Putting Children’s Rights on EU Agenda

Euronet, the European Children’s Network Plan of Action for the Spanish Presidency

Euronet, the European Children’s Network, welcomes the initiative of the Spanish Presidency to organise a meeting of EU experts on children. In this submission Euronet presents a Plan of Action including a set of recommendations putting children’s rights on the EU Agenda

I. The European Union and its relevance to children

The European Union has, over the last years started to put children on its agenda. Ministers working on children’s policy met for the first time on 20 November 2000 under the French Presidency. This was followed by experts meeting in France, Sweden and Belgium and a Ministers meeting in Belgium (9 November 2001), which adopted a Set of Conclusions covering different areas of children’s policy. Moreover, the EU Charter of Fundamental Rights, which was adopted in December 2000, includes a specific article (24) referring to children’s rights. In July 2001 the European Parliament adopted a resolution on children. All these institutional commitments recognise for the first time that EU policy and legislation impacts on children.

II. The Challenge for the Spanish Presidency

The Spanish Presidency will follow up the previous Ministers’ and experts meetings on children on an EU level and will organise another experts meeting with national government experts on children on 11 April 2002 in Madrid. Euronet, the European Children’s Network, has written its Plan of Action for the EU experts meeting (see section III) and has commented on the “Conclusions of the European Meeting of Ministers in charge of Childhood” of 9 November 2001 adopted under the Belgian Presidency (see section IV).

Euronet recognises the fact that the principal competence for policy and legislation on children’s issues is the responsibility of the member states’ governments. However, many issues affecting children are neither uniquely national nor transnational, such as the standardisation of products and services, greater cross border dissemination of child pornography and child trafficking. Therefore in cases where the EU passes legislation, policy and programmes, children’s best interests must be
European Children’s Network (EURONET) Plan of Action to be presented to EU Children’s Experts meeting on Thursday 11 April.

Euronet presents its own plan of action for the intergovernmental experts meeting to consider. We would be pleased to provide further information or input to explain and support our recommendations.

Giving children a legal base in EU Treaties
- At the next intergovernmental conference in 2004 a new article should be inserted in the EU Treaties so that the Community can contribute to the promotion and protection of the rights and needs of children. This article should be based on the UN Convention on the Rights of the Child. Euronet will publish a separate paper with Article proposals for the Convention for the Future of Europe.
- Article 24 of the EU Charter of Fundamental Rights should be strengthened, the Charter should be incorporated in the EU Treaty and a reference made to the UNCRC in the Preamble. The guiding principle in this Article must be the UN Convention on the Rights of the Child and particular emphasis should be placed on the following principles:
  * The primary consideration shall be the best interests of the child (Article 3)
  * The rights of the child shall be respected and ensured without discrimination of any kind (Article 2)
  * The child shall be sure to express his/her views in all matters affecting the child and the views of the child being given due weight (Article 12)

Children’s interests are taken into account to a limited extent in the EU Treaty in policy areas such as offences against children where action is intergovernmental, social exclusion, non-discrimination, and education and consumer policy. However, even if EU policy areas affect increasingly children’s interests, the EU’s overall competence in relation to children’s issues is restricted and lacks coherence.
The predominant focus within the Treaties on the ‘citizen-as-worker’ means that children interests are excluded from consideration across the majority of policy areas – even though aspects of EU legislation and policy can have unintended but highly damaging consequences for children. Euronet believes that a legal base is needed in the EU Treaty and that the core of a legal basis for children should be the principles of the UN Convention on the Rights of the Child.

The reasons for children to have their own particular consideration and special set of rights and protection within the EU Treaty are:

1. The UN Convention on the Rights of the Child has been ratified by all EU member states, which are bound to this. However, the EU, which passes legislation with direct, or indirect bearing on children’s lives, is under no such obligation.
2. Children are a special category of peoples who have specific needs different from adults and who do not have the ability to protect themselves.
3. EU legislation inadvertently can affect children in a negative way. Recognition of children’s interests would ensure that they were taken into account when draft legislation was considered.
4. Non-consideration of the “best interests” of the child at EU level can result in time consuming debates and potentially expensive court cases.¹

I. Making children a political priority:

• The European Commission should publish a Communication on Children to take forward the proposals of the EU Ministers
• The Commission should develop mechanisms for assessing the impact on children of macro-economic policy-making, drawing on EU environmental impact as a useful model both within the member states and at EU level.

Children make up 20% of the EU population yet their rights as established in international law are currently almost invisible in EU legislation, programmes and political decisions. Children will be more affected by decisions with long-term implications being taken now than any other population group. But children also deserve recognition as active citizens of Europe today.

II. Assessing child impact of EU legislation and policies:

• The European Commission should ensure that all proposed EU legislation and policies are fully compatible with the principle of the best interests of the child as a primary consideration as expressed in the UN Convention on the Rights of the Child.
• All proposed EU legislation, policies and programmes should be subjected to a child impact analysis in order to assess their potential implications for children and to avoid any negative impact.

Many issues affecting children are dealt with on an EU level, such as the standardisation of products and services, but the principle of the ‘best interests’ of the child is only included in EU legislation on an ad hoc basis. Children are a special category of people with specific needs and rights that are different from adults.

¹ For instance, the recent challenge by Sweden concerning TV advertising directed at children.
III. Ensuring policy coordination:

- The annual meeting of European Ministers for Children and the conclusions adopted by these Ministers during the Belgium Presidency (9 November 2001) should be followed up by an annual action plan. This Plan should help to review the measures taken on together with a permanent group representing the Ministers that should carry out their decisions. A structured dialogue must take place between officials, NGOs and other EU institutions to prepare these meetings.
- EU institutions should work more closely with children’s NGOs, children-led organisations and children’s ombudspersons or commissioners.
- The conditions for EU membership are referred to as the Copenhagen Criteria: stability of institutions, guaranteeing democracy, the rule of law, human rights, and the respect for and protection of minorities. Consequently, the Copenhagen Political Criteria encompass the issue of human rights, including the rights of the child, and constitute a legal base to build on. This does form a unique opportunity to place the rights of the child on the political agenda. However, this cannot be done without a political will from both sides.

There is a need for policy coordination within and between the different EU institutions with regard to issues affecting children to ensure that children’s interests are taken into consideration in all EU legislation, policies and programmes that affect them. In this respect cooperation with children’s NGOs, children-led organisations and children’s ombudspersons or commissioners is needed as well.

IV. Promoting children’s participation:

- The EU and member states must involve children and young people in decision-making processes at all levels through appropriate mechanisms, based on Article 12 of the United Nations Convention on the Rights of the Child (UN CRC), and provide adequate resources for these initiatives.

Euronet welcomes that the Convention for the future of Europe will involve young people in the design of the European Union, but regrets that this only includes young people of 18-25 years old and not younger children. It is important that Member States and EU institutions not only endorse the principle of children’s right to express their views in their own -as set out in Article 12 of the UNCRC (children’s right to express views on all matters concerning them)-, but to implement this fully. Euronet invites the EU and Member States to involve children as fully as possible in decision-making processes, and apply this to any area of legislation and policy. Positive attempts to involve children as active citizens in policy and planning have already been made at national level and local level. In 2000 Euronet started a European Network of Children and Young People in which children and young people from five EU member states participated and cooperated in developing “Agenda 2000 for children and young people in Europe”. In this ‘Agenda 2000’ they recommend “securing every person’s right to participate as a citizen in his/her community and country of residence, regardless of their country of origin”. 
V. Combating child poverty:

A coherent European approach to child poverty and social exclusion must be developed and Member States should give priority to implementing National Action Plans on combating poverty and social exclusion with special emphasis on combating child poverty.

In January Euronet published the report ‘Including children? Developing a coherent approach to child poverty and social exclusion across Europe’. The main recommendations of this report are:

1. The EU and Member States need to rethink of poverty and social exclusion from a child’s perspective and the impact of social exclusion on children need to be investigated and taken into account in developing policies on child poverty and social exclusion;
2. There is a need for further guidance from the European Commission about developing the National Action Plans against poverty and social exclusion in future and on integrating a child perspective throughout and to set targets for the elimination of child poverty in these Plans;
3. Indicators of poverty and social exclusion should be developed further at EU and Member State level, to focus more clearly on the position of children, e.g. by making breakdowns in age groups.
4. Member States should on the basis of clear indicators draw up their own targets for eliminating child poverty and at EU level ‘benchmarking’ should be considered, e.g. all Member States striving to reach the average of the best 3 performers, and in the longer term consideration should be given to an EU-wide target for the elimination/reduction of child poverty

VI. Recognising the rights of separated children in the development of the common asylum and immigration policy

The EU institutions must ensure that the best interests of the child are reflected in all instruments developed to bring into effect the common asylum and immigration policy. Special attention should be paid to the rights of separated and unaccompanied children.

The number of children arriving in Europe, separated from their parents or normal/customary caregiver, has increased in recent years. The European Commission’s recognition of this issue has been reflected in the financial support provided through the Odysseus Programme to the Separated Children in Europe Programme and in the draft Directives that have specific reference to these children.

Specifically with regard to the development of instruments for the implementation of the common asylum and immigration policy, the following points should be borne in mind:

• That the best interests of separated children should inform all of the new instruments and their implementation
• That separated children need the support of a guardian or advisor, and of a legal representative
• That separated children should have the right to family reunification, and that effective systems for collaboration between member states should be established in order to effect reunification of families divided between different member states
• That care arrangements for children should be in place in order to ensure their personal development and protection, to include education and health matters
• That asylum determination processes should be child-friendly
• That systems should be developed in order to recognise the rights of children who do not receive protection through the asylum system
• That no child should be returned to their country or origin without adequate measures being taken to ensure the child’s protection and care

All Member and Applicant States should be encouraged to urgently pursue the ratification of the Hague Convention on Jurisdiction, Applicable Law, Enforcement and Co-operation in respect of Parental Responsibility and measures for the Protection of Children, 1996. This would ensure greater protection for separated and unaccompanied children.

VII. Continue the fight against sex tourism

The Yokohama Summit on the trade and sexual exploitation of children (December 2001) committed itself to continue combating commercial sexual exploitation. Euronet asks the European Union to implement these commitments.

Euronet supports the initiatives taken so far by the Commission to fight child sex tourism. In this respect the budget line to combat child sex tourism needs to be reinstated. Euronet recommends that the EU Ministers support EU action to combat child sex tourism and to stop commercial sexual exploitation, especially in view of the likely accession of CEE countries in the next few years. Child sex tourism should also be considered as part of continuing dialogue with and support for countries outside the EU.

VIII. Challenging discrimination against children

Within the EU institutional frameworks need to be created to address the discrimination against children, rendering them more visible and recognising them as citizens of Europe.

Many children experience discrimination as a consequence of their particular status, for example disabled children, children from ethnic minorities, immigrant children, children living in poverty, refugee and asylum-seeking children.

IX. A fair budget for children:

The European Parliament should extend the budgets that are currently targeted on youth to younger children and increase resources available to children through general budget-lines and programmes.

The proportion of the EU’s budget that is currently spent on children is minuscule in comparison with that spent on other aspects of EU activity, and compares unfavourably with the amount spent on other social groups by the EU. Children should be given budgetary priority by allocating adequate and fair resources in relation to spending on the needs of other sections of the population. Targeting children at an early stage means investing in them and in Europe’s future.
X. Developing action programmes benefiting children:

The EU institutions must ensure that children can fully benefit from existing EU action programmes including those on youth, non-discrimination and social exclusion.

EU action programmes which directly or indirectly affect children should ensure that children could benefit from these programmes. The youth programme should lower the age for participation of younger children. The non-discrimination programme should fund projects dealing with the discrimination of children as a specific group, on the basis of age discrimination. The social exclusion programme should support projects for children following the decisions made by the EU Summits in Lisbon and Nice.

XI. Euronet Analysis of “Conclusions of the European Meeting of Ministers in charge of Childhood”

Adopted by EU Ministers Meeting, 9 November 2001 in Brussels.

1. The special session of the General Assembly of the United Nations on children

Euronet supports the Conclusions of the EU Ministers on the importance to implement the Convention on the Rights of the Child and to give special emphasis to the development of measures to develop sustainable health systems and social services and to protect children from violence, abuse and discrimination. In particular, Euronet supports the last recommendation, which states: “The European Meeting of Ministers in charge of Childhood reaffirms the merits of efforts to eradicate poverty and its negative effects on children, to reduce economic disparities, and to set up social and economic policies to meet the needs of children and families in all its forms.” Children are especially vulnerable to the effects of poverty and social exclusion since their physical, mental, emotional and social capacities are still evolving. This impact is harmful during their childhood, but also undermines their future prospects and lifetime chances.

2. The mainstreaming of children’s rights and the policies that affect them

The Conclusions state examples of initiatives, programmes and policies pursued by the European Union that have a direct impact or effect on children. These are increasing and therefore, “the European Meeting of Ministers in charge of Childhood wishes the introduction of mainstreaming for Childhood and the rights of the child in all policies of the Union...” Euronet welcomes this proposal. However, to implement this a legal base for children in the EU Treaty is necessary and therefore Euronet calls on the Ministers responsible for children to bring this proposal to their Heads of Government and to their national members of the EU Convention for the Future of Europe.
The Conclusions also stress the importance of the Charter of Fundamental Rights, more particularly its Article 24. Euronet believes that Article 24 of the Charter of Fundamental Rights is a step towards the recognition of children’s rights and interests to be protected and promoted on a European level. However, Article 24 does not refer to all the key principles of the UN Convention of the Rights of the Child and therefore would need to be amended accordingly. Euronet welcomes that the Meeting of Ministers did refer to the Convention on the Rights of the Child as the instrument to be used in the European Union to deal with the situation of children.

Euronet supports the Ministers in that the European Commission should ensure a continuous follow-up to respect the children’s best interest in the decision-making process of the EU.

“The European Meeting of Ministers in charge of Childhood underlines the merits of a specific consideration for Childhood in the national plans implemented by the Member States, especially those with respect to (…) fighting social exclusion.” Euronet has carried out a ‘Child Audit’ of the first National Action Plans against Poverty and Social Exclusion, which shows that only a few of these Action Plans integrate a concern for child poverty and social exclusion throughout. Euronet therefore supports the Conclusion of the Ministers and believes that Member States should ensure that they make children visible and mainstream child poverty and social exclusion throughout their National Action Plans.

3. The network of study centres for Children’s rights and policies

Euronet welcomes the creation of such a network by the Belgium and Spanish EU Presidency and recommends that this network reports back to the Ministers meeting each year and has regular structured contact with NGOs. Concerning the main functions of the network of study centres, Euronet is in particular pleased that they will collect, analyse and disseminate data about children, since there are still no comprehensive, up-to-date figures on the situation of children living in the EU. Euronet also welcomes the intention to task the centres with studying the issue of unaccompanied minors. The Separated Children in Europe Programme would be prepared to share its extensive research material and to collaborate in any other way with the study centres.

4. The effective participation of children in the debates & decisions affecting them

Euronet supports the recommendation of the Ministers to the European institutions “to study the modalities of a possible effective participation of children in the decision process at the level of the European Union.” Euronet believes that the EU and member states must involve children and young people in decision-making processes at all levels through appropriate mechanisms, based on Article 12 of the United Nations Convention on the Rights of the Child (UN CRC), and provide adequate resources for these initiatives.
ANNEX I: Explanatory Notes

How does the EU affect children?

Euronet welcomes the new political will and the recognition by the EU institutions that children are affected in both a positive and negative way by EU legislation, policy and practice. However, children's current legal status in the EU Treaty is unclear and in practice their needs are considered in an ad hoc way in EU legislation. The EU Treaty primarily focuses on the “citizen as worker” which excludes children. In EU law, children are seen too often as only “victims” or “dependents” or “barriers to work” which is in contradiction with their status in the Convention on the Rights of the Child.

Many issues affecting children are dealt with on an EU level such as: the standardisation of products and services (TV, internet, media); the cross-border dissemination of child pornography; child trafficking and the legal consequences for children whose parents choose to live in different parts of the EU following family breakdown. However, the principle of “the best interests of the child” as defined in the Convention on the Rights of the Child is only included in EU legislation on an ad hoc basis. In some cases, the EU has legislated to promote the highest standards of safety for children, for example in the Toy Safety Directive 1988. In other cases, commercial considerations have prevailed above the best interests of the child with the potential to infringe children’s rights, for instance the Distance Selling Directive and toy and TV advertising policies of the EU. This can result in time consuming debates and potentially expensive court cases as Member states challenge this, note in particular the recent challenge by Sweden concerning TV advertising directed at children.

Children need their own particular consideration and special set of rights and protection within the EU Treaty to ensure a consistent application of their rights in EU legislation and policies, because:

• All EU member states have ratified the UN Convention on the Rights of the Child and are bound to this, but the EU, which passes legislation with direct, or indirect, bearing on children’s lives, is not under such obligation.
• Children have not always been accepted as holder of rights and animals are often given rights before children. In the EU Treaty, animals have rights but children do not.
• EU legislation inadvertently can affect children in a negative way, recognition of children’s interests would ensure that they were taken into account when draft legislation was considered.
• Non-consideration of the “best interests” of the child at EU level can result in time consuming debates and potentially expensive court cases.
• Children are a special category of peoples who have specific needs different from adults and who do not have the ability to protect themselves.

What about subsidiarity? Competence of EU in children’s rights issues

Putting children’s rights on the EU agenda does not mean that the EU would gain additional competences. Euronet recognises the fact that the principal competence for policy and legislation on children’s issues is the responsibility of the member states’ governments. However, many issues affecting children are neither uniquely national nor transnational. For instance, legal consequences for children when their parents separate and choose to live in different countries of the EU and the standardisation of products and services (TV, internet, media), greater cross border dissemination of child pornography and child trafficking. Therefore in cases where the EU passes legislation, policy and programmes, children’s rights must be taken into account. This should enable European legislators to ensure that the best interests of the child are taken into account in all European policy, law and programming. Children are affected differently from adults by European legislation and it is important that all EU policy and legislative proposals take their needs into consideration.
Why is children’s policy and family policy complementary?

The need for specific children’s policy at EU level is frequently misunderstood. As the family is the place where most children grow up, it is often argued that issues concerning children can be most effectively addressed under the umbrella of family policy. It is true that families currently play the central role in protecting children and providing for them, and the interests of children are closely linked to those of their parents. It is also important to acknowledge that children’s interests need protecting in other areas of policy which are not covered by family policy, for example: consumer policy; child pornography and child trafficking; adoption, separation and divorce. Another problem is that some children live separately from their families, for instance, children in institutions, street children, traveller children and unaccompanied refugee children. The needs of these children can be easily overlooked.

The Convention on the Rights of the Child places a special emphasis on the primary caring and protective responsibility of the family for their children. This illustrates the complementarities of children’s and family policies. In this respect, a child’s policy could be seen as one of four interlocking circles of policy, within the overall framework of wider social policy. These four interlocking circles are family policy, youth policy, gender policy, and children’s policy. To some extent the interests of the four groups coincide, and some of the needs of children can be met by attending to the areas of overlap. Therefore some of the needs of children can be met within a family policy, but other areas affecting children, as mentioned above, are separate and distinct from a family, youth or gender policy. A children’s policy is therefore complementary to policies for families, but also acknowledges children as social actors who must be supported in the gradual transition from dependence on the family to independent adulthood. In this respect the age of the child is a critical factor. When children are young, their interests are almost always met through the family. However, as they get older, this approach becomes less and less appropriate.
ANNEX II

What is Euronet?
Euronet – the European Children’s Network is a network of children’s rights agencies including national members and child rights coalitions in all 15 EU member states, and ICCB (International Catholic Children’s Bureau) and the International Save the Children Alliance. Together these agencies share a concern about the general invisibility of children in EU policy, legislation and programmes. Euronet members worked together to strengthen the rights of the child by, amongst other things, trying to include a reference in the Amsterdam Treaty to the principles of the UN Convention on the Rights of the Child, ratified by all EU member states.

Following this, Euronet has developed a comprehensive EU Children’s policy “A Children’s Policy for 21st Century Europe: First Steps”, published in 1999. In 2000 this report was complemented by a report “Challenging Discrimination against Children in the EU”, which proposes explicit measures within the EU to challenge the discrimination children experience. During the same year, Euronet started a European Network of Children and Young People that presented their «Agenda 2000 for children and young people in Europe” to the EU institutions. Euronet that has extensively campaigned for recognition of children's rights in the EU Charter of Fundamental Rights welcomes the new Article 24 as the first recognition of the principle of children’s rights in the EU Treaty. Recently, Euronet launched its report “Including Children? Developing a coherent approach to child poverty and social exclusion across Europe”.

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