireland

In 2006, then Taoiseach Bertie Ahern TD committed to hold a children's rights referendum and following a general election in 2007, a Joint Parliamentary Committee on the Constitutional Amendment on Children was established to examine how to 'elevate the rights of all children in the Constitution'³⁶ and to propose wording for the amendment. In 2010, an all-party consensus was reached on the wording and this was published in 2011.

The Government committed in its 2011 *Programme for Government*³⁷ to hold a referendum to amend the Constitution to strengthen children's rights. On 19 September 2012, the Government published the Thirty-first Amendment to the Constitution Bill, which contained the revised text of a proposed constitutional amendment.

On 10 November 2012 the referendum was held and the People of Ireland voted 58% to 42% in favour of the Thirty-first Amendment. However, the turnout was low at 33.5%.

While the **amendment does not incorporate the UN Convention on the Rights of the Child (UNCRC) into the Irish Constitution, it does, however, reflect certain aspects of the Convention**, namely the best interests of the child and hearing the views of the child in certain circumstances. Once the amendment is signed into law it will require further legislation to implement the principles contained within it and this will provide a further opportunity to ensure that significant legislation, which will impact on children, will be underpinned by children's rights.

Note: The referendum result has been the subject of a legal challenge. In October 2013, the High Court ruled against the challenge and found that the result was lawful but this decision has been appealed to the Supreme Court and is awaiting hearing.

⇒ *Why is it relevant to the EU?*

The **EU has a constitutional obligation** to adhere to the principles and provisions set out in international human rights law, including the UNCRC, in relation to those matters that fall within the scope of EU competence. Child Rights mainstreaming is a crucial mechanism for ensuring that EU activities area fully compatible with the CRC. The **Children's Rights Unit** (DG Justice) is responsible for mainstreaming children's rights in all Commission proposals, including all future legislation as well as funding regulations. They make use of the **fundamental rights check list**³⁸, UNCRC country reports³⁹, alternative reports submitted to the UN Committee on the rights of the child by civil society organisations, a wide range of studies and the UNICEF Implementation Handbook on CRC. This Handbook is also used by DG EMPL, but not within other DGs. There is no support for developing a child rights checklist within the Commission hierarchy, but there is support for a guide on children's

³⁶ See *Ryan Report Implementation Plan*:

http://www.dcy.gov.ie/documents/publications/implementation_plan_from_ryan_commission_report.pdf, p.xiii.

³⁷ Government of Ireland (2011) *Programme for Government 2011*, Dublin: Stationery Office, p.17.

³⁸ To facilitate the fundamental rights impact assessment the Commission in 2011 provided in its **Staff Working Paper operational guidance on taking account of Fundamental Rights in Commission Impact Assessments**. This Commission working paper provides guidance, accompanied by a range of legislative examples and taking the fundamental rights check list as a basis. Communication from the Commission 'Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union', COM(2010) 573 final, 19.10.2010

³⁹ Periodic Country Reports submitted by State parties to the UN Committee on the Rights of the Child.

rights mainstreaming, which would enable the involvement of Commission services for whom children's rights mainstreaming is not yet an obvious task.

The **UNCRC therefore needs to be considered by the EU institutions as the starting point for all decisions with an impact on children** and their rights. This does not mean that a simple reference to the UNCRC is sufficient and it also does not mean that children's welfare is similar to children's rights; rather the impact of legislation needs to be assessed by reference to all rights included in the UNCRC, which are relevant to the legislation. The role of the UNCRC is not only a starting point, but rather a referral structure within which all EU legislation, policies and budgets has to be developed.

An example of good practice where the EU has taken the UNCRC into account is the EU Victim's Rights Directive, which makes specific provision for child victims.

EXAMPLE from the EU: 'The EU Victims' Rights Directive'

On 25 October 2012 the EU Council adopted **Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime**. It is a horizontal directive focusing on victim's rights throughout criminal proceedings and includes a specific children's rights approach.⁴⁰

The **Commission's proposal** for the EU victims' directive⁴¹ was published following an impact assessment, external study and consultations with interested parties and stakeholders. The proposal amongst others took into account provisions in the Council directive on sexual exploitation of children and child pornography and the EU agenda for the Rights of the Child. The Commission's initial proposal included specific protection measures for child victims of crime and though child victims were not explicitly mentioned in the objectives of the directive, general provisions targeting family members would benefit them in particular.

The **Justice and Home Affairs Council** suggested several amendments to the Commission proposal and the most significant improvements for children were that **information provided to victims had to be provided in a 'simple and accessible language'** and *'for the purposes of this directive children shall always be presumed vulnerable'* and therefore need specific protection.⁴²

The European Parliament report⁴³ on the Commission's proposal for a victims' directive included **many amendments, which strengthened the protection of child victims' of crime**, which are **in line with the UNCRC**. The final text has taken over the "spirit" of many of these amendments, including the reference to **the specific needs of child victims, taking its best interests and its age and maturity into account** in article 1 which describes the **objectives of the directive**. Because of these changes the objectives of the directive were brought into line with Articles 3 (best interests) and

⁴⁰ The Directive has to be transposed by the EU Members States into national laws, regulations and administrative proceedings by 16 November 2015. The United Kingdom and Ireland have decided to opt-in in the adoption of the directive and Denmark is not taking part and will therefore not be bound by it.

⁴¹ Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime COM (2011)275 final; 2011/0129(COD); Brussels, 18.5.2011 and Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, 'Strengthening victims' rights in the EU' {SEC(2011) 580 final}and{SEC(2011) 581 final}.

⁴² Council of the European Union, Note from Presidency to COREPER/Council on the subject 'Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime', Inter-institutional File: 2011/0129 (COD), 18241/11, Brussels, 9 December 2011

⁴³ European Parliament Report on the proposal for a directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime; (COM(2011)0275 – C7-0127/2011 – 2011/0129(COD)); Committee on Civil Liberties, Justice and Home Affairs, Committee on Women's rights and Gender Equality; A7-0244/2012; 18 July 2012.

12 (right to participate) of the UNCRC. The European Parliament report referred to children not as 'vulnerable victims', which could be seen as unintentionally discriminatory but as '*victims with specific needs*', which has been taken over in the objectives of the directive. This description is fully in line with the experience of civil society organisations working with children in vulnerable situations, including EUROCHILD.

Many of the European Parliament's amendments were supported by the Commission, which proposed to deal with them as a "package" in the negotiations between the European Parliament and the Council – which proved successful. Together these two institutions convinced the Member States, led by the Danish Presidency, to take over the European Parliament's child specific amendments and compared to the original proposal the victim's directive could achieve **a much higher level of protection of child victims and guaranteed a child rights approach**. In particular the **reference to the specific needs of child victims in the objectives of the Directive (article 1) ensured a general mainstreaming of children's rights across the Directive**. But also specific UNCRC provisions regarding non-discrimination, the right to participate, guaranteeing the best interests of child victims, information provision, privacy and appropriate treatment for recovery have been guaranteed by the directive.



A single reference to the UN Convention on Children's Rights in a legal, policy or budgetary text will not be sufficient to ensure children's rights are implemented according to the UNCRC.

4) Mainstreaming applies equally to legislation, policy and funding and throughout the policy cycle

⇒ *What does it mean?*

A mainstreaming process needs to be comprehensive. This means remembering a children's perspective not only in legislative processes but also in soft law and policy measures, funding and programming and judicial proceedings. In federal states, like Austria, Germany and the UK, this means that national processes will have no impact at all if these are not mainstreamed and linked to the regional level of government, where in many cases the resources relevant for children are located. In practice, it appears that these other policy areas are often forgotten or mistakenly deemed to have little impact on children's rights.

In general, state budgets are not very clear in reflecting what part of it is spent on children and need to become more comprehensive and accountable as to the extent to which they take children's perspectives and interests into account. Moreover, while soft law measures are an invaluable means of developing children's rights in areas that fall outside the strict legal competence of the EU, it should not be a way to avoid having to do a child impact assessment.

⇒ *Why is it relevant to the EU?*

At the EU level in particular, **there are many issues affecting children, which are not covered by ‘hard’ legislation, but by soft law measures and/or specific funding programmes.** For example Europe 2020⁴⁴, specifically addresses the issue of combating child poverty and social exclusion. It sets concrete targets for children and youth with a focus on education and training. Such targets include the reduction of early school leavers to less than 10% and giving all children access to early childhood education and care.⁴⁵ The Europe 2020 Strategy additionally established a flagship initiative ‘Youth on the Move’ that aims to improve education and training systems at all levels⁴⁶. Another example is the Commission Recommendation ‘*Investing in Children: breaking the cycle of disadvantage*’⁴⁷, which provides a wide range of angles from which to address child well-being: it talks about social investment towards children, adequate income, quality services and child participation.

In England, the Children’s Rights Alliance for England (CRAE) assessed **the impact on children of government proposals** from the Ministry of Education.

EXAMPLE: Review of government measures against the UNCRC - England

In 2010, the then-Minister of State for Children and Families made ‘*a clear commitment that the government will give due consideration to the UNCRC Articles when making new policy and legislation, in doing so, we will always consider the UN Committee on the Rights of the Child’s recommendations but recognize that, like other State signatories, the UK Government and the UN Committee may at times disagree on what compliance with certain Articles entails*’.

In 2012, Children’s Rights Alliance for England researched⁴⁸ the level of compliance with this promise by the government. It found out that the Department for Education (DfE) did indeed **assess the impact on children of four different legislative proposals**: reform of the Children’s Commissioner; changes to the family justice system; changes to the law around parenting after separation; and proposals to change the system of contact and residence orders. The UNCRC assessment of each of these proposals took into account a number of considerations:

- **policy intention of the proposed legislation**, outlining the desired objectives of the proposal and their rationale, demonstrating the process that has been followed leading up to the proposal;
- **impact on children**, referring to statistics and academic evidence indicating the likely impact of the proposals on children and setting out the Government’s assessment of the added value of the policies and practices targeted by the proposal;
- **consultation with children and young people**, outlining how children (and, in some instances, children’s rights NGOs) have participated in shaping the proposal, thereby giving it more legitimacy and demonstrating the real need for it;
- **issues raised by the sector**, providing an overview of positions of stakeholders in the process, such as NGOs working with and for children, legal profession, research institutions, etc.;

⁴⁴ European Commission (2010), *Communication from the Commission, EUROPE 2020: A strategy for smart, sustainable and inclusive growth*, COM (2010) 2020.

⁴⁵ European Commission (2011), *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Tackling early school leaving: A key contribution to the Europe 2020 Agenda*, COM (2011)18.

⁴⁶ Youth on the Move, http://ec.europa.eu/youthonthemove/index_en.htm, (8 February 2012)

⁴⁷ Commission Recommendation C (2013)778 final of 20 February 2013.

⁴⁸ <http://crae.org.uk/assets/files/s%20Rights%202012.pdf>

- **UNCRC articles related to the policy and how the proposal complies with the Convention**, listing the relevant UNCRC articles and offering the interpretation of the proposal in light of these, also referring to the relevant recommendations made by the UNCRC Committee in this respect.

The Children's Rights Alliance for England (CRAE) welcomed the process in principle, and particularly the fact that it had the potential to draw on a wide-range of evidence in assessing the compatibility of policy proposals with the CRC, including children's views, academic comment, the opinions of civil society and the findings of the UNCRC Committee. However, it regretted that the Government provided evidence that legislative, but not other proposals have been evaluated against the UNCRC standards and raised concerns that the impact assessment only referred to the evidence supporting the proposal, whilst ignoring the evidence that could undermine the government's position. Most worryingly, CRAE expressed concerns⁴⁹ that the 2010 government commitment that could have had a very concrete and dramatic impact on the quality of law and policy affecting children, does not appear to have been taken seriously by other government departments.



Soft law measures, which can have considerable impact on children's lives and well-being can easily be missed out in mainstreaming children's rights.

5) Impact assessments are applied systematically

⇒ *What does it mean?*

An ***ex ante*** child impact assessment is needed at an early stage of a legislative process to reflect what possible impact legislation and policies can have on children, and to take this into account when drafting proposals. However, mainstreaming of children's rights in policies and legislation does not stop with the adoption of a legislative act or a policy but **continues throughout the implementation process**. The ***ex ante*** and ***ex post*** analyses are parts of this continuous process. Next to the ***ex ante*** impact analysis, there is a need for a **continuous monitoring** of the impact of adopted legislation and policies, in other words an ***ex post*** impact analysis is needed. The implementation of laws and policies can result in an impact on children and young people, which had not been foreseen during drafting; **monitoring of implementation** is therefore necessary to ensure that the children's perspective has not been lost. This includes scrutiny of how the Court of Justice or European Ombudsman deals with child-related cases.

The UN Committee on the Rights of the Child in its **General Comment No 14** on the right of the child to have his or her best interests taken as a primary consideration⁵⁰ and in **General comment No 5** on general measures of implementation of the UNCRC⁵¹ refers to the need for **States and Governments to carry out a continuous process of child rights impact assessment (CRIA)** to

⁴⁹ <http://crae.org.uk/news-and-events/press/government-failing-in-its-responsibilities-and-promises-to-children.html>

⁵⁰ UN Committee on the Rights of the Child, 'General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para 1)', CRC/C/GC/14, 29 May 2013.

⁵¹ UN Committee on the Rights of the Child, General comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child, para 45.

predict the impact of any proposed law, policy or budgetary allocation on children and the enjoyment of their rights. According to General comment no 14, **CRIA needs to be built into Government processes at all levels and as early as possible in the development of policy and other general measures in order to ensure good governance for children's rights** (para 99).

Garde calls for an **integrated child impact assessment** for EU initiatives with a potential economic, social and/or environmental impact⁵², which should apply to most legislation, White Papers, action plans, expenditure programmes and negotiated guidelines for international agreements.⁵³ Next to a systematic *ex ante* child impact assessment, an *ex post* **child impact evaluation** has to be carried out. Like Garde, Drywood pleads for a **systematic child impact assessment of legislative proposals** before these are adopted and she refers to the **set of child rights indicators**, which have been developed on behalf of the **EU's Fundamental Rights Agency**⁵⁴, as a potential model for achieving this.

⇒ *Why is it relevant to the EU?*

As is shown in the example of the EU Victim's Directive⁵⁵, a child impact assessment had not been carried out prior to drafting the legislative proposal. This resulted in a number of important omissions on the specific situation of child victims of crime. The European Parliament later corrected this thanks to the involvement of interested parties and external experts. At the moment, only in DG JUST are impact assessments of child-rights-related legislation now routinely carried out.

A good practice example of an **ex ante impact analysis** is found in Flanders in Belgium, where a child impact report is required by law.

EXAMPLE: Evaluating the Child and Youth Impact Report in Flanders – Belgium

In 1997, the Flemish Government in Belgium introduced a child impact report, abbreviated KER, which was transformed to child and youth impact report, abbreviated JoKER, by the Decree of 18 July 2008 on conducting a Flemish policy on youth and children's rights policy. **JoKER is an *ex ante* impact assessment which uses the rights-based approach** rooted in the UNCRC. The aim of the JoKER is to enable policy makers reflect on how the proposed regulations will impact on children and young people. **Every legislative proposal submitted by the Flemish government that has a direct impact on the interests of persons under the age of 25 has to be accompanied by a JoKER.**

The JoKER is a document with a description of the impact of the proposed decision on the situation of the child or young person. It must contain what the impact on their situation would be without the proposed decision as well as the alternatives, in particular a description of measures that must be taken to avoid, limit or remedy important negative consequences of the future legislation on the child or the young person. Such a process can be a powerful instrument to protect and guarantee children's rights, although the JoKER experience revealed that in order to have impact and be able to influence the decisions and proposed legislation, the assessment should be undertaken for every legislative initiative and launched as early as possible in the elaboration of new legislation.

⁵² Garde A., 'The Best Interest of the Child and EU Consumer Policy: A Major Gap between Theory and Practice?' in J. Devenney and M. Kenny (eds), *The Theory and Practice of EU Consumer Law and Policy* (Cambridge University Press, 2012).

⁵³ The Commission has published Impact Assessment Guidelines: <http://tinyurl.com/p9v5crv>

⁵⁴ The European Union Fundamental Rights Agency, '*Developing indicators for the protection, respect and promotion of the rights of the child in the EU*', Summary Report, March 2009.

⁵⁵ Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, 25 October 2012.

Next to the *ex ante* impact analysis, the **European Commission has in particular a duty to monitor the implementation of EU legislation**, meaning that they need to assess whether EU laws are implemented in the right way. Based on the Charter of Fundamental Rights, in particular article 24, this would need to include an assessment of a specific impact on children. With regard to fundamental rights, a check-list has been developed to assess the impact of legislation on fundamental rights, and according to Commission officials interviewed, these guidelines are taken very seriously. Fundamental rights are taken into account from the start of the legislative process throughout the process, including during negotiations with the Member States. The fundamental rights and rights of the child unit in DG JUST uses this checklist to monitor the implementation of legislation and produces progress reports for internal use.

Commission officials throughout different Directorate Generals have provided a wide range of examples where they have included children's rights in their legislative and policy work. Some are doing this in a thorough way, though the majority indicated that the main competence for this is allocated to the fundamental rights and children's rights unit in DG JUST and outside DG JUST no one is using specific guidelines to mainstream children's rights. Among Commission officials, there was a difference in the importance attached to the **mainstreaming of children's rights within legislative proposals, where it was considered important and an obligation** to do so, while for policy and other proposals, it was not considered necessary.

A good example of a continuous approach to monitoring and assessing the impact of particular measures on children is found in Bulgaria in the context of the implementation of their national strategy for deinstitutionalisation of children.

EXAMPLE: Implementation of the National Strategy for Deinstitutionalisation of Children in Bulgaria

The implementation of the **National Strategy** "Vision for Deinstitutionalisation of Children in the Republic of Bulgaria" is a good demonstration of a long-term commitment to mainstream children's rights through the comprehensive mobilization of all national resources, interest groups and general public. Adopted in 2010 and rooted in the UNCRC, the Strategy commits to abolishing the existing specialised institutions for children within a 15-year period. To respect the commitments of the Strategy, a pragmatic **Action Plan** was adopted, specifying the activities, tasks, responsibilities and resources for implementing the Strategy. The Action Plan set up an **institutional framework** for its implementation that included NGO representatives, experts and public authorities.

The practical implementation of the Action Plan was assessed by the Bulgarian Council of Ministers in October 2011 and a **report** produced. The Bulgarian commitment to deinstitutionalization was also included in its **2012 National Social Report** submitted to the European Commission as part of the Europe 2020 monitoring process. The final element of the comprehensive approach to deinstitutionalisation in Bulgaria was the decision to underpin the implementation of the National Strategy by **the EU Structural Funds** to create a lasting change for Bulgarian children.



Impact assessments can easily become a tick-box exercise.

6) Stakeholders are consulted and involved in decision-making

⇒ *What does it mean?*

Three heads are better than one: in order to make sure that a proposal takes into account the multitude of opinions and concerns, all interested parties must be involved in the process of agreeing on a law or a policy. **The process of consultation must be continuous and transparent.** This means that the parties should be able to find out **what policies and laws are to be impact assessed, what the process of assessment looks like** and what **information and evidence is being taken into account.** They need to be provided with **necessary information, facilities and time** to provide their input, and the results of the consultation and any changes that were made as a result need to be **communicated to them.** This enables them to challenge or improve the process, and hold the decision-makers to account for ensuring a meaningful and rigorous process. The UN CRC Committee in its General Comment No. 14 states that impact assessments of proposed legislation and policies '*could be based on input from children, civil society and experts, as well as from government departments, academic research...*' (art. 99) and in General Comment No. 5 it sets out that State Parties need to engage with all sectors of society (art.56), these include professionals, families, communities, NGOs and the private sector.

Note has to be made of a possible conflict of interest between the different stakeholders, where private actors, for example industry representatives, which are powerful in the EU, may impact negatively on the public interest and on children's rights and interests. This has consequences for the Commission and other EU institutions. A transparent process for involving expert stakeholders needs therefore to be in place. There is **not only a responsibility on the side of the EU institutions for this, but also on the side of civil society** and organisations advocating for children's rights, to have the capacity to advocate for children's rights in all policy and legislative areas.

An example of structurally involving civil society organisations in social and economic policies of the government can be found in the social partnership agreement in Ireland.

EXAMPLE: Social Partnership in Ireland

The current social partnership agreement - *Towards 2016: Ten-Year Framework Social Partnership Agreement 2006-2015*⁵⁶ – uses a social policy approach based on the lifecycle of the citizen which focuses on specific groups including children, people of working age, older people and people with disabilities.

The Community and Voluntary Pillar is one of the five pillars of social partnership alongside the Employers Pillar, the Trade Union Pillar, the Farmers Pillar and the Environmental Pillar. The Pillar consists of seventeen organisations invited by the Government to provide voice and representation for vulnerable people and communities in developing Ireland's social and economic policies. The Children's Rights Alliance has been a designated Social Partner since 2003, advocating on behalf of children and feeding directly into elements of the policy-making process. The Children's Rights Alliance's is an active member of the Community and Voluntary Pillar.

As part of this agreement, Government has 'committed to involving the Social Partners in the development of policy, to ensure meaningful input by the Partners into the shaping of appropriate individual policy issues, on the design of implementation arrangements, and to provide the Partners with sufficient notice, information and appropriate process for engagement'.⁵⁷ The Alliance participates in a number of bilateral meetings with officials from different government departments

⁵⁶ Available online at: <http://tinyurl.com/ofonhv6>

⁵⁷ *Ibid*, p.7.

throughout the year including the Departments of Finance and Public Expenditure, Education, Social Protection and Health.

Each year the Alliance makes a Pre-Budget submission to the different government departments and attends the Pre-Budget forum hosted by the Department of Social Protection. In 2013, the Department of Social Protection carried out a Social Impact Assessment of Budget 2013⁵⁸ and found that families with children were most impacted by cuts in that budget. Civil society organisations are also invited to present to parliamentary committees on their Pre-Budget submissions to brief members on relevant issues.

⇒ *Why is it relevant to the EU?*

The European Commission has put in place a procedure for gauging public opinion about the issues it plans to act on. In addition, it often conducts targeted consultations with the parties that are directly concerned by a specific proposal. Making this consultation open and accessible to civil society organisations, service providers to children, children and young people themselves, parents and academics significantly **strengthen the process, improving the quality of the final product**. European Commission officials consulted indicated that most of them have some kind of cooperation or carried out consultations with civil society, though these are not necessarily children's rights NGOs. Additionally, the 'Fundamental Rights and Rights of the Child' Unit of the Commission will always have to be consulted in the inter-service consultation of the Commission and is seen by most Commission officials as the key responsible Unit within the Commission.

Drywood learned from the gender mainstreaming that the European Women's Lobby has played a crucial role in developing an accountable and comprehensive mainstreaming strategy and she pleads for **a technical and detailed input from children's civil society in Commission's policy making**. She also learned from the gender mainstreaming that the representation of women in decision-making bodies stimulated the process. Though this could not be replicated for children, there are numerous examples of children participating in EU youth events, and there is scope to think more creatively about how national children's rights advocates (such as ombudspersons) might be deployed at a higher level to represent children's perspectives in EU law and policy making processes.

Services working on internal market initiatives do rarely consult with children's rights NGOs. For example, the lack of meaningful consultation with children's rights experts during the drafting of the **Audio-visual Media Directive**⁵⁹ resulted in the virtual absence of children's perspectives in the Directive⁶⁰. According to a Commission official who responded to this, NGOs only give subjective views and not what is scientifically proven to be harmful to children. This shows the **need to make EU officials understand the strength of NGOs, which is its representativity and in voicing the concerns of the people they represent**. Garde pleads for a **stronger involvement of children's rights advocates** in the legislative process in all areas of EU intervention, **including areas, which have traditionally been perceived as affecting children only indirectly**⁶¹.

⁵⁸ Available online at: http://www.welfare.ie/en/downloads/2013-03_SIABudget2013_Final.pdf.

⁵⁹ OJ 2010 L 95/1

⁶⁰ Garde A., 'Advertising Regulation and the Protection of Children-Consumers in the European Union: in the Best Interests of ... Commercial Operators?', *International Journal of Children's Rights* 19 (2011) 523.

⁶¹ Garde A., 'Advertising Regulation and the Protection of Children-Consumers in the European Union: in the Best Interests of ... Commercial Operators?', *International Journal of Children's Rights* 19 (2011) 523; and Garde A., 'The Best Interest of the Child and EU Consumer Policy: A Major Gap between Theory and Practice?' in J. Devenney and M. Kenny (eds), *The Theory and Practice of EU Consumer Law and Policy* (Cambridge University Press, 2012).

Within the **Council Secretariat** there is very little contact with civil society organisations and experts on children's rights. They would **like to receive more information from civil society and other external experts** on how the EU's legislation is working in practice.

Consultations with external stakeholders with knowledge on children's rights should not only be organised by the fundamental rights and children's rights Unit in DG Justice, but by all DGs within the European Commission. Part of consulting external stakeholders is informing them proactively about proposals for legislation, policies and budgets.

On the other hand, there is a **need for civil society to receive support from the EU institutions and governments for capacity building** to ensure they can engage more effectively in legislative and policy making processes.

EXAMPLE: Adoption of the French Act Reforming Children's Protection Provisions

After 100 professionals and personalities called for the review of the child protection system in France in 2005, the Act Reforming Children's Protection Provisions was drafted with the continuous involvement of all interested parties, including NGOs representing children, children's services providers, parents, and social workers, in every stage of the process. 15 working groups comprising experts from public agencies, districts, NGOs and universities were constituted by the **Minister for Health and Solidarity. It was his personal commitment**, which ensured these consultations took place. Each working group was in charge of a specific question on child protection, such as unaccompanied minors, evaluation, alternative care in institution, foster families or parenting support.

From the beginning of the process, the **UNCRC served as a base for the Act**. Once it was adopted, the ministry was put in charge of its enforcement in line with the UNCRC philosophy. It produced 5 guidelines⁶² to foster the practical implementation of the Act. This initiative later continued as an inclusive **civil society initiative** led by CNAPE (*Convention Nationale des Associations de Protection de l'Enfant*), geared to evaluate the implementation of the Act, and **developed guidelines for professionals**.

All in all, this Act and the guidelines have **greatly contributed to mainstreaming children's rights in France**, and demonstrated the **added value of early and continuous involvement of a broad range of interested parties** to the quality of legislation on child rights. The process used to draft the Act Reforming Children's Protection Provisions was drastically different from the one used in the making of the **new law for the prevention of delinquency**, that was adopted on the same day. Led by the Ministry of Interior, the latter was hastily drafted with little stakeholder involvement, and can be considered having not sufficiently involved all stakeholder and not having focused on the best interests of the child in line with the UNCRC.

The process to consult external stakeholders is not compulsory in France. The obligation to consult external stakeholders should be laid down in law or guidelines. A regional example where child impact assessments are mandatory is the Welsh government's Children's Rights Scheme (*see above under step 1*).



Consulting external stakeholders could be done randomly, risking that the information provided is not accurate or correct.

⁶² <http://www.reforme-enfance.fr/guides.html>

7) The views and experiences of children and young people themselves are sought and taken seriously

⇒ *What does it mean?*

Children's representation by civil society organisations and the direct participation of children is a requirement laid down by the UNCRC. Article 12, in particular, states that '*States Parties shall assure to the child who is capable of forming her or his views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child*'. This is reinforced by the **Council of Europe Recommendation on 'Participation of children and young people under the age of 18'** (28 March 2012)⁶³, which states that it needs to be ensured that '*participation is mainstreamed in decision- and policy-making structures*'.

As the experience shows, involvement of children and young people in the process not only makes it more legitimate in the eyes of the society and of children, but also facilitates the implementation and follow-up and strengthens sustainability of measures. **Meaningful participation** of children has led to better outcomes for children and young people in most instances where they have had an opportunity to participate and voice their opinions. Important is to consult children from different backgrounds and different parts of society, including children experiencing vulnerable circumstances, to ensure the **representivity** of the consulted children. **Children are best placed to define what problems they have and what solutions work for them.**

⇒ *Why is it relevant to the EU?*

At the European, as well as the national level, **children's opinions contribute to good outcomes**. This does not mean that children from across Europe need to be flown in to Brussels, but they can voice their opinions directly at the national level, which can be communicated to the EU representatives through nominated delegates, whether that be children or trusted NGOs/advocates. Within the European Commission most officials indicated that they never consulted with children and young people for different reasons such as 'no time' and 'not appropriate due to the subsidiarity principle'. There are, however, positive exceptions, such as DG EAC, which routinely consults with young people, DG SANCO, which involved young people in the youth health initiative and DG EMPL which has tried to build on outcomes of projects involving children directly and to explore ways to strengthen their participation, for example their participation in the Cypriot EU Presidency meeting (October 2012). However, these initiatives mainly involve young people aged 15 years and older; engaging with younger age groups and children in vulnerable situations remains a challenge.

Eurochild has a range of examples where children contributed to EU policies. Notably, **children's involvement at the Belgium EU Presidency conference on child poverty in September 2011 contributed to the eventual adoption of a Commission Recommendation on child poverty and child welfare**⁶⁴.

The following examples illustrate the great value of child participation in Lithuania, the Netherlands and Italy, all of which led to positive outcomes for children: reduction in bullying, participation in local public life and relationship with social workers, respectively.

⁶³ Recommendation CM/Rec (2012)2 of the Committee of Ministers to member States on the participation of children and young people under the age of 18, 28 March 2012.

⁶⁴ Conference '*Who Cares? Roadmap for a recommendation to fight child poverty*', organised by the Belgian Presidency of the Council of the European Union, 2-3 September 2011.

EXAMPLE: “STOP BULLYING” CAMPAIGN BY CHILD LINE LITHUANIA

The anti-bullying campaign, a grassroots movement against bullying and in-school violence has been run by Child Line Lithuania ('Vaiku Linija') since 2004. Its main goals are to draw children and teenagers' attention to bullying and to motivate the search for bullying prevention measures. The goals are being achieved through awareness-raising activities (workshops, conferences, information materials, website, etc.) and involvement of various partners from governmental, NGO and corporate sector.

Children drive the campaign. In 2010, the Child Line kicked off annual anti-bullying weeks. The launch was hosted by the President of the Republic and in the presence of all leaders of governmental institutions and the ombudsman. The anti-bullying week is now organized nationwide where two pupils' organisations are actively involved. In the framework of the week, the pupils, teachers and their communities organised activities of an impressive scale, supported by the **Members of Parliament** and the **national TV channel**.

The campaign contributed to the gradual decline of bullying in Lithuania recorded by the 'Health Behaviour in School Aged Children Study' coordinated by WHO that is carried out every four years.

EXAMPLE: The Hague Youth Ambassadors (the Netherlands)

The system of child participation, developed by the City of The Hague, is a good example of including children and young people in the public life. The Hague Youth Ambassadors are 15 enthusiastic children and young people (aged 15-24) from different cultural, educational and social backgrounds who advise the municipality Den Haag, municipal institutions and youth organisations. Young people who like to become a youth ambassador can apply for it, provided that they are committed to spend time on it (weekly meetings) and would like to represent other young people. The Ambassadors meet on a regular basis with the policy makers, aldermen and the Lord Mayor. **They link the local politicians and the youth in The Hague**, they help to make the problems and needs of the youth known at the City Hall. The kids active as Youth Ambassadors learn and develop at different levels, they speak up, debate and appear in the media. They are positive role models for youth participation in the region. The Hague Youth Ambassadors are well known locally, nationally and internationally.

EXAMPLE: “Involved by right/Coinvolti di diritto” – Italy

The project was developed in the Veneto region from 2010 to 2012 with the financial support from the EU. Its' essential aim was to promote child participation in the regional system of social protection. The innovative value of this activity was the intention of mainstreaming children's opinions in the entire process of regional social services, through the creation of hearing processes based on active interaction with children separated from their family of origin and placed in a residential community and in foster families. The children met in peer groups, in which also a child psychologist participated.

On the basis of recreational and meditative workshops, the participants had the opportunity to identify and better understand their social condition and exchange their experiences thus activating new forms of individual and collective empowerment. The consultations were held in relation to the planning of the individual care process of the children.

One of the most important outcomes of the project is the drafting, by the children involved, of a list of suggestions and recommendations addressed to the social workers, working in the public and private sector, and related to the welcoming of the children separated from their families. The recommendations were discussed and put into practice in 2013. An evaluation of the implementation of the recommendations is foreseen.

Children involved in the project presented its results in a public event organized for all the operators in the social and health services dealing with them in the foster process.

The project was a great success with regard to the relationship between psychologists and children under their guardianship. The social workers were surprised of the capacity of children to present their ideas to the public and by the content of their recommendations, which provided a fresh look and new angle to their service provisions. Due to the success of the project resources are looked for to make the participation of children in the process part of the permanent structure.



Children's participation can easily become a tokenistic exercise instead of a meaningful involvement of children and young people.

KEY MESSAGES TO THE EU INSTITUTIONS FOR IMPROVING CHILDREN'S RIGHTS MAINSTREAMING

The following key messages are complementary areas of action that would **facilitate the achievement of the seven steps** to be in place to ensure that EU legislative and policy processes comply with children's rights. Mainstreaming of children's rights in policies, legislation, budgeting, programming and judicial proceedings needs to be a transparent process and it does not stop with the adoption of a legislative act, a policy, programme or budget but **continues throughout the implementation process**.

THE EUROPEAN COMMISSION

1. A robust successor to the Agenda on the Rights of the Child

A first step for the European Commission would be to **propose a comprehensive and robust successor Framework to the Agenda on the Rights of the Child** based on the evaluation of the implementation of the EU Agenda for the Rights of the Child and its experience. Such a Framework would include two pillars. **One pillar focussing on specific time-bound and well-resourced actions with ambitious and measurable objectives**, where the EU can have the greatest added value and accompanied by an action plan. Deciding on these priorities should be an inclusive process weighing up relevance to all Member States, the seriousness of the problem and the EU added value. The **second pillar would include putting in place and resource effective mainstreaming of children's rights in all EU processes**, including in the EU's internal and external policies.

2. A high-level children's rights co-ordinator

The **European Commission's coordinator on children's rights is a key focal point within the Commission's services** regarding the mainstreaming of children's rights in EU legislation, policies and budgets. It is therefore important that this position is accorded the necessary power, autonomy and resources to be able to effectively coordinate the interventions across different DGs.

3. An internal tool on child rights mainstreaming

The European Commission is encouraged to further develop its idea of a **manual or tool⁶⁵ on children's rights mainstreaming, including capacity building and sufficient resources**, to support inclusion of children's perspective in the work of all its services.

This manual or tool could:

- Integrate the seven 'mainstreaming' steps identified by the Eurochild expert group on children's rights. In this respect lessons should be learnt from the experience of the adoption of the EU Victims' Rights Directive.

⁶⁵ Though the external dimension of the European Commission's work is different from the internal level, the *EU-UNICEF Child Rights Toolkit 'Integrating Child Rights in Development Cooperation'* (UNICEF, 2014) could be used as inspiration for such manual or tool.

- Include thematic sections with examples on how to include children’s perspectives in areas such as criminal law, audio-visual media policy, environment, health, internal market, etc.
- Cover both internal and external EU policies aiming to achieve the universal level of protection of children’s rights in the EU and outside its borders

Taking the EU-UNICEF Child Rights Toolkit ‘*Integrating Child Rights in Development Cooperation*’ as an example where children’s rights are mainstreamed in external relations.

It is reminded that a recommendation for a “plan for the mainstreaming of children’s rights in all areas of EU competence” has also been voiced in 2012 EP Note “EU Framework of Law for Children’s Rights” and the *European Parliament Briefing paper on Child Witchcraft Allegations and Human Rights of 2013*⁶⁶.

4. Training modules for European Commission staff

Linked to the manual or tool on child rights mainstreaming, it is recommended to **develop and implement ‘tailor-made’ training modules** for the European Commission services on specific issues. Such trainings should also support more interdisciplinary and inter-sectorial working within the European Commission. It is recommended that training modules cover the ‘seven mainstreaming steps’, and analyse the existing legislative acts and policy initiatives in light of the EU’s commitment to mainstream children’s rights.

Children’s rights expertise within the EU institutions could be enhanced via financing and participating in interdisciplinary children’s rights research and academic training programmes such as those offered by members of the European Network of Masters in Children’s Rights (ENMCR) and the Children’s Rights Erasmus Academic Network (CREAN).

5. Critically analyse the “EU acquis and policy documents on the rights of the child”

The European Commission is invited to continue updating and publicising the compilation of the “**EU acquis and policy documents on the rights of the child**”, gradually adding analytical critique to the instruments and identifying the potential for further strengthening them to protect children’s rights. The findings could serve as the basis for a post-2014 strategic framework on children’s rights.

6. Peer reviews on child rights mainstreaming

Provide the resources to support peer reviews and exchange of good practices on child rights mainstreaming between EU member states and share these at the annual EU children’s rights Forum.

⁶⁶ Hanson K. and Ruggiero R. from the University Institute Kurt Bösch (IUKB), Switzerland for the European Parliament DG for External Relations of the European Union, Directorate B, Policy Department, Briefing Paper ‘*Child Witchcraft Allegations and Human Rights*’ July 2013.

THE EUROPEAN PARLIAMENT

7. Strengthen institutional capacity of the European Parliament on children's rights

The **European Parliament** should take leadership for promoting children's rights and be championing children's rights through their inclusion in all European Parliament political documents and processes. To achieve this goal:

- **A permanent mechanism needs to be created in the European Parliament** with explicit responsibility for protecting and promoting children's rights across all policy sectors in internal and external affairs. The next European Parliament must hold EU institutions to account for the implementation of existing legal obligations. It must also be at the forefront of advancing **new and more ambitious EU legislation and policy** on children's rights and ensuring **greater coherence between the stated objectives of EU internal and external action and the actual impacts on children's lives**, be they direct or indirect.
- The European Parliament should take leadership for promoting children's rights by inviting the **Committee on Civil Liberties, Justice and Home Affairs** (LIBE) to question the Commission and the Council on children's rights matters and by using the 2012 Note "EU Framework of Law for Children's Rights".

THE COUNCIL OF MINISTERS

8. Be a driver for implementing children's rights

The **Council of Ministers** should take leadership and be a driver for the implementation of children's rights within the EU and establish within the Council Secretariat as child rights focal point, similar to COHOM for external relations.

9. Bridge gap between internal and external dimensions

Implementation of European External Action Service (EEAS) Child Rights Guidelines and DG DEVCO instruments and other related publications in support of EU external action policies, including the EU-UNICEF Child Rights Toolkit '*Integrating Child Rights in Development Cooperation*'⁶⁷ will generate considerable learning about applying children's rights in programming.

It is important to bring these lessons into internal policy development and debate. In doing so, advantage could be taken of the post-2015 MDG (United Nations mid-term development goals) process and it needs to be ensured that the post-2014 EU CR Framework covers both internal and external affairs.

⁶⁷ Another study which can contribute to bridging the gap between internal and external dimensions is from Karl Hanson and Roberta Ruggiero from the University Institute Kurt Bösch (IUKB), Switzerland for the European Parliament DG for External Relations of the European Union, Directorate B, Policy Department, Briefing Paper '*Child Witchcraft Allegations and Human Rights*' July 2013.

10. Strengthening capacity and involvement of Civil Society

Civil society plays a critical role in innovation and empowerment and engagement of children and young people, as well as in advocacy. Their involvement in decision-making can strengthen the link between policy and practice and support a better understanding of what works. In this respect, the recognition of children as active agents and bearers of rights in the framework of EU actions needs to be integrated.

11. Reinforce inter-institutional co-operation

The European Union would benefit from greater collaboration with the UN Committee on Children's Rights and the Council of Europe so as to build on the extensive policy guidance already endorsed by EU member states.

The work carried out by the UN Committee on Children's Rights, such as its General Comments and Concluding Observations to the Member States needs to be better integrated in EU policies and legislation. Practically this means that officials need to be informed on the General Comments relevant for their area of work and on the outcomes of the Concluding Observations to the Member States and apply these in their work. For the latter ChildONEurope's⁶⁸ work could be used.

⁶⁸ ChildONEurope, the European Network of National Observatories on Childhood, based in Florence, carried out a Survey on the CRC Committee's concluding observations on the last EU Countries' reports in 2006: [ChildONEurope: European Network of National Observatories on Childhood](#)