

**Opinion of the European Economic and Social Committee on the '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) 60 final

(2012/C 43/08)

Rapporteur: **Ms JOÓ**

On 15 February 2011 the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

*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) 60 final.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 November 2011.

At its 476th plenary session, held on 7 and 8 December 2011 (meeting of 7 December 2011), the European Economic and Social Committee adopted the following opinion by 170 votes to 2 with 5 abstentions.

## 1. Executive summary and recommendations

1.1 The EESC welcomes the 'EU Agenda for the Rights of the Child' (hereinafter referred to as 'the Communication') published by the Commission on 15 February 2011 and expresses its hope that this will be a starting point in the full implementation of the UN Convention on the Rights of the Child and the fullest possible mainstreaming of children's rights. The Communication was published after four years of preparation, having been preceded by the Commission communication entitled *Towards an EU Strategy on the Rights of the Child* in July 2006, on which the EESC issued an opinion<sup>(1)</sup>.

1.2 Children are an EU population group whose welfare and well-being are of fundamental importance, whether in terms of their general situation, their quality of life, or investment in the future. A high-quality childhood backed by rights secures socio-economic development, enabling the EU to achieve its objectives in all areas. It should be emphasised that the idea of looking at children as an 'investment in the future' must go hand-in-hand with the concept of a happy childhood given that for both children and society the present is just as important as the future.

1.3 The Committee notes that Article 3(3) of the Treaty on European Union introduced the protection of the rights of the child as an objective of the European Union and that this protection is enshrined in the legally-binding Charter of Fundamental Rights. The Charter applies to the actions of all EU institutions and bodies, and to Member States when implementing EU law. Any new European legislative proposal is therefore assessed in terms of its impact on fundamental rights, including children's rights.

1.4 The EESC notes the modest and limited objectives set out in the Communication. The European Union has not ratified the United Nations Convention on the Rights of the Child, as it did in the case of the UN Convention on the Rights of Persons with Disabilities<sup>(2)</sup>. The EU should find a way to unilaterally adhere to the UN CRC<sup>(3)</sup>. The Member States should provide comprehensive two-year reports to monitor the situation of children, covering not only the economic situation of children but also all other factors contributing to their well-being, based on systematic data collection, research and analyses. This would facilitate the creation of an EU database and evaluation tool, complementing the existing information available.

1.5 The Committee feels that greater use should be made of data and information such as reports by governments and civil society organisations drawn up for the UN Committee on the Rights of the Child, enabling comparison between Member States' action on protecting and enforcing child rights; at the same time, various international organisations such as Eurostat, the OECD, the World Bank, etc. should be encouraged to collect child rights related data and make use of the relevant indicators by systematic compilation and analyses. The EESC recommends that the EU cooperate closely with the Council of Europe in order to create synergies between their programmes<sup>(4)</sup>.

<sup>(2)</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/4>.

<sup>(3)</sup> The UN CRC is only open for signature or accession by States, contrary to the Convention on the Rights of Persons with Disabilities which includes this possibility for regional organisations. A possible solution would be a unilateral declaration of adherence by the EU which in practice could have similar effects to an accession, without the difficulties concerning ratification.

<sup>(4)</sup> Council of Europe upcoming Strategy on the Rights of the Child 2012-2015 and other strategies in related fields.

<sup>(1)</sup> COM(2006) 367 final, and OJ C 325, 30.12.2006, pp. 65–70.

1.6 The EESC is concerned about the absence in the Communication of an effective strategy for its implementation or application, even though the indicators issued by the EU Fundamental Rights Agency and the comprehensive list of evaluation instruments drawn up for implementation of the United Nations Convention on the Rights of the Child could serve as a satisfactory basis here; after all, the existence of such an implementation strategy would offer a guarantee that the strategy on child rights will be applied and enforced.

1.7 Proper participation by children in the preparation of decisions concerning them and in the evaluation of programmes is necessary; it would also be useful to measure their satisfaction and evaluate their opinions. The EESC welcomes the EC's efforts to involve children and to support their participation in all issues relating to them. It is also essential to incorporate the views of professional organisations and professionals working with children.

1.8 The EESC recommends that programmes established to ensure enforcement and protection of child rights are in synergy and interact with other EU programmes (on education, youth, integration of the Roma, combating poverty, child-friendly justice, inter-generational solidarity, external relations); these programmes should also visibly emphasise issues relating to children's rights and their welfare and well-being. It also considers it important to guarantee the rights of children by means of an integrated approach, with close cooperation and coordination between the different DGs of the Commission.

1.9 The EESC recommends that implementation of the Europe 2020 strategy should be evaluated not least from the perspective of child rights and child well-being, in a way that is consistent with the strategy's objectives, while allowing for separate evaluation of these objectives from the perspective of long-term planning (given that children are an investment in the future).

1.10 The EESC recommends that the EU pays particular attention to protecting and enforcing the rights of especially vulnerable groups of children (children living in poverty, away from their families, in institutions, those threatened by or suffering from violence or exploitation, living with disabilities, from ethnic minorities or migrant backgrounds, unaccompanied children, refugees, children who have run away from home, children who have been left behind by migrant parents) at both national and European levels. The protection of children's rights, and the right to integrity and human dignity, lead the EESC to condemn any use of violence against children, including 'disciplinary' violence in the home: the Committee therefore urges all Member States to outlaw the corporal punishment of children and reiterates the call for a Special Representative.

1.11 The Committee feels it is particularly important to disseminate and teach child rights together with the means of protecting and enforcing such rights. As well as providing the public with high-quality information, special attention should be paid to informing decision-makers, legal and other practitioners, as well as national and European specialists and politicians;

another focus should be the training of those working with children and families together with parents and children themselves, not just to ensure awareness of child rights, but also that they understand the need for children to be human rights holders – not just 'mini-adults with mini-rights' – but with stronger protection given their vulnerability, age and situation. The Member States should support families in every way possible as it is in the paramount interest of the child.

1.12 While acknowledging that the rights of the child must be viewed in a holistic and complex manner, and not separately, the Committee recommends that particular attention be paid to certain issues, such as high-quality, accessible and free pre- and post-natal healthcare for mothers, as an aspect of public health and child health, as well as the issues tackled in the Communication, such as child-friendly justice, including juvenile offenders (5).

1.13 In order to secure justice that does not have negative effects on children, the EESC calls for measures to be adopted to provide for protected hearings for children who are the victims of sexual abuse or who are involved in their parents' divorce proceedings. Testimonies should be heard in such a way as to avoid exposing children to additional trauma and should therefore be conducted with the assistance of specifically-trained professional experts, possibly in neutral places other than in court.

1.14 Child poverty, deprivation, discrimination and exclusion are some of the most serious obstacles to enforcing child rights; the EESC therefore reiterates the recommendation set out in its previous opinions that special attention be paid in these fields to implementing, monitoring and evaluating programmes in close connection with the Europe 2020 strategy's objectives on reducing poverty and on all forms of education. To this end, adequate resources must be made available. Priority should always be given to child-related policies and actions.

1.15 In view of the economic crisis, financial constraints and limited resources, the EESC recommends paying special attention to ensuring that existing problems are not exacerbated and that current activities to protect and strengthen child rights do not fall victim to cost-cutting measures.

## 2. Background

2.1 All the EU's Member States have ratified the UN's Convention on the Rights of the Child (6) (hereinafter referred to as 'the UN CRC'), and in most of these countries it has become an integral part of national law; its application is therefore mandatory. The UN CRC is the most widely ratified human rights convention in the world; over the past two decades it has fundamentally changed principles and practices concerning the position, rights and role of children.

(5) OJ C 110, 9.5.2006, p. 75.

(6) <http://www.2ohchr.org/english/law/crc.htm>.

2.2 The Commission defined children as a key priority among its strategic objectives for the 2005-2009 period, and in July 2006 it published a separate communication entitled *Towards an EU Strategy on the Rights of the Child* (7) envisaging the framing of a comprehensive child rights strategy while mainstreaming the protection and enforcement of child rights in all EU internal and external policy areas and supporting the work of Member States in this field.

2.3 The EESC has called for a comprehensive, complex and holistic EU strategy to fully and effectively guarantee the enforcement of child rights pursuant to the UN CRC) in both the EU's internal and external policies, as well as in the context of activities by Member States to implement the strategy on child rights (8).

2.4 The opinion published by the EESC in 2006 argued that the approach to child rights pursued in EU policies should be based on the UN CRC and its two optional protocols, as well as the relevant Millennium Development Goals (9), and the European Convention on Human Rights. The EESC has recently issued several opinions dealing with different aspects of the rights of the child (10).

2.5 The EU's Charter of Fundamental Rights, Article 24 of which enshrines the principle of protecting and promoting child rights, became a legally binding document with the entry into force of the Lisbon Treaty on 1 December 2009. For the first time in the history of the EU, Article 3 of the Treaty on European Union explicitly refers to protecting child rights (11). 'Protection and promotion of the rights of the child is one of the objectives of the European Union. All policies and actions with an impact on children must be designed, implemented and monitored in line with the best interests of the child' (12).

2.6 We have found the following four common themes in the child rights programmes of the EU, the Council of Europe and the UN: poverty and social exclusion, children as victims of violence, especially vulnerable groups of children, and the need to actively involve, consult and listen to children on issues of relevance to them. Another theme common to the EU and the Council of Europe is child-friendly justice and family policies.

(7) COM(2006) 367 final.

(8) OJ C 325, 30.12.2006, pp. 65-70.

(9) UN General Assembly, UN Millennium Declaration, 8 September 2000.

(10) OJ C 48, 15.2.2011, p. 138-144, OJ C 44, 11.2.2011, p. 34-39, OJ C 339, 14.12.2010, p. 1-6, OJ C 317, 23.12.2009, p. 43-48.

(11) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:EN:PDF>.

(12) [http://ec.europa.eu/justice/fundamental-rights/rights-child/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/index_en.htm).

2.7 In its opinion (13) of June 2010, the Committee of the Regions emphasised that children's rights must be applied in a cross-cutting manner touching on all issues; this requires a multidimensional approach, with the mainstreaming of child-related issues into all European and national policies.

2.8 The Commission has established a European Forum on Children's Rights for civil society organisations; this forum has met five times and has voiced its opinion on the strategy currently being drawn up. In addition, two surveys have been carried out on children's awareness of their rights and their views on this subject; the findings of these surveys provided input for preparation of the programme (14). The Communication also refers to child rights as laid down by the Council of Europe, with particular regard to violence against children, efforts to ensure child-friendly justice, together with the relevant recommendations and conventions.

2.9 The Child Rights Action Group (CRAG) (15) is an important group bringing together civil society organisations. CRAG is an informal grouping of NGOs, whose objective is to cooperate on following up and implementing the European Commission's communication entitled *Towards an EU Strategy on the Rights of the Child*.

2.10 An informal, inter-party European parliamentary alliance on child rights was formed in spring 2011, and has set itself the priority of a coordinated and consistent approach to child-related issues, in particular those concerning child rights (16).

### 3. Child rights in the EU

3.1 The EESC welcomes the European Commission's first Report on the Application of the EU Charter of Fundamental Rights (17), published on 31 March 2011, which looks at the six chapters of the Charter (Dignity, Freedoms, Equality, Solidarity, Citizens' Rights and Justice), with a separate section on child rights under the heading of 'Equality'. The Charter of Fundamental Rights firmly commits the EU to enforcing child rights, guaranteeing children the right to life, protection, development and active involvement.

(13) OJ C 267, 1.10.2010, pp. 46-51.

(14) Eurobarometer: [http://ec.europa.eu/public\\_opinion/flash/fl\\_235\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_235_en.pdf).

(15) Members of the Group: Terre des Hommes, World Vision, European Foundation for Street Children Worldwide, Save the Children, Euronet – European Children's Network, Eurochild, Plan International, SOS-Kinderdorf International, <http://www.eph.org/a/2610>.

(16) <http://www.eurochild.org/> ([http://www.eurochild.org/index.php?id=208&tx\\_ttnews%5Btt\\_news%5D=1819&tx\\_ttnews%5BbackPid%5D=185&cHash=cc6d4444ebae436b2a844a082a0ea2a8](http://www.eurochild.org/index.php?id=208&tx_ttnews%5Btt_news%5D=1819&tx_ttnews%5BbackPid%5D=185&cHash=cc6d4444ebae436b2a844a082a0ea2a8)).

(17) [http://fra.europa.eu/fraWebsite/attachments/charter-applic-report-2010\\_EN.pdf](http://fra.europa.eu/fraWebsite/attachments/charter-applic-report-2010_EN.pdf).

3.2 The EESC is pleased to note that the EU Fundamental Rights Agency, following broad-based consultation of specialists and civil society organisations, has developed indicators to measure the enforcement of child rights<sup>(18)</sup> and has drawn up a study with information on the well-being of children living in the EU; however, this study only includes data on material conditions and welfare, and does not contain any composite indicators to measure living quality and child protection in terms of practical arrangements and extent<sup>(19)</sup>.

3.3 The Committee emphasises that only a cross-cutting partnership can succeed in protecting and effectively applying child rights; in such a partnership, Member States, the various levels of government, national and international NGOs, together with civil society organisations, forums representing various interests such as children and the organisations representing them, and social partners such as employers, trade unions and operators from the business world, work together to achieve certain objectives.

3.4 While it is true that the Communication touches on child poverty and various groups of especially vulnerable children, it does not focus on these issues, despite their considerable importance for children's current well-being and for their successful future transition to adulthood and integration, not least in the context of the well-known demographic problems facing Europe. Special attention should be paid to preventing any form of gender discrimination among children as well.

3.5 The economic crisis is a risk factor for child welfare and child well-being and affects children in many ways, especially those living in difficult conditions: in most cases the services and professionals working with them are themselves facing difficulties, and more and more basic services are either lacking or only available to a very limited extent.

3.6 In its external relations the EU attaches great importance to specific issues of relevance to protecting and enforcing child rights; such issues include cross-border guardianship, missing, migrant, unaccompanied, detained irregular migrant and exploited children, and children who are victims of sexual abuse or sex tourism<sup>(20)</sup>. However, it does not deal with the increasingly serious problem of children left behind by migrant parents in their countries of origin. For such children, the lack of supervision while parents are working in an EU Member State is a serious problem, as in the case when parents are unable to take their children with them due to the lack of suitable conditions; in this situation, even when the parents'

work is needed in another country and they pay tax and contributions there, their children do not have rights and are exposed to serious risks.

3.7 The EESC feels it is particularly important that a first recommendation has been formulated on the link between child rights and business<sup>(21)</sup>, namely when UNICEF, the UN Global Compact and Save the Children launched a process to develop principles and guidelines to help business to protect and support child rights. Apart from offering scope for positive action, this process draws attention to potential negative repercussions, particularly in relation to advertising (encouraging children to consume products which are detrimental to physical and mental health, or to indulge in violent, risky or erotic-pornographic behaviour), consumption patterns, including health and nutrition, tourism, child labour and discrimination. All sectors have a key role to play in this field and should therefore cooperate closely with governmental, non-governmental, civil society and business organisations and trade unions, in order to achieve these objectives both in the European Union and in the Member States.

3.8 The EESC feels that while most child-related programmes fall within national competences, there are an increasing number of EU recommendations and activities in numerous areas (e.g. early childhood, vocational training, early school leavers, missing children). They influence national policies, but the extent of this influence on national implementation is often not clear.

3.9 In various EU programmes (e.g. on youth, education, lifelong learning, integration of the Roma, combating poverty, intergenerational solidarity, work-life balance, external relations, etc.), possibilities for protecting and enforcing child rights should be prioritised, with a focus on the various groups of especially vulnerable children, including children left behind in their countries of origin by parents working abroad.

3.10 In an earlier opinion<sup>(22)</sup>, the EESC urged the Commission to put in place a Special Representative on Violence against Children to defend children's rights and called on states to prohibit all forms of violence against children. The EESC therefore deplores the Commission's failure to take a stand against the corporal punishment of children. Corporal punishment infringes children's right not to be beaten. Children who are beaten learn to use violence themselves. The protection of children's rights, and the right to integrity and human dignity, lead the EESC to condemn any use of violence against children, including 'disciplinary' violence in the home: the EESC therefore urges all Member States to outlaw the corporal punishment of children, and reiterates its call for a Special Representative and for the European Commission and the Member States to eradicate the corporal punishment of children throughout the EU.

<sup>(18)</sup> [http://fra.europa.eu/fraWebsite/attachments/FRA-report-rights-child-conference2010\\_EN.pdf](http://fra.europa.eu/fraWebsite/attachments/FRA-report-rights-child-conference2010_EN.pdf).

<sup>(19)</sup> [http://www.tarki.hu/en/research/childpoverty/tarki\\_dwb\\_mainreport\\_online.pdf](http://www.tarki.hu/en/research/childpoverty/tarki_dwb_mainreport_online.pdf).

<sup>(20)</sup> EESC opinion on Protection of children at risk from travelling sex offenders, OJ C 317, 23.12.2009, p. 43–48.

<sup>(21)</sup> Children's Rights and Business Principles Initiative.

<sup>(22)</sup> OJ C 325, 30.12.2006, p. 65–70.

3.11 The Committee agrees that listening to children, consulting them and involving them in all issues of concern to them ensures the enforceability of their rights while preparing them for active citizenship. For this to happen, it is also important to ensure access to child-friendly versions of the documents and to create and manage similarly accessible brochures and websites or specific sections within them, as planned by the DG Justice <sup>(23)</sup>.

3.12 All the EU's legal systems should adopt the following measures so as to secure justice that respects children and avoids damaging them psychologically:

- the testimonies of children who have been victims of sexual abuse should be heard in such a way as to avoid exposing them to further trauma, and should therefore be conducted with the assistance of specifically-trained professional experts, possibly in neutral places, other than in court;
- when children are involved in civil proceedings relating to the divorce of their parents, hearings should be conducted with the same caution and children must be protected from exploitation by their parents or defence lawyers.

3.13 To communicate the rights of the child more effectively, the positive role of the media, including the social media, is essential, reaching out to parents, professionals and the children themselves.

3.14 The EESC advocates the use of the OMC, as well as other possible mechanisms, as an approach which has proved its worth to ensure that cooperation between Member States and the identification and use of best practices can help protect and enforce child rights while mainstreaming child-related issues into other policies.

3.15 As a prominent representative of civil society, the EESC intends to contribute by systematically monitoring outcomes and by disseminating and strengthening child rights through its members.

3.16 In order to enforce legislation more effectively, the EESC considers it appropriate and necessary to establish closer cooperation and consultation than hitherto between the different UN bodies, the Committee on the Rights of the Child, the Council of Europe and international children's organisations and organisations representing children, as the objectives and activities of such organisations are connected with the extensive and comprehensive enforcement of child rights.

Brussels, 7 December 2011.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

---

<sup>(23)</sup> Kids' Corner on [www.europa.eu](http://www.europa.eu).