

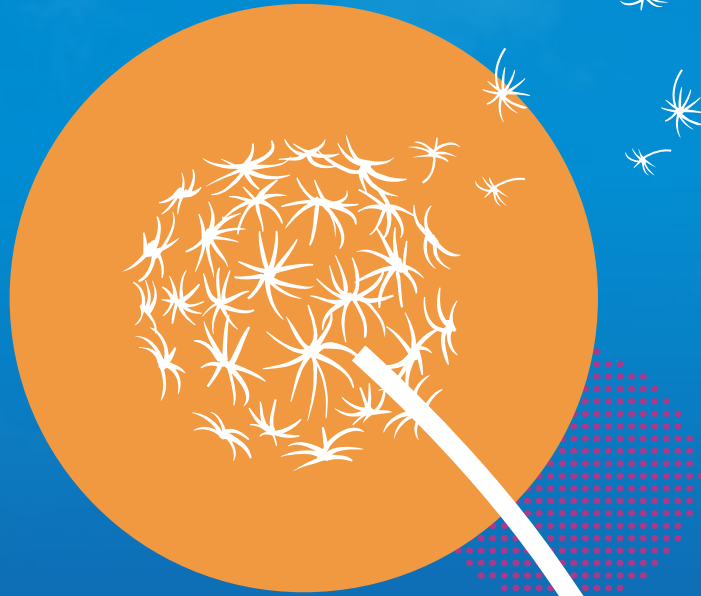


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Technical Assistance for Strengthening Fundamental Rights Sector Coordination

COMPARATIVE STUDY ON CHILDREN'S RIGHTS (FRANCE-BELGIUM-POLAND)



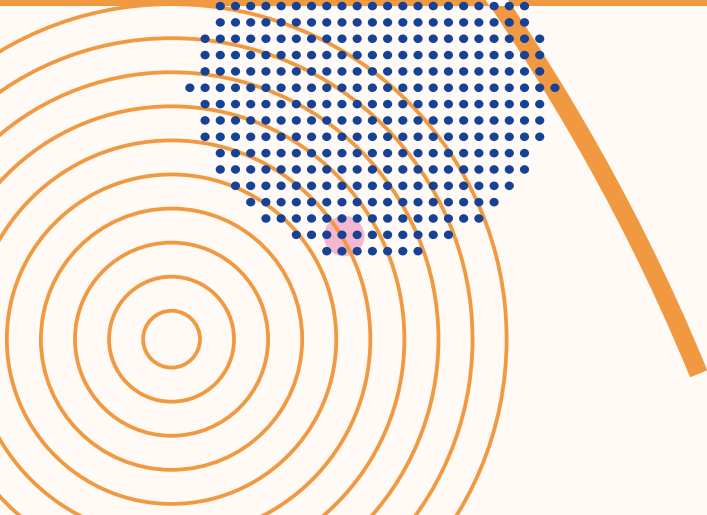
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ANKARA
2023

**COMPARATIVE STUDY
ON CHILDREN'S RIGHTS
(FRANCE-BELGIUM-POLAND)**

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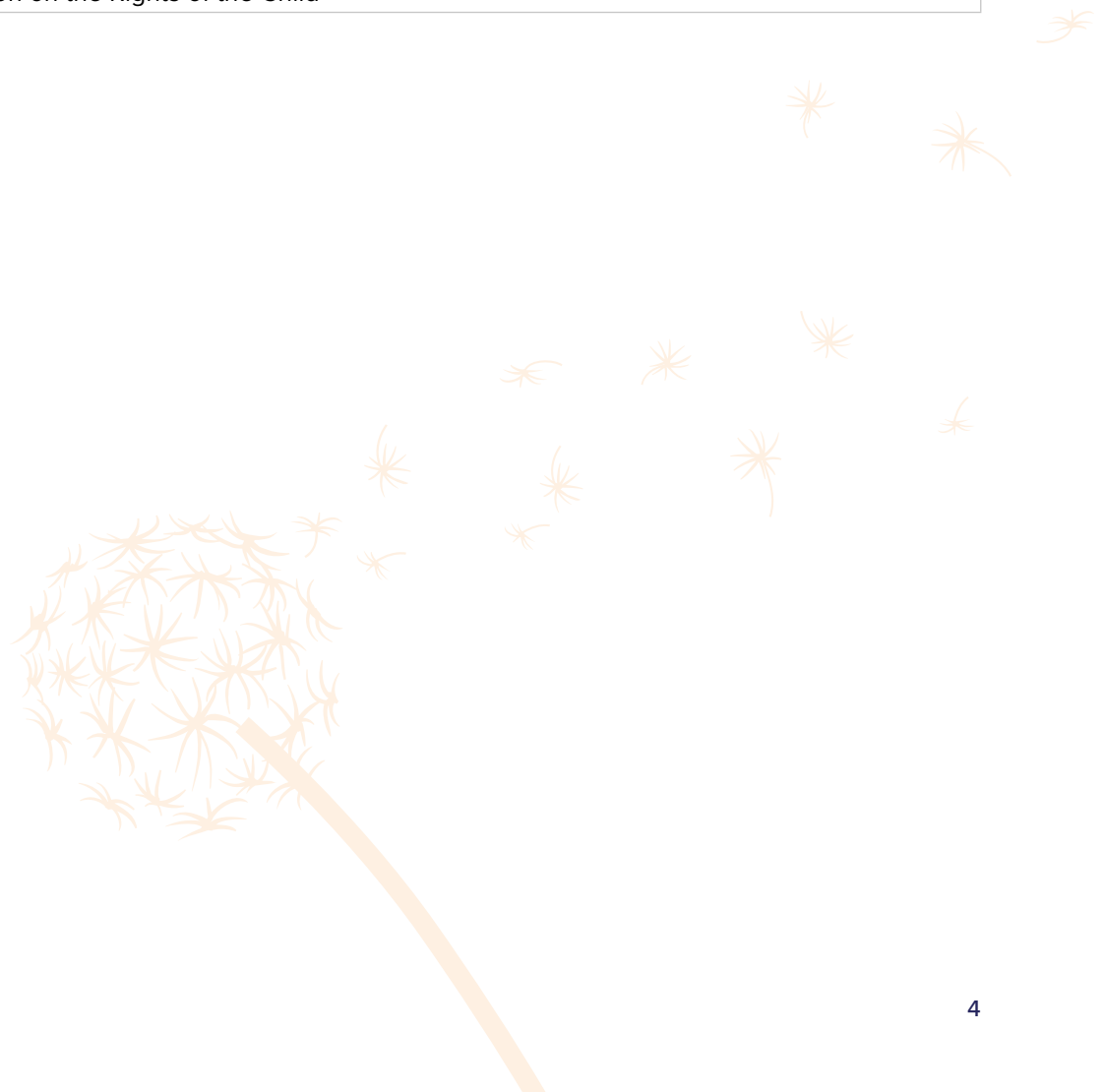
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LIST OF ABBREVIATIONS

CFJ-EN	Child-Friendly Justice European Network
CoE	Council of Europe
CPAT	Child Participation Assessment Tool
CRC	UN Committee on the Rights of the Child
ECHR	European Convention on Human Rights
ECSR	European Committee of Social Rights
ECTHR	European Court of Human Rights
ENYA	European Network of Young Advisors
EPIC	European Platform for Investing in Children
EU	European Union
EU-GDPR	European Union General Data Protection Regulation
FRA	European Union Agency for Fundamental Rights
GRETA	Group of Experts on Action against Trafficking in Human Beings
GREVIO	Group of Independent Experts on Action against Violence against Women and Domestic Violence
MACR	Minimum Age of Criminal Responsibility
TEU - Treaty of Lisbon	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UN	United Nations
UNCRC	Convention on the Rights of the Child



Introduction

This study discusses the EU acquis in Children's Rights and good practices. In this regard, it contributes to the development of the rights of the child in Türkiye.

Children's rights are part of human rights that the EU and EU Member States must respect, protect and fulfil.¹ There are two main elements in the shaping and basis of the EU child rights acquis, to which Türkiye is a party. These include primarily human rights agreements of the Council of Europe (CoE)² and the United Nations (UN)³, as well as the case law of the European Court of Human Rights (ECtHR), the European Committee of Social Rights (ECSR), the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee), the Group of Independent Experts on Action against Violence against Women and Domestic Violence (GREVIO), the Group of Experts on Action against Trafficking in Human Beings (GRETA), the UN Committee on the Rights of the Child (UNCRC or Committee), and nine other treaty bodies as well as mechanisms such as UN Special Procedures.

For example, paragraph 5 of Article 3 of the Treaty of Lisbon, which forms the basis of the EU children's rights acquis, and Article 24 of the Charter on Fundamental Rights of the EU and the umbrella rights of the United Nations (UN) Convention on the Rights of the Child (UNCRC) are taken as basis.

Likewise, the EU children's rights acquis is currently shaped by the Council of Europe which bases its activities on the UNCRC.⁴ The Council of Europe has a strategic partnership with the EU in all human rights areas, including children's rights.⁵ For example, the Council of Europe implements various programmes and projects to develop child-friendly justice and child participation in the EU and EU candidate countries.⁶ Another indicator of this close partnership is the preparation of the EU Strategy on the Rights of the Child and the European Child Guarantee⁷ of March 2021 and the Council of Europe Strategy for the Rights of the Child⁸ of February 2022 in a complementary manner. Both strategies are composed of six thematic areas while focusing on five common thematic areas, including child-friendly justice and child participation.

Therefore, the recognition and implementation of the UNCRC and the Council of Europe acquis, to which Türkiye is currently a party, also means implementing the EU's acquis on children's rights. In other words, by implementing the EU children's rights acquis, Türkiye will be able to enforce the children's rights law of the UN and the CoE, to which Türkiye is currently a party.

1 EU action on the rights of the child - European Commission https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/rights-child/eu-action-rights-child_en

2 For conventions related to children's rights, please visit <https://www.coe.int/en/web/conventions/by-subject-matters?module=treaties-full-list&CodeMatiere=29>; for conventions related to human rights, please visit <https://www.coe.int/en/web/conventions/by-subject-matters?module=treaties-full-list&CodeMatiere=44>

3 For instruments and mechanism related to children's rights, please visit <https://www.ohchr.org/en/instruments-and-mechanisms>

4 See <https://www.coe.int/en/web/children/home>

5 See <https://www.coe.int/en/web/programmes/eu-cooperation>

6 See <https://www.coe.int/en/web/children/co-operation-projects>

7 See https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/rights-child/eu-strategy-rights-child-and-european-child-guarantee_en

8 <https://www.coe.int/en/web/children/strategy-for-the-rights-of-the-child>

UN Convention on the Rights of the Child (UNCRC) as Part of the EU Acquis



Adopted by the UN General Assembly on 10 November 1989, the UNCRC is the most widely ratified legally binding human rights treaty in the world in the history of the UN, after having been ratified by 196 countries as of June 2023. The UNCRC, to which Türkiye has been a party since 1995, is part of the domestic law of all EU Member States and is the basis of the EU children's rights acquis.

Five articles of rights are expressly provided for in the UNCRC. These can be called umbrella rights, which also include general principles. They help interpret all other children's rights articles and play a fundamental role in realising all rights in the UNCRC for all children. These are:

1. Prohibition of discrimination (Article 2): Rights cannot be applied against children in a way that constitutes age discrimination and should be applied without discrimination between children. In order to eliminate discrimination and ensure equality, policies prioritise disadvantaged children due to discrimination of 'irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status'⁹.



For more information, see → Handbook on European non-discrimination law

* <https://rm.coe.int/fra-2018-handbook-non-discrimination-law-2018-en/1680a2b52b>

2. The best interest of the children¹⁰ (Article 3): In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. For example, it should be determined whether a law, policy and/or activity would harm the child, and the legislation and mechanisms required to ensure that no law/policy/practice is made that may harm the child individually or children as a group means applying the principle of the best interests of the child. As another example, the principle of the best interests of the child requires that in all matters affecting the child, the child or different groups of children (regarding disability, age, language, etc.) depending on their differences and developmental needs should be provided with access to information from various sources, informed, heard, and provided with the ability to participate in changing decisions.



For more information, see → UN Committee on the Rights of the Children General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration

* https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf

Judicial Implementation of Article 3 of the Convention on the Rights of the Child in Europe

* <https://www.refworld.org/docid/5135ae842.html>

3. Right to life, right of survival and development (Article 6): By bringing a new interpretation to human rights law prepared with a focus on adults, the states are obliged to recognise the right to life of the child and to ensure the survival and development of the child, thus interpreting the right to life as comprehensive as possible. The development of the child is defined as a comprehensive process aiming to ensure the full realisation of all civil, political, economic, social and cultural rights of the child. Therefore, the obligation to ensure the development of the child 'to the maximum extent possible' means that states create an environment that will enable all children under their jurisdiction to grow up free from violence and poverty, in a healthy and protected manner, and to enable them to develop their personalities, talents, mental and physical skills at the highest level in accordance with their developing capacities. Moreover, the right to life, survival and development obliges states to enter into international cooperation and provide assistance for the healthy development of children in other countries and regions, impoverished and developing countries.

⁹ Article 2 of the UNCRC - <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

¹⁰ M. Freeman, "Article 3. The Best Interests of the Child", in: A. Alen, J. Vande Lanotte, E. Verhellen, F. Ang, E. Berghmans and M. Verheyde (Eds.) A Commentary on the United Nations Convention on the Rights of the Child (Martinus Nijhoff Publishers, Leiden, 2007).



For more information, see → *Implementation Handbook for the Convention on the Rights of the Child*

* <https://www.unicef.org/lac/media/22071/file/Implementation%20Handbook%20for%20the%20CRC.pdf>

4. With the Right of the Child to Be Heard (Article 12), international human rights law recognises, for the first time, the right and capacity of children to influence actions and decisions that affect them. Article 12 imposes an obligation to transform the status of children and equalise them with adults, both at the individual and collective levels. This right challenges the idea that children are merely objects requiring adult protection. Children are citizens of today and tomorrow, and have the right and capacity to influence decisions about their own lives. It includes the right of every child to express their views freely on all matters affecting them and to have these views given appropriate weight in accordance with the child's age and maturity. Moreover, this right obliges states to develop procedural legislation so that this right is legally recognised and used in practice, and to ensure the implementation of this right by listening to the views of children and giving appropriate weight to these views in practice.



For more information, see → *UN Committee on the Rights of the Children General Comment No. 12: The right of the child to be heard*

* <https://www2.ohchr.org/english/bodies/crc/docs/advanceversions/crc-c-gc-12.pdf>

→ *Child Participation Training and Implementation Guide for Municipalities (in Turkish - Belediyeler İçin Çocuk Katılımı Eğitim ve Uygulama Kılavuzu)*

* https://www.tbb.gov.tr/online/kitaplar/cocuk_katilimi_egitim_klavuzu/index.html

5. The right to exercise/enforce rights¹¹ (Articles 4, 42, 44/6) obliges states 'to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised' in the Convention. The obligation of states to implement children's rights has been identified as a duty that must be fulfilled together with all segments of society, including children. The minimum duties of states in this regard include the following:
- Ensuring that all domestic law is in full compliance with the Convention, and creating a legal and implementation mechanism for children's rights impact analysis and evaluation,
 - Carrying out studies to withdraw the reservations made to the Convention,
 - Directly and properly implementing the principles and provisions of the Convention,
 - Establishing special structures and monitoring systems (such as ombudsperson) in the government, parliament, judiciary and at all levels, in line with children's rights and development,
 - Ensuring that the content of the Convention is widely known by children and adults through official training and regular information/awareness activities,
 - Making the reporting processes and results carried out with the CRC widely available in the relevant state,
 - Establishing monitoring structures for children's rights, including poverty, national/regional/local, rural/urban situations, and sharing this information regularly in order to produce policies that will prevent discrimination, particularly based on the grounds of, 'irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status' as stated in Article 2 of the UNCRC.
 - Ensuring that states should make maximum use of the resources at their disposal and, when necessary, seek international cooperation in this field regarding the economic, social and cultural rights of children (education, health, adequate standard of living, housing, living in a healthy, clean and sustainable environment, clean water, clean air, etc.),

¹¹ M. Rishmawi, "Article 4: The Nature of States Parties' Obligations", in: A. Alen, J. Vande Lanotte, E. Verhellen, F. Ang, E. Berghmans, M. Verheyde (Eds.) *A Commentary on the United Nations Convention on the Rights of the Child* (Martinus Nijhoff Publishers, Leiden, 2006).

- Preparing a budget which include children to make maximum use of resources and seek international cooperation as well as a national children's rights strategy with a budget, other resources, monitoring and accountability mechanism, and integrating children into all national strategies within the framework of their rights,
- Carrying out all studies jointly with children, their parents, professionals working directly with children and non-governmental organizations active in the field of children's rights.

For more information, →see UN Committee on the Rights of the Children General Comment No 5: General measures of implementation of the Convention on the Rights of the Child

→UN Committee on the Rights of the Children General comment no. 2: The role of independent national human rights institutions in the promotion and protection of the rights of the child

* https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

Method

This study uses a mixed method approach to explain the EU children's rights acquis and good practices.

Under the EU children's rights acquis, two of the six areas defined in the EU Strategy on the Rights of the Child of March 2021 are selected: participation in political and democratic life and child-friendly justice.

In a similar manner, three countries are selected: France, Belgium and Poland. France and Poland are among the largest populated countries in the EU. While France is a country where child fertility and migration rates are high compared to EU averages and children's rights are progressing at a moderate level, Poland is one of the EU Member States where children's rights practices progress more slowly and some regressions are observed in the field of human rights. Although having a small population, Belgium is selected since it is one of the EU Member States where children's rights are relatively well implemented. Two main data sources are used when making the selection: UNICEF Innocenti Research Centre Child Well-Being Report Cards in Rich Countries¹² and Kidsrights Index¹³.

In this regard, the general and specific situation in three EU Member States regarding the children's rights acquis and practices in the EU is examined: France, Belgium, and Poland.

The study uses two basic methods. As part of the first method, a qualitative analysis was conducted to identify key themes regarding children's rights and the EU acquis. The analysis was based on a review of legal and policy documents and relevant literature, both EU-wide and Member State-specific.

As the second method, an interview was held with four field experts working at UNICEF EU Office, EuroChild, Defence for Children Belgium, and the Council of Europe Children's Rights Division for the development of the EU children's rights acquis.

The information collected was analysed by using qualitative methods. Qualitative data was analysed based on thematic areas.

¹² See <https://www.unicef-irc.org/publications/series/report-card/>

¹³ See <https://www.kidsrights.org/research/kidsrights-index/>

EU Acquis on Children's Rights

The period from 1978, declared the International Year of the Child, when Poland took the lead in the development of the Convention on the Rights of the Child, and when negotiations for a convention began, to 1989, when the Convention was accepted and opened for signature¹⁴ witnessed the fall of the Berlin Wall and rapid development of the human rights legal framework.¹⁵ The EU's expanding social justice and human rights-based agenda led to an increase in laws and policies that more directly impact children's lives, and reinforced the need to ensure that EU law does not adversely affect children's status or experiences. In this regard, in terms of children's rights, it has become increasingly difficult to define the boundary between national authority and EU authority. Almost every aspect of EU law affects children, directly or indirectly. Many issues regarding children's rights transcend national borders, especially issues related to the protection of children, such as human trafficking, commercial sexual exploitation, child participation, juvenile justice, child abduction or forced migration. Children's rights require a common, supranational response, both in terms of cooperation and harmonisation of the interventions of Member States. This common response enabled the EU to consider the protection of the best interests of children, as stated in Article 3 of the UNCRC, as an economic and technological best interest. In the EU, protected, quality-educated, happy children seem to be the most important investment for the future.¹⁶

In the last three decades, strategic policy developments such as the adoption of the Charter on Fundamental Rights of the EU in 2000, the entry into force of the Treaty of Lisbon in 2009 and the adoption of the 2021-2024 EU Strategy on the Rights of the Child have accelerated the development of children's rights in the EU.

The development and protection of children's rights is one of the main objectives in Article 3(3) of the EU Treaty (TEU or Treaty of Lisbon). Moreover, Article 3(5) identifies children's rights as an important aspect of the EU's foreign relations policy. More specific references to children are also included in the Treaty on the Functioning of the European Union (TFEU). For example, legal measures against child sexual exploitation and human trafficking are provided for in Article 79(2)(d) and Article 83(1).¹⁷

Following the entry into force of the Treaty of Lisbon on 1 December 2009, the Charter on Fundamental Rights of the EU gained the same legal status as the EU treaties (Article 6 of the TEU).

The Charter obliges EU institutions to protect the rights set forth in the Charter in all their actions and when Member States apply EU law. The Charter includes the first detailed references to children's rights at the EU constitutional level, including recognising the right of children to compulsory education free of charge (Article 14/2), prohibiting discrimination based on age (Article 21) and prohibiting child labour and economic exploitation of young people (Article 32).

The most important contribution of the Charter in terms of children's rights is that it contains two special provisions regarding children's rights that put the basic provisions of the UNCRC under constitutional protection, which are Article 24 and Article 7:

- the right to such protection and care as is necessary for their well-being (Article 24(1));
- the right to express their views freely so that such views are taken into consideration in accordance with their age and maturity (Article 24(1));
- the right to ensure that the child's best interests must be a primary consideration in all actions relating to children (Article 24(2));
- the right to maintain on a regular basis a personal relationship and direct contact with both parents, unless that is contrary to child's interests (Article 24(3)); and
- the right to respect for child's private and family life (Article 7).

14 Legislative History of the Convention on the Rights of the Child (Vol. 1). (2007). The United Nations Office of the High Commissioner for Human Rights.

15 Van Bueren, G. (1998). The International Law on the Rights of the Child. Nijhoff.

16 For example, see Commission Recommendation Investing in children: breaking the cycle of disadvantage (2013/112/EU)

17 See <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2010:083:FULL&from=EN>

Together with the TEU and TFEU, the Charter led to the development and adoption of various directives that Member States are obliged to implement, especially in the field of child protection. For example, the most important directives in this regard are Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography¹⁸, Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims¹⁹, which includes provisions related to the special needs of child victims, Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime²⁰, and Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

In parallel with the significant legal developments mentioned above, important policy instruments on children's rights have been prepared, initially in the context of the EU's external cooperation agenda and later in relation to domestic issues. Regarding external relations, the most important are EU Guidelines on the Promotion and Protection of the Rights of the Child²¹ published by the Council of Europe, and Communication of the Commission: A Special Place for Children in EU External Action²², aiming to place children's rights on the agenda of every activity in external relations with non-EU countries.

Two of the most important policy documents for EU internal action are the EU children's rights agenda²³ published by the European Commission in 2011 to determine the main priorities that should be taken into account in the development of children's rights law and the policies to be followed in EU Member States, and Commission Recommendation 2013/112/EU of 20 February 2013 Investing in children: breaking the cycle of disadvantage²⁴, aiming to support Member States in their fight against poverty and social exclusion through a range of interventions in early childhood (pre-school and primary school age children).

The first of these policies is the EU Strategy on the Rights of the Child²⁵ of March 2021, which documents the EU children's rights acquis, and the European Child Guarantee²⁶, which is part of this strategy.

All these law and policy-making processes were realised with the contribution of non-governmental organizations active in the field of children's rights and welfare, UNICEF and the Council of Europe Children's Rights Division.

In addition to those discussed in this study, the EU children's rights acquis contains more than 70 laws and policy instruments

For more information, see: →

* https://commission.europa.eu/document/download/e32422b2-6ba3-4dbf-931b-d3204877f78a_en?filename=childrights_annex2_2021_4_digital.pdf

18 EU, European Parliament and Council of the European Union (2011), Directive 2011/93/EU, OJ 2011 L 335.

19 EU, European Parliament and Council of the European Union (2011), Directive 2011/36/EU, OJ 2011 L 101.

20 EU, European Parliament and Council of the European Union (2012), Directive 2012/29/EU, OJ 2012 L 315.

21 Council of Europe (2007), EU Guidelines on the Promotion and Protection of the Rights of the Child, Brussels, 10 December 2007.

22 European Commission (2008), Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: A Special Place for Children in EU External Action, COM(2008) 55 final, Brussels, 5 February 2008.

23 European Commission (2011), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An EU Agenda for the Rights of the Child, COM(2011) 0060 final, Brussels, 15 February 2011.

24 European Commission (2013), Commission Recommendation 2013/112/EU of 20 February 2013 Investing in children: breaking the cycle of disadvantage, Brussels.

25 EU, European Commission (2021), The EU Strategy on the Rights of the Child 2021–2024.

26 Council Recommendation (EU) 2021/1004 of 14 June 2021 establishing a European Child Guarantee ST/9106/2021/INIT OJ L 223.

EU Strategy on the Rights of the Child

The current EU strategy on the rights of the child builds on this previous work. Developed with the contributions of stakeholders such as non-governmental organizations active in the field of children's rights, UNICEF, the Council of Europe as well as more than ten thousand children, the strategy identifies priorities for EU action in six areas:

- Participation in political and democratic life,
- Socio-economic inclusion, health and education,
- Combating violence against children and ensuring the protection of children,
- Child-friendly justice,
- Children's safety and security in the digital and information society
- Support, protect and empower children globally.

The strategy takes into account the specific needs of certain groups of children, including those in multiple situations of vulnerability and facing overlapping forms of discrimination. Besides, in order to create a 'child-friendly culture' in EU policymaking, the EU aims to strengthen the mainstreaming of children's rights in all relevant EU policies, legislation and funding programmes, integrate children's rights into all legal, policy and practice areas of the EU, and to recognise and accept children as equal citizens.

The first major output of the Strategy, the second area of the Strategy, 'Socio-economic inclusion, health and education', which is also a part of the *acquis*, the European Child Guarantee, was adopted by the EU Commission and Council of Europe in June 2021. The European Child Guarantee aims to ensure that children in need across the EU have access to a range of essential services such as early childhood education and care, education, health, nutrition, housing and cultural and leisure activities.²⁷

The European Pillar of Social Rights, also announced in 2021, places great importance to the welfare of children. While referring to the right of children to be protected from poverty, the principle clearly states that eliminating child poverty is a priority of today's social Europe. Moreover, it defines childcare and support for children as a joint responsibility of the European institutions, Member States, social partners and other stakeholders.

Similar to the children's rights articles of the UNCRC, all thematic areas in the strategy create an interrelated and mutually reinforcing whole. However, this study examines the first thematic area, 'children's participation in political and democratic life', and the fourth thematic area, 'child-friendly justice' with examples from Member States.

EU Structures Established for Children's Rights

Under the EU Strategy on the Rights of the Child, some special structures are established for the implementation of the *acquis*. Being informed about these structures and in contact with these structures is important for the successful conduct of studies in the field of children's rights in the EU.

The first of these is a Commission coordinator for children's rights, which was included in the 2006 EU communication on children's rights, the precursor of the strategy, and was thus established in 2007 to coordinate the work of various units of the Commission in the field of children's rights.²⁸

Moreover, the European Commission established the EU Network for Children's Rights in March 2022, composed of a group of experts in children's rights, with the aim of strengthening dialogue and mutual learning between the EU and Member States on children's rights and supporting the implementation, monitoring and evaluation of the EU strategy.²⁹ Members of the network include non-governmental organizations and academic structures as well as the European Network of Ombudspersons for Children³⁰ (ENOC), established by children's ombudspersons in EU Member States and candidate countries in collaboration with the Council of Europe.

For the last 15 years, the Commission also organises an annual European Forum on the Rights of the Child, bringing together children in EU Member States and key actors such as relevant EU officials, members of the

27 See <https://ec.europa.eu/social/main.jsp?catId=1428&langId=en&moreDocuments=yes>

28 See https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/rights-child/eu-action-rights-child_en

29 See https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/rights-child/eu-network-childrens-rights_en

30 See <https://enoc.eu/>

European Parliament, children's rights ombudspersons and non-governmental organizations in Member States, where the Commission reports to all relevant stakeholders on the development of children's rights in the EU.³¹

In addition to these structures, the Commission also establishes various support structures for Commission programmes in the field of children's rights. For example, two structures established for the European Child Guarantee are: European Platform for Investing in Children (EPIC)³² and European Platform for Children Guarantee Coordinators³³.

Similarly, the European Parliament also established a Coordinator on children's rights. The Coordinator is responsible for acting as a central contact point to monitor and actively promote children's rights in EU policies as well as ensuring the coherence and visibility of Parliament's actions in this field. The Coordinator has also the mandate to promote cross-border mediation in international family disputes at EU level and serve as a central information point for EU citizens in cases of international parental child abduction or other cross-border family disputes.³⁴

Moreover, the European Parliament established a structure called the Intergroup on Children's Rights with the contribution of non-governmental organizations. Intergroup is a cross-party, a cross-national group of committed MEPs, who work together with child-focused organizations to keep children's rights on top of the EU agenda with the aim of promoting children's rights and ensuring that the best interest of the child is taken into account in EU internal and external action.³⁵

In addition to all these official or semi-official EU structures, the EU contains networks, platforms and structures established by non-governmental organizations and universities that work closely with the EU and EU institutions in the field of children's rights and welfare. Among these structures, the most important civil society network is Eurochild³⁶ and the most important academic network is the Children's Rights European Academic Network³⁷ (CREAN).

EU Strategy on the Rights of the Child and Member State Case Studies



Participation of Children in Political and Democratic Life

The UN Committee on the Rights of the Child (CRC) conceptualises participation (Article 12) in relation to the right to information (Article 17) and the freedom of expression, religion, conscience, assembly and association (Article 13 and Article 15). The term participation is widely used to describe the right of children to be involved in decisions and actions that affect them and to have their views heard by decision-makers. These articles, especially Article 13, also support children's participation in civil and political activism.³⁸

In this regard, children's participation serves both as a tool for achieving certain legal or policy results, such as making recommendations to decision makers, and enabling children to learn about democracy by exercising their rights, and as a goal for children to exercise their democratic participation rights as citizens.

This strategy title, as guaranteed in Article 24(1) of the Charter on Fundamental Rights of the EU based on Articles of the UNCRC and the interpretation by the CRC, means children's participation in political and democratic life in the EU as well as opportunities for children to be involved at various stages of planning, designing, implementing and evaluating policies and legislation. Children's participation has been determined as a goal of the EU for both the development and protection of children's rights. Therefore, the EU Children's Participation Platform was established to coordinate relevant works and establish collaborations.³⁹

31 See https://commission.europa.eu/events/european-forum-rights-child-2021-10-26_en

32 See <https://ec.europa.eu/social/main.jsp?catId=1246&langId=en>

33 See <https://ec.europa.eu/social/BlobServlet?docId=24921&langId=en>

34 See <https://www.europarl.europa.eu/at-your-service/en/be-heard/coordinator-on-children-rights>

35 See <https://www.childrightsmanifesto.eu/>

36 See <https://www.eurochild.org/>

37 See <https://crean-network.org/index.php>

38 UN Committee on the Rights of the Children General Comment No. 12 (2009): The right of the child to be heard.

39 See <https://eu-for-children.europa.eu/>

Similarly, as part of the strategy, the EU and the Council of Europe jointly developed a child participation leadership network to strengthen national child participation frameworks and actions in Europe.⁴⁰

Some of the tools available on this network platform include:

- Child Participation Assessment Tool (CPAT),
 - Child-Friendly Version of the CPAT,
 - CPAT Outcome Indicators,
- Handbook on children's participation for professionals working with and for children,
- Guidelines for developing a National Children's Participation Strategy,
- Guide for Adults Responsible for Planning for and Working with Children in Decision-Making Processes,
- Campaign Package: Raise National and Local Authorities' Awareness on the Importance of Child Participation,
- An online learning course for professionals working with and for children, aiming to strengthen their capacity to implement meaningful and effective child participation,
- Information about opportunities to influence public decision-making processes on issues affecting children,
- Limited secure online interaction by child participation experts and children themselves, and a secure child participation database in compliance with the EU GDPR.

Another structure established in the EU in 2010 is the European Network of Young Advisors (ENYA), supported by the members of ENOC with the support of the EU Commission.⁴¹

An examination of the legal situation, institutional structuring and some common practices in Member States shows that the EU acquis and the relations among EU Member States regarding children's rights have various common components.

For example, while lowering the voting age, one of the important issues of child and youth political participation, was being discussed at the EU level, studies on the issue began to speed up after the voting age was lowered to 16 in Austria in 2007. The European Youth Forum, established by semi-official and independent national children and youth councils in Europe, and other child rights organizations active across Europe lead a campaign to lower the voting age to 16.⁴² As a result of this campaign, the European Parliament officially approved the voting age to be 16 for the European Parliament elections on 11 November 2015 and asked Member States to consider the proposal.⁴³

Although the voting age is still 18 in most EU Members, it was lowered to 16 in Malta, Croatia and Slovenia (for working youth) and to 17 in Greece. The decision of the European Parliament led to the lowering of the voting age to 16 in EU elections in Belgium, local elections in Estonia, and some state and municipal elections and EU elections in Germany. Lowering the voting and election age is regularly discussed in the parliaments of all EU Members.

However, in EU Member States, most child and youth participation structures and mechanisms are typically headed by adults, and most of these were established in the 1990s and 2000s, often as a result of legal arrangements or regulations. Very few of the existing mechanisms are initiated by children themselves.

Research conducted by members of the Children's Rights European Academic Network⁴⁴ and non-governmental organizations such as UNICEF⁴⁵, Eurochild⁴⁶, Save the Children⁴⁷, Plan International⁴⁸ as well as research on child participation in the EU conducted during the preparations of the EU Strategy on the Rights of the Child of March 2021 provide information about the general situation in the EU on this issue.

In EU Member States, the main mechanisms for children's participation in political and democratic life are generally facilitated through permanent institutions or structures, such as government-initiated children and/

40 See <https://cp4europe.org/>

41 See <https://enoc.eu/what-we-do/enya/>

42 See <https://www.youthforum.org/topics/vote-at-16>

43 See <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0395+0+DOC+XML+V0//EN>

44 For example, see: lusmen, I., & Stalford, H. (Eds.). (2016). *The EU as a Children's Rights Actor: Law, Policy and Structural Dimensions* (1st ed.). Verlag Barbara Budrich.

45 For example, see <https://www.unicef.org/romania/children-and-romania-eu-presidency>

46 See <http://www.eurochild.org/child-participation/>

47 For example, see Queen's University Belfast Centre for Children's Rights, & Save the Children. (2016). *Enabling the exercise of civil and political rights: The views of children*.

48 For example, see Queen's University Belfast Centre for Children's Rights, & Plan International. (2016). *Child-Participatory Budgeting: A review of global practice*.

or youth councils and parliaments. Children and youth councils are the most common structures at national level, existing in 27 Members and at the EU level. Children and youth parliaments are also common permanent structures, existing at national level in 15 Members and at the EU level. Parliaments typically operate through annual education and training programmes or competitions leading to a plenary session or series of activities in the national parliament. Children are often involved in the structure-implementation phase. For example, they participate as candidates, organi' activities and projects, and vote on projects. Children/young people can make recommendations to politicians. These are generally non-binding recommendations, but they influence policy to varying extents. There are a few relatively tangible policy impacts resulting from the actions of children and youth parliaments, for example, in France, Ireland and Slovenia.

The office of Ombudsperson for Children or an equivalent body is a common structure active in all EU Members, and many of these national or regional/sub-national offices are also members of ENOC. However, the level and scope of participation of children and young people in the work and activities of Ombudspersons for Children differs in every country.

One of the mechanisms and processes that facilitate children's participation in political and democratic life is UNICEF's child-friendly cities initiative at the local level, adopted and implemented in 18 EU Members.⁴⁹

Most mechanisms available across the EU and in Member States generally involve children over the age of 12. Mechanisms involving younger children are extremely rare. Arbitrary age limits and restrictions on physical spaces lead to ageism and discrimination against children with disabilities, resulting in the exclusion of many children. Similarly, children from different locations, family statuses or children with ethnic or migration backgrounds cannot adequately access participation mechanisms. With the strategies established by the Council of Europe and the EU Strategy on the Rights of the Child of March 2021, dedicated works on the participation of such and similar groups of children at risk of discrimination have gained momentum. In this regard, in the most frequently used method, policy makers consult and/or collaborate with non-governmental organizations working with different groups of children. In addition to these mechanisms, schools also offer regular and one-time child participation opportunities through initiatives such as UNICEF's child-friendly schools, where national children and youth parliaments and councils collaborate.⁵⁰

In general, child participation in the EU is still not an integral and fundamental part of policy/decision-making processes. It is still not a continuous process. Only for certain activities or at certain stages children are given opportunity for participation. Except for Ireland and some local authorities, there is almost no mechanism designed by children themselves.



For more information on this subject, → please see a comprehensive list of children's participation structures and mechanisms in EU Member States:

* https://commission.europa.eu/document/download/ef4cc5ed-4813-43e0-ade3-751ac273a79a_en?filename=list_of_childrens_participation_structures_and_mechanisms_final_10.02.2021_v0.2.pdf

⁴⁹ See <https://www.childfriendlycities.org/initiatives>

⁵⁰ European Commission. Directorate General for Justice and Consumers., RAND Europe., & Eurochild. (2021). Study on child participation in the EU political and democratic life : final report. Publications Office Brussels.

Child-friendly Justice



The term child-friendly justice, developed by the UN Global Study on Children Deprived of Liberty and the Council of Europe with Türkiye and other Member States, non-governmental organizations, UNICEF and academics, means that justice systems should be adapted to the specific needs and rights of children. It also means that when children come into contact with civil, administrative or criminal justice authorities, they need to feel comfortable and safe so as to effectively participate in the proceedings.⁵¹

The EU has taken various steps to support justice systems that respect the rights and needs of children. For example, the European Commission has adopted various directives and regulations on issues such as the promotion and protection of the rights of crime victims⁵² and procedural safeguards for children who are suspects or accused persons in criminal proceedings⁵³. Moreover, the EU also supported the Council of Europe's guidelines on child-friendly justice.⁵⁴

Under the EU Strategy on the Rights of the Child of March 2021, the European Commission committed to take additional actions such as contributing to the training of legal professionals on children's rights and child-friendly justice⁵⁵, together with the European Union Agency for Fundamental Rights (FRA)⁵⁶, the Council of Europe⁵⁷ and the Child Friendly Justice European Network (CFJ-EN)⁵⁸, strengthening together with the Council of Europe, the implementation of the 2010 Guidelines on Child-Friendly Justice, providing priority financial support to supranational innovative projects for the protection of children during migration, and supporting Member States to develop effective alternatives to child detention in immigration procedures. For example, in this regard, the EU established the European Guardianship Network to improve services for unaccompanied refugee children in Member States by developing guardianship and providing support to practitioners and their organizations.⁵⁹

In the EU Agenda for the Rights of the Child published in 2011, the EU stated that the lack of reliable and comparable data prevented the development and implementation of evidence-based policies. In order to eliminate this lack of data, the European Commission and the FRA evaluated existing studies in this field, and the child rights indicators⁶⁰ developed by the FRA for the EU and Member States, as well as the research projects supported by the EU on the subject and the statistical studies developed by Member States with the relevant recommendations of the CRC⁶¹ contributed to eliminating the lack of data and to the determination of policy and program recommendations regarding child-friendly justice in the EU Strategy on the Rights of the Child of March 2021.

The European Commission, the FRA and the Council of Europe, with the contribution of non-governmental organizations, monitor legal and policy developments and practices in Member States on a regular basis or through special research and publish their findings in public reports.⁶² In this regard, the FRA also developed a child-friendly justice checklist for professionals to support implementation in EU Member States.⁶³

Children continue to be referred to the criminal justice system for status offenses such as panhandling, truancy, or romantic relationships with peers. The Netherlands appears to be the only country where the minimum age of criminal responsibility (MACR) is 12. In Luxembourg, MACR is 18. Czechia, Hungary, Poland, Slovakia, Lithuania, Ukraine and France apply the MARC in a multiple or tiered system depending on the offense committed. Although there is no MARC in Belgium, it can be said to be 18 since there is a child protection system for children under the age of 18. In Austria, Czechia, Finland, Germany, Hungary, Italy, the Netherlands, Romania, Slovakia,

51 Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies).

52 Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

53 Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

54 European Parliament, Committee on Legal Affairs (A9-0033/2022). Report on the protection of the rights of the child in civil, administrative and family law proceedings.

55 See https://e-justice.europa.eu/content_rights_of_the_child-257-en.do?clang=en

56 For example, see <https://fra.europa.eu/en/themes/children-youth-and-older-people/children-and-justice-videos>

57 For example, see the relevant Turkish online training: <https://help.elearning.ext.coe.int/course/view.php?id=5588>

58 See <https://www.cfjnetwork.eu/online-training-tools>

59 See <https://www.egnetwork.eu/>

60 See <https://fra.europa.eu/en/publication/2012/developing-indicators-protection-respect-and-promotion-rights-child-european-union#related>

61 See https://insanhaklariizleme.org/vt/yayin_view.php?editid=764 ve <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-24-2019-childrens-rights-child>

62 For example see the reports prepared by the Defence for Children: <https://www.publications.cfjnetwork.eu/medias/226/handbook-cfj-en.pdf> and Child-lex : <https://www.cfjnetwork.eu/child-lex>

63 See https://fra.europa.eu/sites/default/files/fra_uploads/child-friendly_justice_-_checklist_for_professionals.pdf

Spain, Sweden, Lithuania and Greece, there is no prosecution for offenses involving children above the MACR alleged to have committed an offense while below the MACR.

In Luxembourg, Poland and France, children above the MACR alleged to have committed an offense while below the MACR can be prosecuted for offenses.⁶⁴

All EU Members have a separate legal regulation established in relation to children. However, compliance with the Council of Europe Guidelines on Child-Friendly Justice, which the European Commission has agreed to implement, is not completed, yet. For example, in some EU Member States, individual needs assessments of children involved in criminal cases are still not systematically carried out. Similarly, the majority of EU Members still do not offer specialist training for lawyers representing children. Specialised training for child lawyers is mandatory only in Italy, France, Spain and Sweden.⁶⁵ Child-friendly justice training is offered by non-governmental organizations in almost all EU Members. While all Members have legal and policy measures against discrimination and discrimination against certain groups, there are no sufficient preventive and protective mechanisms for specific groups, especially children.⁶⁶ However, all EU Members have special provisions for children in need of protection and/or social welfare measures. All EU Member States have special legislation for child victims and witnesses.

In half of EU Members, the first contact of both victim and suspect/accused children with a professional is a police officer and/or a judge. This is followed by a child lawyer and a psychologist or social worker. There are a small number of Members where children in contact with the law are first heard by specialised units. For example, special units in hospitals in Belgium, specialised juvenile justice institution (Halt Bureau) in the Netherlands, Ombudsperson units for Children in Poland, and a representative from the Social/Legal Protection of Children and Social Curation Institution in Slovakia are authorised to be the first contact with children.⁶⁷

In almost all Member States where penalties imposed by courts are based on social reviews and/or pre-penalty reports, the judge bases his/her decision on the social review report when deciding on a case involving a child in conflict with the law. Only in a few Member States such as Austria, Czechia, Italy and Luxembourg, the process is not systematic.⁶⁸

In very few EU Members, such as Hungary, Luxembourg, Slovakia and Sweden, diversion is not regulated by national legislation. However, diversion systems exist in all EU Members.⁶⁹

In its 2019 general comment on the juvenile justice system, the Committee on the Rights of the Child called on states to remove status offenses from state laws.⁷⁰ Almost all EU Members handle status offenses through child protection systems, which are not part of the juvenile penal system. A limited number of status offenses can still be applied to children in Romania, Austria, Finland, the Netherlands, Belgium, Czechia, and Spain.⁷¹

The right to free legal aid for children in need exists in all Members. However, since legal aid provided in most Members is insufficient, non-governmental organizations and bar associations continue to offer legal aid. In a small number of Members, there are no safeguards to protect victims or witnesses from re-victimisation. All countries except Luxembourg have taken measures to prevent discrimination against child victims and witnesses.⁷²

For more information on this subject, → please see the following page on child-friendly justice-related work in EU Member States:

* https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/rights-child/child-friendly-justice_en

64 European Union Fundamental Rights Information System (EFRIS) <https://fra.europa.eu/en/databases/efris/>

65 Terre des hommes Europe. (2021). Children in Contact with the Law in Europe: Trends and Opportunities.

66 Op cit §65

67 European Union Agency for Fundamental Rights. (2015). Child-friendly justice – Perspectives and experiences of professionals on children's participation in civil and criminal judicial proceedings in 10 EU Member States.

68 Goldson, B. (Ed.). (2019). Juvenile justice in Europe: Past, present and future. Routledge.

69 Ibid.

70 Status offenses are offenses that are not considered offenses when committed by adults, but are punishable when committed by children.

71 Child Rights International Network National Law Profiles (updated 2022): <https://home.crin.org/evidence/national-law-profiles>

72 European Union Agency for Fundamental Rights. (2023). Underpinning victims' rights :support services, reporting and protection: Report. Publications Office.

Case Study Country - Poland



The Constitution of the Republic of Poland provides for rights for children, including the right not to be discriminated against, to care, education and to give priority to children's views. The Convention on the Rights of the Child is directly applicable in the Polish justice system.⁷³

Participation of Children in Political and Democratic Life

The status of child participation in Poland is slowly improving, but there is still a long way to go.⁷⁴ Poland adopted the UN Convention on the Rights of the Child and the child participation resolutions of the Committee of Ministers of the Council of Europe, which guarantee the right of children to participate in decisions affecting them. The idea of active participation and inclusion of children has been discussed for a long time in Poland. For example, the Children and Youth Parliament, established in 1994, is one of the oldest mechanisms in Europe. However, the extent of the impact and consequences of children's and young people's participation on decision-making processes remains low.

Most participation takes place in children/youth organizations, in other words through established structures. Moreover, education and training activities are offered with the aim of mobilising civil society participation and activism.

Poland has a number of mechanisms established or supported by law to encourage child participation. These include⁷⁵:

- The Children's Parliament, a national annual forum where children can discuss issues that affect them. It convenes regularly to discuss issues affecting children. They carry out lobbying activities before the government on issues such as child poverty and education.
- The Polish Council of Youth Organizations (Polska Rada Organizacji Młodzieżowych) is a national-level council with an advisory function before national government bodies. It is the umbrella organization for non-governmental organizations or semi-governmental organizations working for and with children and young people in Poland. In the Council and the Children's Parliament, children/young people can also become candidates and participate in the election process.
- The Office of the Ombudsperson (Rzecznik Praw Dziecka) investigates children's complaints regarding the violation of their rights. They also provide information and make recommendations to children and their families. It also creates counselling environments that include child participation.

At the local level, there are many Youth Councils throughout Poland. Many municipalities ensure the participation of children in budget activities. For example, in the city of Gdynia, children are involved in the decision-making process on a range of issues, including education, health and leisure. Children are represented in the city council and on the boards of local organizations. As another example, in Warsaw, children can be heard about the design of new playgrounds and parks. They are also involved in planning events and activities for children. Child Friendly City initiatives also become widespread under the leadership of UNESCO and UNICEF National Committee.

These mechanisms help raise awareness of the importance of children's participation and create more opportunities for children to be heard about decisions that affect them. However, there is still much to be done to ensure that all children in Poland have the opportunity to participate in decision-making processes within the framework of the EU Strategy on the Rights of the Child.

73 République De Pologne. (2020) Cinquième et Sixième Rapports Communs sur l'application par la Pologne de la Convention Relative aux Droits de l'enfant et de ses Protocoles Facultatifs.

74 UN Committee on the Rights of the Child. (2021) Concluding observations on the combined fifth and sixth periodic reports of Poland.

75 Op cit §74

Child-friendly Justice

The work on child-friendly justice in Poland is still ongoing. However, there have been some positive developments in recent years. The Constitution provides rights for detainees, including the right to be informed in an understandable manner. Poland adopted the Council of Europe Committee of Ministers Guidelines on child-friendly justice in 2013. Poland also adopted a new law on the protection of children's rights in the justice system in 2017. The law includes provisions regarding the right of children to be informed about their rights, the right to legal representation, and the right to be heard in court proceedings.⁷⁶

However, there are still some challenges to child-friendly justice in Poland. One of these challenges is that the justice system is not always well equipped to attend to children. For example, many judges and lawyers have not received specialised training in child-friendly justice. Another challenge is that the costs of legal representation can be cumbersome for many families.⁷⁷

Despite these challenges, there are a number of institutions and organizations working to promote child-friendly justice in Poland. These include the Ministry of Justice, the Council of Europe and non-governmental organizations such as the Empowering Children Foundation (Fundacja Dajemy Dzieciom Siłę). These organizations operate to raise awareness about child-friendly justice, provide training to judges and lawyers, and make legal representation more affordable for families.

Some examples of child-friendly justice initiatives in Poland include:

- In 2017, the Ministry of Justice opened a number of child-friendly courtrooms across Poland. These courtrooms are designed to be warm and comfortable for children, including features such as child-sized furniture, toys and books.
- The Council of Europe has provided training to judges and lawyers in Poland on child-friendly justice. The training helped develop a child-friendly understanding of justice among legal professionals in Poland.
- The Empowering Children Foundation provides legal assistance to children and their families and also advocates for child-friendly justice reforms.

In Poland, a variety of specialised institutions and professionals provide child-friendly justice services to children, including:

- Juvenile police units / juvenile police
- Juvenile prosecutor's office / juvenile prosecutors
- Juvenile court/juvenile judges
- Child legal aid / child lawyers and assistants
- Child social services/ child social workers
- Ombudsperson for Children

The Ombudsperson of Poland does not accept that the EU directives on the juvenile justice system do not require transposition or that they are compatible. The Ombudsperson states that some of the existing procedures are insufficient to comply with Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings.⁷⁸

Although the MACR is 17, it is possible for children under this age to be criminally liable. Children over the age of 15 may be subject to criminal liability in the same way as adults if they commit certain offenses, such as offenses against life, rape, theft, offenses against public security, or intentional infliction of serious bodily injury or serious damage to health. A child under the age of 18 is represented by a lawyer.⁷⁹

Poland has largely transposed Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.⁸⁰

The child has the right to participate in the trial, but the presiding judge may decide whether the defendant's

⁷⁶ Committee on the Rights of the Child. (2021) Concluding observations on the combined fifth and sixth periodic reports of Poland.

⁷⁷ Op cit §75

⁷⁸ Terre des hommes Europe. (2021). Children in contact with the law in Europe: Poland Country Fact Sheet.

⁷⁹ Code of Criminal Procedure of 6 June 1997, Article 10.

⁸⁰ National transposition measures communicated by the Member States concerning: Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

presence at the hearing is required. The presence of a legal representative or de facto guardian is required unless it is contrary to the interests of the trial. If at least one of the defendants is a child, the court may hold all or part of the hearing in private. The court may also hold the hearing in camera during the interrogation of a witness under the age of 15.

The court/judge carries out an investigation on the child's personality, particularly through social investigation, medical, psychological and psychiatric examinations, behavioural observation and vocational guidance examination. Various parties may be involved in the proceedings, including lawyers, social workers or psychologists, interdisciplinary committees, civil society representatives and the Ombudsperson for Children.

Diversion can be initiated by the court. Moreover, educational corrective or educational-medical measures can be taken. The National Criminal Register collects data on children who have gone through the diversion process.

Case Study Country - France



There is no specific provision referring to children in the French Constitution of 1958. However, the French Constitutional Council (Conseil constitutionnel) has decided that the principle of 'best interest of the child' should be given constitutional status. Moreover, France has adopted the direct applicability of many articles of the UN Convention on the Rights of the Child through the decisions of the Council of State (Conseil d'État) and the Court of Cassation (Cour de cassation).⁸¹

Participation of Children in Political and Democratic Life

Although the status of child participation in France is advanced compared to many EU Member States, discrimination against disabled, immigrant and disadvantaged children is observed in some environments such as education, health, alternative care and justice. Moreover, participation mechanisms need to be supported.⁸² In 2019, France launched a three-way Children's Pact that aims to safeguard children's rights, give children a voice and take better account of their views and experiences.⁸³

France has a number of institutions and organizations established or supported by law to encourage child participation. Among the most important of these are:

- Children's Parliament (Parlement des Enfants): Aimed at children around the age of 10 in France and in French schools around the world, this national mechanism aims to teach democratic debate and an understanding of law-making processes. Established in 1994, it is governed by the National Assembly. Up to date, four proposals have become law and one more proposal has been made part of the legislation.⁸⁴
- The Parliamentary Delegation on the Rights of the Child (Délégation aux droits des enfants): It consists of 36 deputies by the decision of the Conference of Presidents of 13 September 2022. It is responsible for informing the national assembly on all matters related to children's rights. The Delegation can listen to people when deemed necessary, including children, and carries out information gathering and research missions on issues within its mandate.
- At the request of the Prime Minister, under the independent institution French General Commission for Strategy and Foresight (Commissariat General a la stratégie et la prospective - CGSP) a childhood and youth commission is established in 2014 to prepare an integrated national strategy, including child participation. The Commission emphasised that all children and young people should be allowed to share their opinions and contributions. It prepares strategies including actions and budgets to this end.
- The National Youth Council (Conseil National de la Jeunesse): It is an advisory body that brings together young people from all over France to discuss issues affecting them. This institution, which the government asks for opinions in law and policy development studies, also carries out lobbying activities with children on many issues concerning children before the government.
- The Youth Forum (Forum des Jeunes), a national network of youth organizations promoting children's

81 Fifth periodic report submitted by France to the UN Committee on the Rights of the Child.

82 UN Committee on the Rights of the Child. (2023) Concluding observations on the combined sixth and seventh reports of France.

83 Sixth and seventh periodic reports submitted by France to the UN Committee on the Rights of the Child. (2021)

84 Le Parlement des Enfants. 'Tout savoir sur l'opération'. <https://www.parlementdesenfants.fr/anciennes-propositions-de-loi>

participation, provides training and resources to youth organizations working to promote child participation.

- The Education for Democratic Citizenship (EDC) programme is a government-supported programme that informs children and young people about their rights and responsibilities as citizens.

At the local level, the UNESCO and UNICEF Child Friendly Cities initiative, as well as the work of schools, municipalities and non-governmental organizations, are widely implemented. In particular, regional children and youth parliaments and youth councils, organised by local governments, have been active for a long time. The aim of these councils is to prepare, implement and evaluate child and youth policies, to create a framework for children and young people to express themselves, to better take into account their needs, projects and wishes, and to enable children and young people to actively learn citizenship. With the exception of a few, most of the regional councils have been established in the last decade, driven by the child participation strategies of the Council of Europe and the EU. The oldest regional and local councils are the Rouen Children's Municipal Council (Conseil Municipal des Enfants Rouen), established in 1991, and the Bordeaux Children's Municipal Council (Conseil Municipal des Enfants Bordeaux), established in 1995.

Child-friendly Justice

France has made significant progress in developing a child-friendly justice system in recent years. In conjunction with child-friendly justice activities of the Council of Europe, the French government adopted the child-friendly justice resolution in 2007, committing to ensuring that children have access to justice that is age-appropriate and respectful of their rights. As a result of the laws reviewed in line with child-friendly justice principles, the Juvenile Criminal Justice Law, which regulates child protection measures such as social services, health and education, was adopted on 30 September 2021.⁸⁵

The French government has recently prepared the 2022-2030 Action Plan on the European Child Guarantee of 14 June 2021 numbered 2021/1004, for the implementation of Recommendation of the Council of Europe. Under this action plan, works have started to regularly collect and publish information on children's physical and mental health (including substance use) in prisons and health centres where children are deprived of their liberty, and to, based on this information, develop problem-solving justice practices, to support children and their families, and to take measures based on problem-solving justice practices.⁸⁶

In France, the juvenile justice system is part of the child protection system in accordance with child-friendly justice principles, and the child protection system is regularly monitored and inspected through a triple mechanism:⁸⁷

- General Inspectorate of Social Affairs (Inspection générale des affaires sociales)
- General Inspectorate of Judicial Services (Inspection générale des affaires judiciaires)
- Local Observatories for Child Protection (Observatoire Départemental de la Protection de l'Enfance (ODPE))

Some examples of child-friendly justice initiatives in France are:

- Specialised courts for children specifically designed to hear cases involving children.
- Providing legal representation for children in all legal proceedings regardless of their ability to pay. This is also guaranteed by the French Constitution and is provided by a network of lawyers specially trained in juvenile law.
- Child-friendly justice training for judges, lawyers and other professionals. This training is designed to help professionals understand the needs of children and enable them to provide child-friendly justice.
- Developing child-friendly materials and resources for use in the justice system. This includes activities like designing child-friendly courtrooms, child-friendly forms and child-friendly information leaflets.

As a result of these efforts, France is now recognised as a country with advanced child-friendly justice in Europe. However, there is more work to be done. For example, some children still face challenges in accessing justice, such as poverty or lack of information.

⁸⁵ See <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000039085102/>

⁸⁶ Plan d'action 2022-2030 pour la mise en œuvre de la Recommandation (UE) 2021/1004 du Conseil du 14 juin 2021 établissant une Garantie européenne pour l'enfance. (France)

⁸⁷ The European Union Agency for Fundamental Rights (FRA). (2015). Mapping child protection systems in the EU [dataset]. <https://fra.europa.eu/en/publication/2016/mapping-child-protection-systems-eu>

Although the MACR is based on the concept of the child's judgment (discernment), the minimum age of arrest is 13. The UN Committee on the Rights of the Child has requested that this age be increased. Children between the ages of 13 and 18 can only be sent to a juvenile prison if the freedom-restricting measure is absolutely necessary or if no other measure is possible. However, in order to do so, it must be proven that judicial control and electronic surveillance are insufficient. Diversion is carried out by courts.

There are alternatives to pre-trial detention so that children can await their hearing in the community. Alternatives to post-trial detention for children include judicial review, referral to a health, social or vocational institution, electronically monitored house arrest or a citizenship education course or attendance at social and educational centres for children.

Court hearings involving children are not open to the public. Only the victim, witnesses, close relatives and legal representatives may be present. The court president/judge may even decide that the child does not participate in all or part of the trial.

Full transposition of Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, Law of 23 March 2019 on the programming and reform of the Justice System for 2018-2022, Law of 18 November 2016 on the Modernisation of 21st Century Justice, Decree of 24 May 2019 implementing criminal provisions related to the Justice System.

France transposed Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime through 63 amendments.⁸⁸

In France, a variety of specialised institutions and professionals provide child-friendly justice services to children, including:

- Juvenile police units
- Juvenile prosecutor's offices
- Juvenile judges and courts
- Child legal aid
- Child supervision services
- Child welfare services

For example, the Judicial Youth Protection Directorate under the Ministry of Justice undertakes the task of protecting minors in danger, as well as the integration and education of children who are in conflict with the law.

Case Study Country - Belgium

Children's rights are specifically protected by Article 22 of the Belgian Constitution. Moreover, all child and human rights issues are protected under Title II of the Belgian Constitution.⁸⁹

Participation of Children in Political and Democratic Life

According to Article 22 of the Belgian Constitution: 'Each child has the right to express their views in all matters affecting them, the views of the child being given due weight in accordance with his or her age and maturity. Each child has the right to benefit from measures and facilities which promote their development.'⁹⁰

In Belgium, various child participation mechanisms exist at national and regional levels. At the national level, the National Commission on the Rights of the Child (NCRC) operates as the primary mechanism. NCRC was established by an interinstitutional cooperation agreement and operates in four languages, three of which are official, as a coordination platform bringing together 90 government and non-governmental actors in the field of children's rights in Belgium.⁹¹

⁸⁸ See <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32012L0029>

⁸⁹ Combined fifth and sixth periodic report submitted by Belgium (2017) to the UNCRC

⁹⁰ See https://www.dekamer.be/kvvcr/pdf_sections/publications/constitution/GrondwetUK.pdf

⁹¹ See https://ncrk-cnde.be/en/#slider_activites32

There are separate mechanisms for Flanders and Wallonie. The mechanisms in Flanders have been mostly established through policy/legal changes since the 1990s, while the mechanisms in Wallonie have been active longer, as established by civil society from 1975 and gaining a formal nature later. The following networks and offices operate in Flanders and are all established by the Flemish government:

- Network group on policy participation of children and young people as part of the integrated youth and children's rights policy (JKP)⁹², Major Priorities Discussion and Youth Pact in each policy period,
- Flemish Children's Rights Commissioner,
- Flemish Youth Council and
- Each government department has a youth 'contact point'⁹³ (one person).

The following mechanisms operate in Wallonie:

- General Delegate for Children's rights for the French-speaking community of Belgium (Délégué Général aux Droits de l'Enfant de la Communauté Française de Belgique)
- Youth Forum,
- Confederation of Youth Organisations.

The main stakeholders in these mechanisms are Belgian governments, non-governmental organizations active in issues related to children, non-governmental organizations working with/for children, and the children themselves. Through these mechanisms, children participate in policy decisions and planning regarding a wide range of aspects of daily life, such as transportation, environment and education.

There are some one-time mechanisms such as surveys and consultations. However, the Flemish Government wants young people to be 'co-owners' of the Flemish Youth Policy Plan and Wallonie organizations are run by children/young people themselves.

Forms of participation including initiating consultation, information, consulting, direct or indirect participation, and decision-making on any issue that concerns children are all used to a certain extent. For example, individual actions, such as consultations, and collective actions, such as a youth forum, as well as direct participation, such as major discussions with policy makers, and indirect participation, such as surveys, are all used together as methods complementary to each other. Communication channels for children's participation are diverse, including websites, radio, television and magazine advertisements.

The mechanisms that are part of the JKP have a binding effect on Flemish governments since young people's opinions are explicitly sought to inform policy.

Child-friendly Justice

Belgium has a long history of promoting child-friendly justice. In 1965, Belgium enacted the Youth Protection Act, establishing a separate justice system for children under the age of 18. This system is designed to be more child-centered and protective than the adult justice system. Implementation of the law is regulated through revised laws at the federal level and decrees from Flanders, Walloon and German communities. The Belgian Constitution contains a provision that children have the right to have their moral, physical, mental and sexual integrity respected and to be protected from discrimination. Federal laws such as the Judiciary Law, the Criminal Instruction Law, and the Code of Criminal Procedure, which are considered together with the Youth Protection Law and include other articles regarding juvenile courts and child-friendly justice practices, regulate the process of including children in the justice system.

The Decrees of the French, Flemish and German-speaking Communities address issues such as assistance to child victims, assistance to young people, juvenile delinquency, youth and children's rights policy and child protection. There are also separate protection institutions established by these decrees. For example, the Flemish Community established the Office of the Flemish Children's Rights Commissioner. Community Decrees regulate and supervise the implementation of federal law, including legal measures and institutions that provide services to children.

To promote child-friendly justice, Belgium adopted at the federal level the general comments of the United Nations Committee on the Rights of the Child on juvenile justice and the Council of Europe Guidelines on Child-Friendly Justice.

92 See https://www.vlaanderen.be/cjm/sites/default/files/2021-04/Vlaams%20Jeugd-%20en%20Kinderrechtenbeleidsplan%202020-2024_EN.pdf
93 See <https://national-policies.eacea.ec.europa.eu/youthwiki/chapters/belgium-flemish-community/glossary>

In the Belgian system, criminal liability begins at the age of 18. Belgian law requires that the detention of children be a measure of last resort and be applied for the shortest appropriate period.⁹⁴

Belgium transposed Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, and the Youth Protection Law of 1965, the Criminal Instructions and the Code of Criminal Procedure were amended accordingly.⁹⁵

Diversion procedures ('Procedure de dessaisissement'), which enable a child to be referred out of the Juvenile Court, are available for all children. If the Juvenile Court decides that custody, preventive or educational measures will be insufficient, it may refer the case to the criminal court. The Juvenile Court does not make a decision about the child's delinquency. The Juvenile Court ensures that a social examination and psychological evaluation is carried out on the child before withdrawing from the case, and tries to verify that protective measures have been applied to the child or that the alleged incidents have a certain degree of seriousness (e.g. rape or torture).⁹⁶

Belgium fully transposed Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.⁹⁷

In Belgium, a variety of specialised institutions and professionals provide child-friendly justice to children, including:

- Juvenile prosecutor's office
- Juvenile court and juvenile judges
- Child social services
- Juvenile probation services
- Specialised units in hospitals

Despite all this positive structure, legal aid in the juvenile justice and protection system and judicial penalties that local governments can impose on children from the age of 14 continue in Belgium, which is one of the best examples of child-friendly justice in the EU.

Participation of children in court proceedings and decisions is also a practice accepted by law.⁹⁸

94 Law of 1 March 2002 on the temporary placement of minors who have committed crimes (Belgium) <http://www.ejustice.just.fgov.be/eli/arrete/2002/03/01/2002009205/justel>

95 See <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32016L0800>

96 See Articles 57bis and 125 of the Youth Protection Law: <https://www.uppl.be/wp-content/uploads/2019/01/Loi-Protection-de-la-jeunesse-08-AVRIL-1965.pdf>

97 See <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32012L0029>

98 Boone, I., Declerck, C., & Vertommen, E. (2021). Belgium. In W. Schrama, M. Freeman, N. Taylor, & M. Bruning (Eds.), *International Handbook on Child Participation in Family Law* (1st ed., pp. 103–120). Intersentia.

Conclusion and Recommendations



As shown above, the EU Children's Rights Acquis has been created and developed in line with the decisions, guiding principles and general comments of the UN and Council of Europe agreements and mechanisms, to which Türkiye is currently a party and obliged to implement.

Therefore, the framework created by UN human rights agreements and mechanisms, resolutions and general comments of the UNCRC and CRC, the Council of Europe's child rights strategies which are renewed every five years⁹⁹ and the EU Strategy on the Rights of the Child, which started with a communication in the EU in 2006, developed with a new communication in 2011 and adopted in March 2021 are both a road map for Member States and public institutions, and also serve as plans for the projects that these public institutions can carry out in the coming period together with their expert partners such as the Council of Europe, UNICEF, non-governmental organizations and universities.

In order to implement these plan frameworks, which are also legal obligations, States with different administration and governance styles have developed laws, policies, programmes and projects and child rights practices appropriate to them. For example, while in Poland there are practices based on more central structures, France has central and local structures, and Belgium's federal structure is based on practices where regional community structures are dominant.

However, the common point in all is to create a better world for children by implementing these plan frameworks, that is, international children's rights law.

The goals and status are not different for the Turkish public administration in its efforts to implement the EU acquis in the field of children's rights.

Therefore, some programme and project ideas that may contribute to the public administration's efforts to implement the EU child rights acquis in Türkiye may be as follows:

- To establish a national child rights observatory to monitor and report on the implementation of the EU acquis in the field of children's rights. This will help identify gaps in implementation and ensure that progress is achieved.
- To carry out law and policy development works on child protection, justice, education, health and social welfare issues in an integrated manner to ensure that laws and regulations fully comply with the EU acquis on children's rights, including the UN Convention on the Rights of the Child.
- To collaborate with international organizations such as UNICEF and the Council of Europe to share best practices and receive technical assistance. These organizations will provide valuable support to the Turkish public administration, as well as to the EU, in their efforts to implement the EU acquis in the field of children's rights.
- To collaborate with non-governmental organizations to promote children's rights. Non-governmental organizations play a vital role in raising awareness about children's rights and providing services to children in need. They are informed about where there are gaps regarding children's rights.
- To ensure that people working in the field of child protection, such as social workers, teachers, health workers, judges, prosecutors, lawyers and police officers, have adequate training to protect children's rights. These trainings, which may cover topics such as child participation, child abuse, neglect and exploitation, should be designed to be regularly implemented both as official education, such as universities and vocational schools, and as annual in-service non-formal training.
- To increase knowledge and awareness of children's rights among the general public, including parents and faith-based and other community leaders. This will help create a more supportive environment for children and prevent abuse and neglect.
- To design laws, policies, programs and projects aimed at empowering children to ensure that children have access to information and that their views are taken into account when decisions regarding their education, health services and social welfare are made, and to ensure that children are heard in decisions that affect their lives.

⁹⁹ See <https://www.coe.int/en/web/children/children-s-strategy>

Projects and practices to be developed for the implementation of the EU acquis in the field of child rights, that is, the UNCRC, the child-related conventions and strategies of the Council of Europe, and the EU Child Rights Strategy in Türkiye will mean that all children in Türkiye live in a safer, healthier and happier environment. In other words, the main aim of all projects is to ensure that in Türkiye all children can exercise their rights, live their childhoods, and grow up safely and happily.



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