

Strasbourg, 26 April 2011

## Consultation on the draft Council of Europe Recommendation on child and youth participation

### **A new Council of Europe recommendation on participation**

All children have the right to be heard and taken seriously. At least, this is what the United Nations Convention on the Rights of the Child says. But even though all countries in Europe have ratified the UNCRC, the reality of many European children still looks different. This is why the Council of Europe decided to develop a recommendation for its 47 member states on the participation of children and young people under 18 in decisions affecting them.

### **Open for comments from NGOs – and from children and young people**

A draft of this recommendation is now available for comments from NGOs working with children and young people and ombudspersons for children.

In addition, the Council of Europe is very keen to involve children in developing the recommendation. We are therefore working on the recommendation with children from Finland, Moldova and Slovakia, who are actively involved in Council of Europe review processes on child and youth participation policies in their countries.

In order to also involve children from other European countries, the Council of Europe encourages NGOs and ombudspersons to consult children and young people before sending their comments to the draft recommendation. This can be done through existing forums such as youth advisory boards, schools councils, youth councils or on-line discussion forums. In doing so, we encourage you to refer to the basic requirements for child participation processes as set out in the [General Comment No. 12](#) of the UN Committee on the Rights of the Child, paragraphs 132-134. You may also use a methodology developed by the Council of Europe for a half day workshop on the topic with children aged from 8 to 17 years. To obtain the methodology, which also contains a guide of good practice on children's participation in focus groups, please contact [childparticipation@coe.int](mailto:childparticipation@coe.int).

### **Who developed the draft recommendation?**

The draft has been developed by an Ad hoc Advisory Group composed of representatives of governments, youth NGO's, child rights alliances and independent experts. The European Network of Ombudspersons for Children (ENOC), the UN Committee on the Rights of the Child, UNICEF and the European Commission are observers to the group.

### **What will be done with the comments?**

All the comments will be reviewed by the Ad hoc Advisory Group, who will then prepare a revised draft for the next meeting of the Council of Europe Advisory Council on Youth in October. It is planned that the Committee of Ministers of the Council of Europe adopts the recommendation early in 2012. We will be in touch with the organisations that provided comments, so you can give feedback to the children who were involved.

### **When is the deadline?**

Comments should be sent to: [childparticipation@coe.int](mailto:childparticipation@coe.int) by 8 June 2011.

**Please use this form for providing your or your organisation's comments:**

#### **1. General comments on the draft recommendation**

#### **2. Comments on the Preamble**

#### **3. Comments on section I. "Scope and Definitions"**

#### **4. Comments on section II. "Principles"**

**5. Comments on section III. "Measures"**

**Please provide us with the following information so we can give feedback to you and the involved children:**

Name of the organisation and contact person:

Address and country:

Email address:

If you consulted children before giving comments, please indicate the age and the number of children involved:

How did you consult the children?

In terms of consultations that the Council of Europe might undertake in the future with NGOs and children it would be helpful if you could advise us of:

- how have you heard about this consultation document:

- any suggestions for improving the way that the Council of Europe consults with NGOs and children:

Thank you!

Strasbourg, 1 March 2011

MJ-S-CYP(2011)1 prov.

## **Draft Recommendation of the Committee of Ministers to member states on child and youth participation**

### **PREAMBLE**

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering the aim of the Council of Europe to achieve greater unity between the member states, in particular by promoting the adoption of common rules,

Considering the necessity of ensuring the effective implementation of existing binding European and international instruments protecting children's rights and in particular:

- the United Nations Convention on the Rights of the Child (UNCRC)
- the European Convention for the Protection of Human Rights and Fundamental Freedoms
- the Revised European Social Charter
- the European Convention on the Exercise of Children's Rights

Having regard to:

- the objectives of the Council of Europe in the fields of children's rights and youth policy;
- the Third Summit of Heads of State and Government of the Council of Europe (Warsaw 2005) and the commitment to fully comply with the obligations of the UNCRC;
- Resolution Res(2008)23 of the Committee of Ministers to member states on the youth policy of the Council of Europe;
- the relevant conclusions of the 8 Council of Europe Conferences of Ministers responsible for Youth held between 1985 and 2008;
- the objectives of the Council of Europe programme "Building a Europe for and with Children" as set out in its Stockholm Strategy for the years 2009-2011;

Recalling the recommendations relating to the participation of children and young people, adopted by the Committee of Ministers, Parliamentary Assembly and Congress of Local and Regional Authorities, and in particular:

- Recommendation CM/Rec(2010)7 on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights
- Recommendation CM/Rec(2006)14 on citizenship and participation of young people in public life;
- The revised European Charter on the participation of young people in local and regional life;
- Parliamentary Assembly Recommendation 1864 (2009) on the participation by children in decisions affecting them;

Recalling the United Nations Convention on the Rights of the Child and in particular:

- Article 12 which states: (1) States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. (2) For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.”;
- The following Articles that are closely linked to Article 12: Article 2 (the right to non-discrimination), Article 3 (primary consideration of the best interest of the child), Article 5 (guidance by parents and evolving capacities of the child), Article 9(2) (the right to participate and make views known in proceedings relating to separation from parents), Article 13 (the right to freedom of expression), Article 14 (the right to freedom of thought, conscience and religion), Article 15 (the right to freedom of association), Article 16 (the right to privacy), and Article 17 (the right to information), Article 20 (the right to give informed consent in adoption proceedings) and Article 23 (the right of disabled children to active participation in the community);
- General Comment No. 12 (2009) of the UN Committee on the Rights of the Child on the right of the child to be heard.

Convinced that:

- The right to be heard and taken seriously is fundamental to the human dignity and healthy development of every child
- all children and young people have the right to freely express their views and to have those views given due weight in all matters that affect them;
- the right to be heard applies to all children and young people regardless of their age, without discrimination on any grounds such as race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth, sexual orientation or other status;
- Particular efforts should be made to listen to and promote participation of especially vulnerable or marginalised children and young people;
- listening to children and young people and giving due weight to their views and opinions is necessary in order to guarantee the effective implementation of a child's right to have her/his best interests be a primary consideration in all matters affecting her/him;

- the capacities children and young people have and the contributions they can make provide for a unique resource for strengthening democracy and social cohesion in European societies.

Recommends that the governments of the member states,

1. ensure that all children and young people can exercise their right to be heard and taken seriously in all matters affecting them including in family life, health and social care, institutional care, child protection, adoption, education, community life, administration, judicial proceedings as well as in public policy making and democratic decision-making at local, regional, national and international levels;
2. encourage the exchange of knowledge and of good practice concerning the realisation of children and young people's right to be heard and taken seriously at local, regional, national and European levels and promote co-operation across member states;
3. be guided in their legislation, policies and practices by the principles and measures contained in the appendix to this Recommendation;
4. ensure that this Recommendation, including its appendix, is translated and disseminated as widely as possible, including to children and young people, using child- and youth-friendly ways of communication.

Recommends the Secretary General to review the Council of Europe's working methods with a view to encouraging the participation of children and young people in the organisation's standard setting, co-operation and monitoring activities;

Instructs the Secretary General of the Council of Europe to transmit the present Recommendation to States Parties to the European Cultural Convention which are not members of the Council of Europe.

## **APPENDIX**

### **I. Scope and definitions**

For the purpose of this Recommendation on child and youth participation (hereafter "the Recommendation"):

- a) "Children and young people" refers to any person under the age of 18 years<sup>1</sup>.

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<sup>1</sup> 18 years is the usual age of majority in Council of Europe member states. While the UNCRC defines persons under 18 as children, in daily discourses the term 'young people' is often used to describe children older than 12 or 13 years. Also, people of 13-17 years commonly identify as 'young people' rather than as 'children' and often prefer to be addressed as such.

b) "Participation" refers to the free expression and reciprocal exchange of views and actions, in which all individuals or groups of individuals are entitled to influence decision making in all matters affecting them.

c) "Child and youth participation" is concerned with the actual participation of children and young people, both as individuals and as a group.

## **II. Principles**

1. There is no age limit on the right of the child or young person to express her/his views freely and to have these views given due weight.
2. It is the responsibility of adults to make every effort to acknowledge the forms of expression that children use according to their capacities. Parents and carers play a fundamental role in affirming and nurturing the child's right to be heard and taken seriously, from birth onwards.
3. In order to be able to participate meaningfully and genuinely, children and young people must be provided with all relevant information and offered adequate support for self-advocacy appropriate to their age and circumstances.
4. Consideration needs to be given to the notion of the evolving capacities of children and young people. As children and young people acquire more capacities, adults should encourage them to enjoy to the increasing degree, their rights and responsibilities to influence matters affecting them.
5. If participation is to be effective, meaningful and sustainable, it needs to be understood as a process and not a one-off event and requires ongoing commitment in terms of time and resources.
6. In line with the General Comment on Article 12 of the UNCRC, all processes in which children are heard must be: transparent and informative; voluntary; respectful; relevant to children's lives; in child friendly environments; inclusive (non-discriminatory); supported by training; safe and sensitive to risk; and accountable.<sup>2</sup> Member states should integrate these requirements into all legislative and other measures for the implementation of this Recommendation.
7. Children and young people exercising their right to freely express their views shall be protected from harm including intimidation, reprisals, victimisation and violation of their right to privacy.
8. Children shall always be informed about the outcome of the process in which they participated and how their views were considered.

## **III. Measures**

### **Protecting children and young people's right to participate**

In order to protect the child or young person's right to be heard and taken seriously, member states should:

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<sup>2</sup> See UN Committee on the Rights of the Child (2009) General Comment No. 12, Para 134.

1. undertake an assessment of the extent to which children and young people's opinions are heard and taken seriously in existing legislation, policies and practices;
2. provide the greatest possible legal protection for children and young people's right to be heard and taken seriously, including in constitutions, legislation and regulations;
3. ensure safeguards such as child-friendly complaints procedures and monitoring mechanisms are in place for children who are especially vulnerable to rights violations, including those separated from their parents, disabled children and children in health, care or custodial institutions;
4. reconsider any barriers based on age limits either in law or in practice which restrict the child or young person's right to be heard in all matters affecting her/him.
5. devise a national strategy on child and youth participation, located within a broader national strategy for implementing children and young people's rights;
6. assign, if not in existence responsibility to a government department or agency to drive, oversee and monitor implementation of this strategy and to ensure that child and youth participation is mainstreamed through decision and policy making structures.
7. establish, if it does not yet exist, an independent human rights institution such as an ombudsperson for children which is able to effectively monitor, promote and protect children and young people's rights;
8. allocate adequate financial resources and secure competent human resources to support children and young people's participation;

### **Promoting child and youth participation**

In order to spread information and knowledge about child and youth participation, member states should:

1. promote training on child and youth participation for leaders of child and youth organisations as well as for professionals working with and for children and young people, including teachers, lawyers, judges, police, social workers, community workers, psychologists, caregivers, residential and prison officers, health care professionals, public officials, immigration officials religious leaders and members of the media;
2. provide children and young people with information appropriate to their age and circumstances, including in non-written forms of communication, on their right to participate, the opportunities available to them to do so and where they can get support to take advantage of those opportunities;
3. make children and young people's rights, including the right to be heard, a mandatory component of school curricula;
4. stimulate research on, with and by children and young people, with a view to enabling better understanding of children's and young people's views and experiences, identifying obstacles to child and youth participation and ways of overcoming these.

## **Creating spaces for participation**

In order to create opportunities for children's and young people's participation in all matters affecting them, member states should:

1. encourage through legislation and parent training programmes parents and carers to respect the child's and young person's human dignity and her/his rights, feelings and opinions.
2. promote all forms of active participation by children and young people in educational establishments, notably through pupils' councils having the possibility to express views on all aspects of school life;
3. provide education in a way that respects the inherent dignity of the child and young person and enables free expression of her/his views and participation in school life, for example through using interactive teaching methods and the recognition of non-formal education and informal learning;
4. Support the involvement of children and young people in associative and community life and invest in organisations directed by children and young people, as favourable spaces for learning about and exercising democracy and citizenship;
5. establish consultative bodies for children and young people at local and regional level, such as children and youth councils, parliaments or forums;
6. ensure that providers of services to families and children support children and young people to participate in service development, delivery and evaluation;
7. render mechanisms for complaints, remedies or redress within the justice and administrative systems accessible to children and young people;
8. enhance opportunities for children and young people to express themselves in the media and through Information and Communication Technologies (ICT) and build understanding of the principles of participation in the media and in ICT;
9. increase the opportunities children and young people have to participate in public life and democratic bodies, including as representatives, and consider the possibility of lowering the voting age;
10. support children and young people and their organisations to participate in the monitoring of the implementation of Article 12 and other relevant Articles of the UNCRC, as well as of the implementation of the relevant Council of Europe instruments and other international standards on children's rights.