THE CASE FOR A REPRESENTATIVE FOR CHILDREN’S RIGHTS IN THE COMMISSION AND COUNCIL

Why is a representative for children’s rights in the Commission and Council needed?

To better meet EU’s commitments to children and children’s rights

The EU has made wide-ranging commitments to promoting and integrating children’s rights in all EU policy areas. The EU has also been at the forefront when it comes to speaking out for children’s rights and supporting international initiatives.

However, the Commission has not always been able to deliver on its commitments to children and their rights. Commitments are not fully implemented and remain rhetoric. For instance, the policy of mainstreaming children’s rights into EU development policy has not been successful due to the lack of supporting mechanisms – children are not visible in Country Strategy Papers, Plan of Actions, Regulations and programs. In general, EU legislation and policies may still affect children in a negative way, since there is no need to assess the impact on children, to monitor or to follow up on legislation and policies from a child rights perspective. Another problem has been the lack of coordination and accountability. Moreover, children are not systematically granted with the possibility to participate and have their opinions expressed in matters that affect them.

The draft Treaty, prepared by the Convention, introduces Article I-3: The Union’s Objectives:3. (The Union) “it shall combat social exclusion and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of children’s rights”. 4. “In its relations with the wider world”… The Union shall contribute to protection of human rights and in particular children’s rights, as well as the strict observance and development of international law, including respect for the principles of the United Nations Charter”. If the Convention’s draft Treaty is adopted at the IGC, the need for a Representative for Children will be even more relevant and important to ensure that the commitments to children’s rights are realised. A Representative for children’s rights would be an appropriate and useful response to the need for an independent, and wide ranging, statutory office, to ensure proper implementation of the new articles in the draft Treaty and to promote the rights and interests of children and young people.

The EU has acknowledged the need for a representative for children’s rights. In March 1999, the European Parliament called for the creation of a Commissioner for Children’s rights for the European Union in a written Declaration. More recently, the European Parliament, in a Resolution on trafficking in children and child soldiers, again called on the Commission and the Council to create a high-level representative for children’s rights in the Commission and Council in order to ensure overall coordination, monitoring of results and
specific focus on children’s rights, and to create a stronger child dimension to all EU policy areas.¹

A Representative for children’s rights would assist the Commission and the Council to fulfill its commitments by ensuring overall coordination and accountability, support for policy-development and implementation, monitoring of results and greater visibility for Commission policy on children and their rights.

To ensure that children’s rights are taken into account in all EU policy areas

The UN Convention of the Rights of the Child, which is a legally binding international Treaty, ratified by all EU member states, the EU candidate countries and almost all EU partner countries (except Somalia and the United States), gives children the right to demand that their situation is given consideration in all decision-making processes that affect them.

However, children are invisible in many areas of EU policy – there is no Commissioner, no Directorate, limited policy and limited policy coordination.

A representative for children’s rights could guarantee that the UNCRC is taken into account in all EU policy areas by carrying out impact assessments, monitoring progress, evaluate policies and programs, support and train commission staff in children’s rights and provide expertise.

To ensure participation of children and youth

The UN Convention on the Rights of the Child gives children the right to freely express their opinion in matters that affect them. Article 12, paragraph 1 states “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 age and maturity of the child”. However, children are systematically denied their right of being heard, and are mostly excluded from local, national and European decision-making. As a result children and their experiences remain hidden and only rarely inform the process of decision-making within communities and political institutions.

A Representative for children’s rights would ensure the rights of children to actively participate in informing and influencing the policy and practice of EU policy.

To ensure that children have an advocate in the EU Institutions

Democracy is based on the premise that groups of people will stand up for their own interests and rights. However, the ways in which adults articulate their views and highlight their concerns are largely unavailable to children and young people. Children have very limited access to the EU’s institutions and lack ways of influencing EU policy formulation and decision making.

¹ EP Resolution on trafficking in children and child soldiers (B5-0320/2003), July 2003
A Representative for children’s rights would act as a voice for children and a champion for their rights; thereby ensuring that children’s needs, concerns and interests are acted upon on the basis of what children themselves express.

**What should a representative for children’s rights do?**

- Advocate for children and their rights in all EU Institutions
- Defend the interest of children and children’s rights in all EU Institutions
- Promote a child rights approach to all EU Policy areas and in all EU Institutions
- Carry out child impact assessments
- Monitor, assess the impact of and evaluate EU policy, legislation and practice
- Promote participation of children and youth
- Carry out child rights training for Commission and Council staff
- Coordinate child rights initiatives; encourage inter-service cooperation and promote cross-sectoral approaches
- Increase visibility and profile the EU as a child rights champion

**What powers should a representative for children’s rights have?**

*Scope*

The Representative’s mandate and competence should stretch over all EU institutions and policy areas, including both external and internal policies.

The Representative should have the right to inquire into any matter affecting children and young people in any EU institution, DG and/or Service.

The Representative should have the right to assess the impact on children of different EU policy options in order to evaluate and identify all possible consequences on children of various legislative proposals, regulations and other measures.

The Representative should have the right to influence legislation, policy and programme development, with a view to ensuring their compatibility with the UN Convention on the Rights of the Child and EU’s commitments to children’s rights.
The Representative should have the right to advise and support all those involved in policies and programming that have an impact on children and children’s rights.

The Representative should have the right to publish independent opinions and reports, on both existing and future EU legislation and policy developments affecting children.

The Representative should have the right to monitor and evaluate EU policies and programs with a view to ensuring that the rights of the child are fully taken into account.

The Representative should have the right to propose new policy and program initiatives including supporting budget mechanisms as regards to children and their rights.

Access

The Representative should have full access to all information he/she will need to carry out his/her functions. The Representative should have access to meetings in which topics relevant to his/her aim and mandate and/or have an impact on children and their rights, are discussed. The Representative should have access to all EU Institutions, DGs and Services.

Coordination

The Representative should supervise inter-service cooperation and coordination on children’s rights. The Representative should coordinate policy and program response as regards to children’s rights.

Independence

The Representative for children shall, in order to perform his/her functions as efficiently as possible, function independently and impartially and should not be subject to supervision on the part of Governments, the Commission or the Council.

The Representative should act on his/her own initiative, but can also act on appropriate requests from the EU institutions, member states, and civil society.

Accountability

The Representative should report regularly to the European Parliament to ensure that his/her work is meeting his/her mandate and mission.

Resources

The Representative must have the necessary resources at his/her disposal in order to carry out his/her functions. The representative should hold a full-time position. The Representative should be supported by an administrative section that can monitor, evaluate and propose policy and implementation; provide expert knowledge, support and training; and carry out child impact assessments.
Consultation

The Representative should put in place a structure for the participation of children and consult and liaise with that structure. This can be done by setting up an Advisory Board of children and young people who are recruited and trained before the Representative’s office is set up. The children and young people could work to develop staff job descriptions, ideas about the purposes of the office and how it should function, and take part in staff recruitment. Once the office is running, they have met at least once a month to advise the staff on areas of work. The Advisory Board should take part and lead many activities such as conference workshops and presentations as well as training other young people, carrying out research, organising events, writing articles and doing media work.

The Representative should establish contacts and liaise with civil society, especially children’s rights NGOs.

The Representative should liaise with ENOC, ChildONEurope and Europe de l’Enfance, but remain independent from them.

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