

The EU Strategy on the Rights of the Child: What does this mean for the EU and Germany?

Ally Dunhill, Mieke Schuurman, Enrico Paolo Tormen¹

Setting the scene: protection of children rights in the EU

The United National Convention on the Rights of the Child (UNCRC), in force from 1990, sets human rights standards for the promotion and protection of the human rights of children across the globe. It is the most extensively endorsed human rights instrument in the world. More than 30 years after its adoption and ratification by all EU Member States it has become the standard for child rights activities, and it has contributed to an improvement of children's lives across the EU.

The UNCRC is a legal document that imposes binding standards on state parties, including all EU governments. The EU Commission is not a party to the CRC but the EU is bound by virtue of the general principles of EU law to adhere to all of the principles and provisions set out in the Convention concerning all matters that fall within the scope of EU competence. We have seen that the UNCRC has been increasingly referenced in EU law and policy, becoming an increasingly common reference point for EU business impacting children's rights. The European Court of Justice has acknowledged that the UNCRC should be the primary reference point in assessing the compatibility of EU law with children's fundamental rights.²

The advancement of children's rights has been addressed by the EU in a more coordinated manner since the Lisbon Treaty included the objective to protect the rights of the child. At the same time the Charter of Fundamental Rights was adopted obliging the EU and its member states to protect the rights enshrined in it when implementing EU law. The EU Charter includes detailed references to children's rights, including the recognition of children's rights to free compulsory education (Article 14(2)), a prohibition of discrimination on the grounds of age (Article 21), and a prohibition of exploitative child labour (Article 32). Significantly, the Charter contains a dedicated provision on children rights (Article 24). The provision articulates three key children's rights principles: the rights to express their views freely in accordance with their age and maturity; the right to have their best interests taken

¹ Expected to be published August 2021 in *'Sammelband Kinderrechte – Von Kommune bis EU' (Compilation of Articles on Children's Rights – From municipality to the EU)*; Editor: Deutsches Kinderhilfswerk e.V., 2021; Authors: Jutta Croll, Wolfgang Dietz, Dr. Ally Dunhill, Prof. Dr. Rüdiger Ernst, Prof. Dr. Raingard Knauer, Christian Kurzke, Prof. Dr. Ronald Lutz, Prof. Dr. Roland Roth, Mieke Schuurman, Prof. Dr. Waldemar Stange, Prof. Dr. Daniela Steenkamp, Enrico Paolo Tormen

² Helen Stalford, *Children and the European Union; Rights, Welfare and Accountability*, 2012



as primary consideration in all actions relating to them; and the right to maintain on a regular basis a personal relationship and direct contact with both parents.³

From 2011 Eurochild has been campaigning for the EU to adopt a comprehensive approach to the promotion and protection of children's rights. Such an approach would ensure children's rights would be firmly embedded in all EU-level processes. In 2021 the EU adopted the Strategy on the Rights of the Child (Strategy), a measure that represents a first crucial step forward towards ensuring that children's rights are no longer developed in a piecemeal fashion.

The development of the Strategy: how Eurochild and children have influenced the process

Since the very beginning of its mandate in 2019, the Von der Leyen Commission demonstrated to be seriously committed to strengthening the protection of children's rights and well-being in Europe. Dubravka Šuica, Commissioner for Democracy and Demography, was mandated to lay down a "comprehensive strategy on the rights of the child", including "actions to protect vulnerable children, protect their rights online, foster child-friendly justice, and prevent and fight violence."⁴

Through the efforts of Eurochild and other NGOs, the Strategy has been informed by broad and meaningful consultations with children, civil society organisations and other stakeholders. In September 2020, the Commission launched an open consultation to allow citizens and stakeholders to shape the development of the Strategy and gather their opinions. Eurochild cooperated with the Child Rights Action Group (CRAG) and issued a Joint Statement that included a set of key principles to guide the Strategy as well as priorities and actions for the EU, its Member States and partner countries.⁵ The priorities suggested in the Joint Statement have been structured around the political guidelines of the 2019-2024 European Commission: 1) a European Green Deal, 2) a Europe fit for the digital age, 3) an economy that works for people, 4) a stronger Europe in the world, 5) promoting our European way of life, 6) a new push for European democracy.⁶

Within the statement, the CRAG highlighted the need for the Strategy to be underpinned by the UNCRC, mandatory for the EU institutions, and aligned with the Sustainable Development Goals and the 2030 Agenda. In addition, it underlined that the Strategy should also recognise children as agents of change, ensuring a model of rights-based participation.

³ European Union Agency for Fundamental Rights and Council of Europe, Handbook on European law relating to children's rights, 2015.

⁴ Ursula von der Leyen, [Mission Letter – Dubravka Šuica](#), 1 Dec 2019

⁵ Child Rights Action Group (CRAG) was founded in 2006, in this informal network international children's rights NGOs cooperate to promote children's rights at EU level and in the wider world, [Joint Position Paper on a Comprehensive Child Rights Strategy](#), July 2020

⁶ The European Commission's priorities: https://ec.europa.eu/info/strategy/priorities-2019-2024_en



Adhering to this key principle allows children to meaningfully participate in the design as well as the implementation of the Strategy at the national and local level. Children's participation should be inclusive and involve a representative group of children, including vulnerable and marginalized children. The statement also stated that the Strategy should ensure that children's rights are mainstreamed in all internal and external policies, actions and programmes, aim to ensure that no child is left behind and be relevant for all children, paying special attention to those children in the most vulnerable situations, and facing multiple and intersecting forms of discrimination. The statement also includes recommendations for regular monitoring of the implementation of the Strategy and to establish efficient coordination, consultation and accountability mechanisms. Finally, it emphasises that the Strategy should be action-oriented and thus must be properly financed, while taking into account the impact of the Covid-19 pandemic on children.

Furthermore, Eurochild supported the participation of a considerable group of children in the EU Forum on the Rights of the Child in 2020 which provided a platform for dialogue between EU institutions and other stakeholders on the Strategy. Children were able to participate in plenary panel debates, lead a workshop and present the closing remarks. The outcomes of the Forum were taken into account by the European Commission while developing the Strategy.

Eurochild also cooperated with UNICEF, Save the Children, World Vision and ChildFund Alliance in collecting the opinions of more than 10,000 children on the Strategy and the Child Guarantee. The results and key messages obtained thanks to this consultation were then presented in the report "Our Europe, Our Rights, Our Future"⁷. In doing so, the European Commission clearly signified its commitment to engage in a meaningful way with children, civil societies, and other stakeholders, and demonstrated that they were ready to take such messages on board.

The potential impact of the EU Strategy on the Rights of the Child

Children represent almost 20% of the EU population, and as EU citizens who play an active part in society, their rights are affected by the legislation and policies adopted by the EU. The European Commission has published a comprehensive and ambitious Strategy that represents a strong focus on the human rights of children and was developed with and for children. It delivers on the promise to create an instrument that promotes, protects, and champions the human rights of 90 million children living in the EU. It acknowledges the dominating threats and challenges that children's rights face today, (e.g. the COVID-19 pandemic, digital security, violence, poverty and social exclusion, mental health), and proposes measures to tackle these through a variety of EU instruments and national

⁷ ChildFund Alliance, Eurochild, Save the Children, UNICEF, World Vision, '[Our Europe, Our Rights, Our Future](#)', February 2021

policies. The aim of the Strategy is to strengthen children's rights in the EU, to create conditions for all children to have their rights upheld and protected and to ensure equal opportunities for disadvantaged children. To this end, all existing and future legislative, political and financial instruments should be brought together and the rights of the child should be anchored as a cross-sectional task in all relevant policy areas of the EU. It can be assumed that the Strategy as a future cross-sectional task will certainly have political weight, even though it is not legally binding for the Member States. The implementation of the Strategy is to be monitored at EU and national level, and the Commission plans to present progress at the annual "EU Forum on the Rights of the Child". An evaluation of the Strategy is planned at the end of 2024⁸.

As mentioned earlier, the Strategy was developed with the participation of children themselves. Eurochild, in partnership with several child rights organisations facilitated the participation of 10,000 children in a consultation to inform the content of the Strategy and the Child Guarantee. Moreover, the Strategy is accompanied by a child-friendly version that was developed in consultation with children. Presenting the information in an easy to understand and accessible format demonstrates the importance and willingness for children to know and understand how their rights are being upheld by the European Union institutions.

Furthermore, the Strategy also establishes strong links with the UNCRC and the Sustainable Development Goals (SDGs). In this way, the Strategy represents a concrete and comprehensive tool to advocate for better protection of children's rights and well-being at the national and EU level.

The Strategy focuses on six thematic areas. Each theme is outlined below and includes a short analysis on what we believe is also unclear or missing in the Strategy.

1. Participation in political and democratic life: An EU that empowers children to be active citizens and members of democratic societies

The views from children involved in the EU Forum on Children's Rights as well as in the European Commission study on child participation in public and democratic life on the EU Strategy and the Child Guarantee, have been taken into account in the EU Strategy. To collect the views from children, the European Commission cooperated with civil society to organise a range of consultations. Eurochild was one of the organisations who supported these consultations.

The EU strategy sees young people as "agents of change" who can help shape society and politics, but at the same time recognizes that children and their perspectives are

⁸ Representation of the EU Commission in Germany (2021): Press release presenting the EU Strategy on the Rights of the Child https://ec.europa.eu/germany/news/20210324-eu-strategie-kinderrechte_de (03.06.2021)



not sufficiently taken into account in decision-making. The EU would therefore like to promote and improve the “inclusive and systematic participation of children at the local, national and EU levels”.⁹ This thematic area includes a range of suggestions provided by children during these consultations. For example:

- Children wanted all children to know about their rights. In response to this, the Strategy aims to strengthen education on citizenship, equality and participation in democratic processes in schools
- Children stated that professionals should be trained on children’s rights and child participation. In response to this, the Strategy states that EU staff will be trained on children’s rights and child participation and training judicial staff and teachers on children’s rights
- Children asked that accessible documents for children should be developed and that these should be developed with children. In response to this, the Strategy is available in a child-friendly version, and this version has been developed with children.
- Children made a very determined request that they should be involved in decision-making processes. In response to this, the Strategy includes plans to set up a new EU Children’s Participation Platform, Member States are invited to set up, improve and fund new and existing child participation mechanisms, a statement that children will participate in the Conference on the Future of Europe and other future initiatives, and that children can become Ambassadors in the European Climate Pact.
- The EU encourages Member States to support schools to engage pupils in the school’s daily life and decision-making.

On the other hand, a range of further suggestions from children during the consultations are not included in the Strategy, including no reference to human rights and children’s rights education to be taught at school. Furthermore, there is no explanation of how EU institutions will reach and support vulnerable or excluded children to participate in the activities described above.

2. *Socio-economic inclusion, health and education: An EU that fights child poverty, promotes inclusive and child-friendly societies, health and education systems.*

The area focusing on socio-economic inclusion, which concerns child poverty, health and education, is clearly aligned to the proposal for establishing a European Child Guarantee. Within the Strategy, the European Commission states that they will:

⁹ European Commission (2021): EU Strategy on the Rights of the Child



- It aims to ensure that Member States provide targeted support to children affected by poverty or social exclusion by ensuring their access to services such as health care, early childhood care or education.
- Strengthening the youth strategy in order to get young people into an apprenticeship, internship or work more quickly after they graduate from school or if they are unemployed.
- Development of a voluntary code of conduct to reduce online advertising directed at children for example for foods that contain a lot of sugar.
- Member States should make children a priority target group in their national mental health strategies.
- The Commission suggests that the Barcelona targets be revised in 2022 in order to enable as many children as possible to take part in early childhood care, education and upbringing and to raise the level of care in the member states to a uniformly higher level. Revise the Barcelona targets in 2022 to further support upward convergence among Member States, in particular to benefit children with a migrant background.
- Promotion of a construction kit for inclusion in early childhood education and care to review the Barcelona goals¹⁰ for 2022 in order to enable education and to raise the level of care in the member states to a uniformly higher level.
- Promote a toolkit for inclusion in early childhood education and care.

Within the Strategy, the European Commission is also asking Member States to:

- Ensure all children have equal access to digital tools and internet connection
- Prioritise children in mental health strategies.
- Speed up the process so that children no longer have to live in institutions and ensure they move into family and community-based care. This also encourages the creation of integrated child protection systems including preventive measures, early intervention and family support, which should provide children without or at risk of losing parental care the necessary conditions to prevent family separation.

Although this thematic area includes a focus on health, it does not include any actions that would address the stigma around mental health or to ensure children

¹⁰ Providing affordable, high-quality care facilities for children between the ages of 0 and compulsory schooling is a key objective of the EU. The European Council in Barcelona in 2002 therefore decided that by 2010 at least 90% of children between the ages of three and compulsory school age and at least 33% of children under the age of three should have childcare: <https://op.europa.eu/en/publication-detail/-/publication/fb103a95-f680-4f6e-bd44-035fbb867e6a>





are informed about mental health services, nor suggests investment in preventive measures.

3. Combating violence against children and ensuring child protection: An EU that helps children grow free from violence

Combating violence, including domestic violence as well as online and off-line attacks, is the focus of the third thematic area. It indeed aims to respond to the increasing violence experienced by children and strengthen child protection systems, including protecting child victims or witnesses of violence and to ban corporal punishment by law. To achieve this, the European Commission is encouraging Member States to:

- Set up and fund child helplines (116 111) and missing children hotlines (116000).
- Protect child victims and witnesses and develop integrated child protection systems which should aim to support the development and strengthening of integrated child protection systems, which will encourage all relevant authorities and services to better work together in a system that puts children at the centre of their service.
- Ban corporal punishment.
- Promote national strategies to speed up de-institutionalisation. Instead, high-quality family and community-based care services are to be expanded, with a focus on preparing for leaving care.

4. Child-friendly justice: An EU where the justice system upholds the rights and needs of children.

The fourth thematic area focuses on child-friendly justice, including access to the justice system and contacts with children in different legal procedures, including migration procedures. The European Commission aims to support the training of police, lawyers and judges on the rights of the child and child-friendly justice. It encourages Member States to support these processes and place children in detention only as a last resort. It is interesting to note that although the Strategy has a strong child participation focus, there is no mention that will ensure the obligation for children to be heard in court cases.

To achieve this, the European Commission is encouraging Member States to:

- Contribute to training of justice professionals on the rights of the child and child friendly justice



- Develop robust alternatives to legal proceedings, such as alternatives to detention
- Strengthen the guardianship systems for unaccompanied children

5. Digital and information society: An EU where children can safely navigate the digital environment, and harness its opportunities

The fifth thematic area focuses on online protection and supports children's access to the digital environment with a specific focus on protective measures to ensure children can better navigate the digital world. This includes:

- The development of a new EU plan for a 'Better Internet for Children' in 2022.
- Develop EU-wide legislation requiring online service providers to report depictions of child sexual abuse.
- Support for Digital Media Education
- A child-led process to develop principles that need to be promoted and adhered to by the IT-industry.

Only in this thematic area, in addition to the European Commission's Actions and recommendations to Member States, ICT companies are addressed. They are asked to ensure children's rights are protected, to continue detecting, reporting and removing illegal online content, including child sexual abuse, and develop tools to protect children from the effects of overuse and addiction to online products.

6. The Global Dimension: An EU that supports, protects and empowers children globally, including during crisis and conflict.

This last thematic area focuses on the global dimension and the external dimension of the EU and refers to the EU aim to keep supporting children in humanitarian crisis. The European Commission states that they will:

- Do their best to ensure EU companies are not supplied with products that involve child labour.
- Allocate ten percent of funds of the EU program for development and international cooperation (NDICI) to education in emergency and humanitarian situations
- Address the issue of street children.
- Invest in the development of quality alternative care – and to ensure children move out of institutional care.
- Work towards supply chains of EU companies free of child labour, notably through a legislative initiative on sustainable corporate governance.
- Strengthening supervisory systems to monitor and enforce child labour laws.

- Member States are asked to appoint youth focal points in EU delegations with third countries, yet it is interesting to note the term ‘youth’ is used here instead of child focal points.

The European Commission is committed to implement these concrete action in the course of the current mandate, i.e. until 2024. There is strong political support from across the European Commission which is crucial to ensure the Strategy is implemented across all areas affecting children’s rights. On the other hand, political commitment and support from Member States to ensure its implementation at the national level is also extremely important and can be reinforced by national and local child rights organisations.

It is worth noting that the Strategy concludes with the importance to listen to children and act now!

7. Embedding a child perspective in all EU actions

With the seventh component of the Strategy, the Commission sets out how it intends to achieve the objectives set out in the six thematic areas. To this end, she wants to ensure “a children’s rights perspective is mainstreamed in all relevant policies, legislation and funding programmes”. Ultimately, this will contribute to a child-friendly culture in EU policy-making. For this purpose, training courses for EU staff are to be provided as well as enhanced coordination through the team of the Commission's coordinator for the rights of the child. The Commission will also set up an EU Network for Children’s Rights by the end of 2021.

It should be noted that the Strategy concludes by committing to listen to children and to act now.

The European Commission undertakes to implement these concrete measures within the current mandate, i.e. by 2024. They receive broad political support within the European Commission, which is crucial for the implementation of the strategy in all areas that affect the rights of the child. In addition, the political commitment and support on the part of the member states in the implementation at national level are important aspects that can be supported by national and regional children's rights organizations.

What impact can the Strategy have at national level?

The Strategy should not only achieve a better protection of children’s rights at EU and global level, but also at the national one. The Strategy can indeed be used as a basis for conversations with Member States on the implementation of children’s rights at the national and local level. Civil society organisations should also be involved in these discussions.

The Strategy has the potentiality to be a pivotal step forward for protecting the human rights of children within Member States. The European Commission has presented a forward-looking document that could strengthen the protection of children rights both at the EU and national level. For the first time, the Commission's work will be guided by a comprehensive document that will mainstream children's rights in all EU policies and recommends what measures Member States should undertake at the national level. This framework thus provides national and international civil society organisations with a valuable advocacy tool.

Implementation and Monitoring of the Strategy in Germany

The European Commission will set up an EU Network for Children's Rights by the end of 2021, which will include the involvement of various stakeholders, including national representatives, local and regional authorities, as well as children and civil society. The network will aim to reinforce the dialogue and mutual learning between the EU and Member States on children's rights, and support the implementation, monitoring and evaluation of the Strategy.

At the same time, the Strategy calls on Member States to develop robust and evidence-based national strategies on the rights of the child, where these are not available yet. This implies a call to the German government to develop a national child rights strategy, ideally to be developed in consultation with children and German civil society.

German child participation mechanisms should also be called upon and contribute to the future Children's Participation Platform. German children active in local, regional and national child participation bodies should be involved in the setting up of such a European Platform.

In addition, German civil society is encouraged to enter in a dialogue with the German government to ensure the different thematic child rights areas included in the Strategy are implemented in accordance with the UNCRC. The remit of this article does not allow us to go into detail on each of the different thematic areas in relation to Germany, although we encourage policy-makers and civil society to work in cooperation with each other to engage with the Strategy framework and explore it further. There is a lot that is asked from national governments, from supporting and funding child helplines to providing child rights training to legal professionals and from ensuring equal access to digital tools for all children to identifying children as a priority target group in national mental health strategies. Hence, there is also a precious opportunity to act for civil society, children and above all government representatives to bring this Strategy into reality and get the political will and support from the German government.



EU Child Rights Strategy: an opportunity for all children

To sum up, the Strategy is a comprehensive and concrete tool that should be used at both the national and EU level to guarantee the mainstreaming of children’s rights in all EU areas of work and ensure synergy with other EU, national and international initiatives. It contains a range of key actions that will be undertaken by the European Commission and actions that Member States are ‘invited’ to carry out. Many of these can be seen as in response to the challenges that are currently jeopardising children’s rights, such as the negative impact of the COVID-19 crisis and the rising of anti-rights movements.

In order to ensure that the Strategy will not be a one-off exercise and will actually strengthen the protection and promotion of children’s rights, the European Commission and Member States will need to allocate the necessary human, technical and financial resources for the implementation of the Strategy.

The Strategy is a pivotal comprehensive and holistic framework that should trigger national policies, strategies and investments in children, which will ultimately ensure better implementation of children’s rights and direct impact on the lives of the 90 million children living in the EU. We must ensure we fully capitalise on it and must work together with all stakeholders, including children, at the local, national and European level; “Well done is better than well said!”¹¹. We cannot just celebrate the launch of an EU Strategy on the Rights of the Child, talk about it and then sit back and do nothing. We must recognise, respect and promote children’s rights. We must tell everyone about it, children, parents and decision-makers. We must take steps to implement and monitor the Strategy to ensure that it has a positive impact on the lives of all children, and children enjoy their rights.

¹¹ Quote of Benjamin Franklin used by the children when presenting the report “Our Europe, Our Rights, Our Future” to the European Commission on 24 February 2021.

