
October 2008

The European Children’s Network (EURONET) welcomes the opportunity to comment on the Issue Paper together with the other actors of the Steering Group of the European Forum on the Rights of the Child. We very much welcome the European Commission’s efforts to engage with relevant organisations at all stages so as to build upon the synergy of all concerned stakeholders, including children, in identifying the most important areas and orientations of the Strategy. The Issue Paper for Building an EU Strategy for the Rights of the Child is an important step in this direction.

EURONET is aware that the Issue Paper serves as an initial consultative document and that the development of an EU Strategy on Children’s rights is a work in progress. This submission will emphasize some general comments to take into account in the forthcoming revision of the consultative document. As well as the overall structure of the Strategy, EURONET will focus on the internal aspects of EU action as this is the primary scope of its activities.

In general terms, EURONET’s main concern is that as it stands, the Issue paper does not provide the Commission with a solid foundation for a sound Strategy on Children’s Rights as it fails to coherently reflect the applicable international human rights framework and other legal core principles required for such a Strategy. **Our key recommendations are therefore:**

**Recommendation n.1:**
As a high priority, EURONET strongly urges the European Commission to use the General Measures of Implementation of the UN Convention on the Rights of the Child as a basis so as to provide the Strategy with a sound structural framework to mainstream children’s rights within all EU legislation, policy and actions.

EURONET shares and supports the two-fold approach set out in the paper of combining mainstreaming of children’s rights with specific actions under the clusters of rights set out in the UN Convention on the Rights of the Child (UNCRC). Nevertheless, while recognizing that mainstreaming needs to be “deepened and structured”, the paper does not indicate what the process should be to ensure that all EU legislation, policies and actions affecting children directly or indirectly are child proofed. EURONET believes that the Paper should concretely spell out what the rights-based framework of the Strategy, including “mainstreaming children’s rights”, means in practice.
An EU Strategy should cover the implementation, within the EU’s competencies, of what the UN Committee on the Rights of the Child has termed “General Measures of Implementation”. EURONET regrets that the Issue Paper does not make any reference to the General Measures of Implementation and calls on the Commission to follow them as a high priority issue for setting out a sound child’s rights structure and a sustainable process when developing child’s rights-based policies.

EURONET has clearly spelled out the practical implications of this in a written input to the development of the structure of the EU Strategy on Children’s Rights, in July 2008 (Annex 1). Building on this input, EURONET is currently developing more detailed recommendations on what it concretely means for the European Union to use the General Measures of Implementation of the UNCRC as a structural framework for the EU Strategy on Children’s Rights. We urge the European Commission to take these recommendations into account in the final draft of the EU Strategy on Children’s Rights.

**Recommendation n.2:**
EURONET calls on the European Commission to include the eight internationally agreed clusters of the UNCRC in the issue paper

EURONET welcomes the fact that the European Commission adopted the “Clusters approach” from the UNCRC when grouping specific EU policies areas and activities on children’s rights. However, the paper fails to recognize that there are eight, and not six, internationally agreed clusters of the UNCRC. The Commission fails to mention both the Definition of the Child\(^1\) and the General Measures of Implementation.\(^2\)

The first three clusters (General Measures of Implementation, Definition of the Child, and General Principles) are fundamental building blocks of any children’s rights strategy, and must be prioritized in the EU Strategy. The fact that two of these fundamental clusters are not dealt with results in the basis of the Strategy being inherently weak.

**Recommendation n.3:**
EURONET urges the European Commission to develop clear criteria for the selection of actions aiming at implementing children’s rights within EU’s competences.

EURONET welcomes the fact that the paper identifies a number of key challenges to the implementation of children’s rights in Europe. However we are concerned that objective criteria are not proposed to select what specific actions the EU should be taking and prioritising, instead taking an ad hoc approach to identifying actions.

The EU needs a means of identifying relevant actions based on a number of factors, while respecting the principle of indivisibility of human rights. In relation to the EU’s internal policies, this needs to take into account evidence regarding the most common child rights violations across EU Member States and what type

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\(^1\) Cluster II: Definition of the Child (Article 1)

\(^2\) Cluster I: General Measures of Implementation (Articles 4, 41, 42 & 44 (6))
of measure can be adopted to address the violation within the EU’s competences. As it stands, the Issue Paper does not reflect evidence of the state of children’s rights across EU Member States.

EURONET is carrying out a comparative analysis of the most recent concluding observations by the UN Committee on the Rights of the Child of the 27 EU Member States. This will provide a comprehensive overview of the most common violations of children’s rights across the EU and the appropriate actions that can be put forward according to the EU’s competences as outlined in the EU Treaties. On this basis, EURONET will make its own proposals regarding specific actions for the Strategy that we encourage the European Commission to implement when identifying priority actions for the EU’s internal policies.

**Recommendation n.4:**
EURONET recommends that the Issue Paper should be laid out in a systematic and consistent manner in regard to the actions related to internal and external affairs, the actors responsible for implementation and the type of envisaged action.

In the Issue Paper, the internal and external dimensions of EU actions in relation to each cluster are not clearly separated. In addition, different “forms” of actions for different actors are presented in a disorganized manner. EURONET believes that in the Issue Paper recommendations to EU institutions and to Member States should be organized in a consistent and coherent manner so as to allow for accountability when following-up actions.

For each cluster of rights, actions should be categorized as being internal or external. Below these categories, sub-categories should refer to the actors responsible, such as Member States and EU Institutions. Such groups should further be divided into the types of actions (for instance, binding legislation, political declarations of support, funding regional actions).

**Recommendation n.5:**
EURONET strongly recommends that the European Commission develop practical proposals, in consultation with children, to ensure that their right to participation is fulfilled in all EU matters affecting them directly or indirectly.

EURONET welcomes the European Commission’s commitment to the safe and meaningful participation of children in all matters concerning them. We strongly support the European Commission’s proposed consultation with children in all aspects of drawing up the Strategy.

Child participation is mentioned in two sections of the Issue Paper. In the “general approach” section, the European Commission states that “the process of mainstreaming shall also be based on consultation and participation with children.” As mentioned above, EURONET strongly recommends that the process of “mainstreaming” should be based upon the General Measures of Implementation of the UNCRC. Children could provide a valuable contribution in setting up processes and mechanisms for ensuring that their voices are heard in all EU forums where decisions affecting them are taken.

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Moreover, in the “General Principles section”, the European Commission should make a stronger emphasis on child participation not only as a means to ensuring that the Strategy is reflective of children’s needs but as a right in its own right. In the light of Art.12 of the UNCRC, children are entitled to participate in all decisions that affect them and this extends to all EU matters having a direct or indirect impact on children.

**Recommendation n.6:**
EURONET encourages the European Commission to strengthen recommendations in relation to the gathering of data and information on children in the EU.

EURONET strongly supports the emphasis made in the Issue Paper in regard to data collection and to the development of indicators specific to children as a basis of policy making.

EURONET would like to emphasize that the current Study of the Fundamental Rights Agency (FRA) on the development of child rights indicators within EU Member States will not be sufficient to have a comprehensive body of evidence regarding the state of children’s rights in Europe as the study’s focus is only on three areas of concern (trafficking, poverty and children’s rights in the family).

It is therefore recommended that there be systematic gathering of data on children (including budgetary analysis) to this end:

- Extend the mandate of EUROSTAT to include a wider range of basic data regarding children, working with statistical offices in member states and international offices.
- The EU should draw upon the knowledge of child helplines as resources for gathering data and help ensure their sufficient resourcing to this end.
- The EU should extend the FRA’s indicators’ study to other clusters of rights and ensure that the indicators are effectively used in all EU Member States for data collection.

**Conclusion**

EURONET’s main concern is that as it currently stands, the Issue paper does not provide the Commission with a solid fundament for a sound Strategy on Children’s Rights since it fails to coherently reflect the applicable international human rights framework and related core principles required for such a Strategy.

Our main recommendation is that mainstreaming should be based on the General Measures of Implementation of the UNCRC. EURONET calls on the Commission as a high priority to develop clear practical proposals for setting out a sound child’s rights structure and a sustainable process for the development of child rights-based policies.

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ANNEX

An European Union Children’s Rights Strategy:
What should it look like?

A contribution from the European Children’s Network (EURONET)
JULY 2008

Key Messages:

1. The primary objective, and first phase of an EU Strategy on Children’s Rights should be to establish a ‘sustainable process’ to ensure children’s rights based legislation, policies and programmes, and the necessary legislative, administrative and other measures to achieve this.

2. The first phase of the EU Strategy on the Rights of the Child should be developed with close reference to international guidance on the ‘general measures of implementation’ for implementation of the UN Convention on the Rights of the Child.

3. The second phase of an EU strategy on children’s rights should identify and develop initiatives in specific policy areas using the UN Convention on the Rights of the Child ‘clusters’ as a framework.

Introduction

The European Commission’s Communication of July 2006 “Towards an EU Strategy on the Rights of the Child” expresses the Commission’s firm commitment to develop a long-term strategy ‘to ensure that EU action effectively promotes and safeguards children’s rights and to support the efforts of the Member States in this field”4. A number of objectives and actions were proposed in this document.

The European Children’s Network (EURONET) welcomed this initiative and has been closely involved in efforts before and following this Communication to promote better integration of children’s rights in European Union policy-making, including through the development of a children’s rights strategy.

In light of the Commission’s more recent proposals to draw up a further Communication setting out the promised EU Strategy, EURONET in this paper makes some initial recommendations to the Commission as an input to the first draft of this next Communication. EURONET is also working within the Child Rights Action Group of NGOs (CRAG) to contribute to this process.

Children’s rights organisations have often stated that an EU Strategy must be based on the UN Convention on the Rights of the Child (UNCRC)\(^5\) and its Optional Protocols. This paper will give an overview of what this means in practice, building on previous input to the EU institutions in this regard. These recommendations are based on close consultation with experts within the EURONET network who combine significant expertise in relation to children’s rights and, more specifically, children’s rights strategies.

EURONET does not work on the EU’s external relations and development policies, however these recommendations are cross-cutting rather than policy-specific and therefore relevant across EU policy making.

The Strategy must be informed by the ‘Definition of a child’ contained in Article 1 of the UNCRC\(^6\), and the General Principles (Articles 2, 3, 6 and 1, UNCRC).

**Priority number one - Getting the framework right**

The 2006 Communication contains many excellent elements which need to be present to form a comprehensive children’s rights strategy. However EURONET considers there is still a need to formulate an over-arching rights-based framework for a strategy.

This is the first time the European Union is developing a children’s rights strategy. However, the development of the Strategy needs to be seen in the context of a significant body of international guidance and experience on children’s rights strategies, linked to the United Nations Convention on the Rights of the Child (UNCRC) (1989).

The available guidance and experience relates primarily to the development and implementation of children’s rights strategies by national states, and therefore needs to be adapted to the specific institutional and legal structure of the European Union. However, this does not reduce its relevance to the EU context, and must be used as a basis for the development of the Strategy.

⇒ The EU does not need to reinvent the wheel – just adapt the spokes to the EU context. The EU Strategy should be based on the UN Convention on the Rights of the Child and international guidance on what this means in practice.


**What should be the objective of an EU Strategy on children’s rights?**

An EU Strategy should cover the implementation, within the EU’s competences, of what the UN Committee on the Rights of the Child has termed “general

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\(^5\) UN General Assembly resolution 44/25 of 20 November 1989

\(^6\) The Convention defines a ‘child’ as a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger. States are encouraged to review the age of majority if it is set below 18 and to increase the level of protection for all children under 18.
As the Committee says in General Comment No. 5, a "strategy must not be simply a list of good intentions; it must include a description of a sustainable process for realizing the rights of children throughout the State" (emphasis added).

"Ensuring that all domestic legislation is fully compatible with the Convention and that the Convention’s principles and provisions can be directly applied and appropriately enforced is fundamental. In addition, the Committee on the Rights of the Child has identified a wide range of measures that are needed for effective implementation, including the development of special structures and monitoring, training and other activities in Government, parliament and the judiciary at all levels".

⇒ **EURONET therefore expects the core of the EU Strategy to be the development and implementation of a sound children’s rights structure and ‘sustainable process.’ This will support the achievement of the objective set out in the 2006 Communication ‘to ensure that EU action effectively promotes and safeguards children’s rights and to support the efforts of the Member States in this field’. This should build on such structures and measures identified in the 2006 Communication, to form a comprehensive framework.**

⇒ **The Strategy itself should not list specific actions in different policy areas – these should be developed as separate work plans. What the Strategy should do is to set out the framework, processes and structures within which policy priorities will be identified, based on child rights-based situational analyses, and the content and approach of policies developed. These should lead to EU children’s rights-based policies.**
What are these structures, processes and other measures?

The ‘General Measures of Implementation’ outlined by the UN Committee on the Rights of the Child in its General Comment No. 5 (2003) should be used as a basis for identifying the necessary and appropriate structures and processes which will enable the development of children’s rights-based policies.

EURONET is working to develop detailed recommendations in this regard, based on existing recommendations, but indicates below the different areas which need to be considered, and some examples of what this might mean in practice. Some of the measures which will be necessary have already been proposed in the 2006 Communication.

A brief introduction to what the general measures of implementation mean for the development of an EU Strategy on Children’s Rights

- **Ratification of the UNCRC and its protocols, without reservation.**

In guidance to states, this is essential. All EU member states have ratified the UNCRC and are bound to it. A growing number of EU activities affect children, directly or indirectly and more and more risks to children transcend national boundaries, making cross-border cooperation essential. Although the EU is not a state, there are a number of aspects which it should put in place which would fall under this measure. These would include for example, signing the UNCRC (when the EU Lisbon Treaty would enter into force), as well as continuing to work towards the inclusion of children’s rights in the objectives of the EU, as set out in the Lisbon Treaty. It can also encourage those Member States which have not ratified the protocols to do so, as well as remove any reservations to the UNCRC.

"**all appropriate legislative...measures**”:

- **Legislative review – ensuring all existing and new legislation is fully compatible with the Convention**

The EU should review all existing legislation against the UNCRC, to ensure compatibility.

"**all appropriate administrative, and other measures**”:

- **A “comprehensive national strategy” for children**

As long as it responds fully to the general measures of implementation, the development of this strategy with the requisite elements will respond to this measure; the 2006 Communication has started the process.

- **Policy coherence and coordinating implementation: need for permanent government mechanisms.**

"...States parties, if they have not already done so, should review the machinery of government from the perspective of implementation of the Convention and in particular of the four articles identified as providing general principles...the actions of virtually all government departments impact on children’s lives...”

The Commission has already started putting in place some structures, but these are incomplete and need to be further pursued and developed. These include measures such as a children’s rights unit, child rights impact assessment, ensuring coherence and a child rights approach across policy areas, coordination
between and within the EU institutions, mechanisms to cooperate with civil society, and so on.

- **Data collection and indicators**
The EU can play a key role in enabling the collection of comparative data related to the implementation of children’s rights across the EU. The best way of doing this should be to build upon existing data collection mechanisms and European fora for discussion of data. The development of child rights indicators is a step towards the collection of comparable data across the EU.

- **Human and Financial Resources**
The impact of budgets on children and children’s rights need to be tracked in relation to their allocation and impact. The EU should create a specific budget line for children’s rights, and disaggregate its budget data to show amounts spent on children. Human resources such as a well-staffed children’s rights unit as well as children’s rights contact points across the EU institutions are crucial.

- **Training and Capacity Building**
Children’s’ rights training needs among staff should be identified, and training made available accordingly on an ongoing basis.

- **Involvement of Civil Society, including Children**
Appropriate structures are required to enable meaningful consultation of civil society; the steps towards establishing a European Forum on the Rights of the Child are one mechanism for this although this is not sufficient. Crucially, children and young people themselves need to be involved in policy making which affects them in a meaningful way.

- **Monitoring and Reporting**
Mechanisms to monitor and report on the implementation of the children’s rights strategy need to be clarified, including to whom those who are responsible for implementing the strategy are accountable. For example, questioning what the reporting coordination mechanisms between the EU institutions will be, what institution is ultimately accountable, and to whom. The EU currently has no independent monitoring mechanism.

- **International cooperation**
The EU has extensive international cooperation through its external relations and international development agenda; this needs full child rights-proofing. In addition, it should also consider where international cooperation is required across children’s rights issues,

- **Independent children’s rights institutions**
States are required to establish independent children’s rights institutions; considering how this requirement should be addressed in the EU context is necessary.

- **Information and Awareness-raising**
What is the EU’s role in relation to raising awareness about children’s rights? The use of existing EU mechanisms such as European Years should be considered.

**Does prioritising the ‘general measures of implementation’ mean the EU would not actually do anything concrete at first?**
Development and implementation of the “general measures of implementation” is very concrete, and an essential building-block for the development of rights-based policies over a longer period. It is also very difficult to identify what are the right actions to take without having these measures in place. That work must therefore be seen as ‘Phase One’ of any strategy.

A two-track Strategy is therefore required which prioritises ‘Phase One’ – the general measures of implementation as outlined above, while recognising that there are ongoing relevant initiatives.

In terms of considering future priorities and any new actions – ‘Phase Two’ –, EURONET is carrying out a review of the Concluding Observations produced by the UN Committee on the Rights of the Child when they examined the implementation of the UNCRC by the 27 EU Member States. This will give a clear overview of the key children’s rights violations which are relevant in a significant majority of Member States. Compared with the EU’s role and competencies in relation to Member States, this should contribute to the identification priorities for the EU in relation to children’s rights over the coming years. The Commission’s planned consultations with children and young people as well as civil society and other stakeholders over the coming year 2008/09 will also help to identify these.

This should minimise the risk of ad hoc initiatives which are not based on a comprehensive child rights-based analysis, and which can distract attention from more important children’s rights issues where the EU may have a crucial role to play.

⇒ The EU Strategy on the Rights of the Child should take a two-phase approach:
- Phase One: General measures of implementation, setting up the necessary structures and processes which will enable the development of child rights-based policies.
- Phase Two: Identifying and developing initiatives in specific policy areas

At the same time EURONET recognises that the EU is already carrying out activities which affect children, and may need to develop new initiatives during the period while the structures are being established. Indeed, it is supportive of many of these initiatives. It is essential that the development and content of existing and ongoing policies, legislation and programmes which affect children are made as consistent as possible with a children’s rights approach, as far as possible prior to the completion of the necessary structures and processes. In addition, it is essential that attention is not focused on these ongoing initiatives to the detriment of action to set up the general measures of implementation.

Using ‘Clusters’ of Rights

In its Guidelines for Initial Reports and Periodic Reports, the Committee on the Rights of the Child has grouped the provisions of the Convention into “clusters”: "This approach reflects the Convention’s holistic perspective of children's rights: that they are indivisible and interrelated, and that equal importance should be attached to each and every right recognized therein”.

The first 3 clusters are those areas described above:

I. General Measures of Implementation
II. Definition of a Child
III. General Principles

These are the fundamental building blocks of any children’s rights strategy, and must therefore be prioritised in the EU Strategy.

The following 5 clusters refer to areas which will be implemented through what are dealt with in government structures as distinct policy areas, although they are inter-related and must be treated as such. These are:

IV. Civil Rights and Freedoms
V. Family Environment and Alternative Care
VI. Basic Health and Welfare
VII. Education, Leisure and Cultural Activities
VIII. Special Protection Measures

As the EU is not a national state, it will have varying levels of responsibility and possibilities in relation to the different rights outlined in the UNCRC, depending on its role and competences as outlined in the Treaties. However, these clusters provide a useful framework within which to review and present what the EU is doing which affects children’s rights, and EURONET recommends they be adopted by the EU in reporting on children’s rights-related activities.

**Conclusion**

The EU Strategy on Children’s Rights has to be based on the UN Convention on the Rights of the Child. The objective of the EU Strategy should be the implementation, within the EU’s competencies, of the “General Measures of Implementation”, which ensures that all EU actions are fully compatible with the UNCRC. The General Measures of Implementation as outlined by the UN Committee on the Rights of the Child should be used as a framework for the EU Strategy, which will enable the development of children’s rights-based policies. In addition, initiatives in specific policy areas need to be identified and developed based on an analysis of the Concluding Observations of the UN Committee on the Rights of the Child and grouping these areas according to the provisions of the UNCRC in “clusters”.

This is the first written input from EURONET in relation to the development of the next Communication setting out an EU Strategy on the Rights of the Child. Further contributions will follow containing more detailed recommendations.

EURONET would be very happy to meet with the European Commission to clarify any points raised in this document at this stage.

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