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COMMUNICATION FROM THE COMMISSION

Towards an EU Strategy on the Rights of the Child

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COMMUNICATION FROM THE COMMISSION

Towards an EU Strategy on the Rights of the Child

I. ISSUES AT STAKE

This Communication proposes to establish a comprehensive EU strategy to effectively promote and safeguard the rights of the child in the European Union's internal and external policies and to support Member States' efforts in this field. Children, understood here as persons below the age of 18, as in the UN Convention on the Rights of the Child¹ (UNCRC), make up one third of the world's population.

I.1. Children's rights – a priority for the EU

Children's rights form part of the human rights that the EU and the Member States are bound to respect under international and European treaties, in particular the UNCRC and its Optional Protocols², including also the Millennium Development Goals³; and the European Convention on Human Rights⁴ (ECHR). The EU explicitly recognised children's rights in the European Charter of Fundamental Rights⁵, specifically in Article 24.

The Commission identified children's rights as one of its main priorities in its Communication on Strategic Objectives 2005-2009: "*A particular priority must be effective protection of the rights of children, both against economic exploitation and all forms of abuse, with the Union acting as a beacon to the rest of the world*"⁶. In this context, the Group of Commissioners on Fundamental Rights, Non-discrimination and Equal Opportunities decided in April 2005 to launch a specific initiative to advance the promotion, protection and fulfilment of children's rights in the internal and external policies of the EU.

In March 2006, the European Council requested the Member States "*to take necessary measures to rapidly and significantly reduce child poverty, giving all children equal opportunities, regardless of their social background*".

This communication gives effect to these decisions.

¹ Convention on the Rights of the Child of 20 November 1989. Full text available at <http://www.unicef.org/crc/crc.htm>.

² UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; UN Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

³ UN General Assembly, United Nations Millennium Declaration, Fifty-fifth session, 18 September 2000

⁴ Full text available at <http://www.echr.Council of Europe.int/ECHR/EN/Header/Basic+Texts>.

⁵ Charter of Fundamental Rights of the European Union (OJ C 364 of 18.12.2000), available at http://europa.eu.int/comm/justice_home/unit/charte/index_en.html.

⁶ Strategic objectives 2005-2009. Europe 2010: A Partnership for European Renewal, Prosperity, Solidarity and Security - COM(2005) 12, 26.1.2005.

I.2. The situation of children's rights in the EU and globally

Children are vested with the full range of human rights. It is, however, vital that children's rights be recognised as a self-standing set of concerns and not simply subsumed into wider efforts to mainstream human rights in general. This is appropriate since certain rights have an exclusive or particular application to children, for example the right to education and the right to maintain relations with both parents. Also, the almost universal acceptance by States of obligations in the field of children's rights provides a particularly robust basis for engagement between the European Commission and non-EU countries: an advantage which does not apply to all human rights issues. Finally, the EU has clearly identified the promotion of children's rights as a separate issue meriting specific action.

The rights and the needs of the child should be seen together: respecting and promoting the rights of all children should go hand in hand with the necessary action to address their basic needs.

It is worth to highlight that the European integration has been proven to be a success story in addressing rights and needs of children, if compared to the dramatic situation in many other parts of the world. However the situation within the Union is still not satisfactory. The new challenges linked to globalisation and the demography risk undermining the European way of life if not decisively addressed. These could have significant repercussions on the situation of children in Europe. Therefore the idea of creating children friendly societies within the EU can not be separated from the need to further deepen and consolidate European integration.

I.3. Legal basis for an EU strategy

Under the Treaties and the case law of the Court of Justice⁷, the EU does not have general competence in the area of fundamental rights, including children's rights. However, under Article 6.2 of the Treaty on the European Union (TEU), the EU must respect fundamental rights in whatever action it takes in accordance with its competences. These rights include in particular the ECHR, which contains provisions concerning children's rights. Moreover, the provisions of the UNCRC must be taken fully into account. The Charter of Fundamental Rights, independently of its legal status, may be seen as a particularly authentic expression of fundamental rights guaranteed as general principles of law.

The EU's obligation to respect fundamental rights, including children's rights, implies not only a general duty to abstain from acts violating these rights, but also to take them into account wherever relevant in the conduct of its own policies under the various legal bases of the Treaties (mainstreaming). Moreover, notwithstanding the above-mentioned lack of general competence⁸, various particular competencies under the Treaties do allow to take specific positive action to safeguard and promote children's rights. Any such action needs to respect the principles of subsidiarity and proportionality and must not encroach on the competence of the Member States. A number of different instruments and methods can be envisaged, including legislative action, soft-law, financial assistance or political dialogue.

⁷ See, in particular, Opinion 2/94, 1996 ECR I-759.

⁸ See Article 51.2 of the Charter of Fundamental Rights.

I.4. The situation of children today

As highlighted during the 2002 UN Special Session on Children, an enormous gap exists between the good intentions of international treaties and the real-life conditions of poverty, neglect and exploitation that millions of children worldwide are forced to endure. In spite of progress achieved in some areas, much remains to be done⁹.

From birth to adulthood, children have very different needs at different developmental stages of their lives. In the first five years, the child is particularly in need of protection and health care. From the age of 5 to 12 years, children are still in need of protection but also develop other needs: the right to education is obviously essential for children to be able to develop in society. As teenagers, children face new needs and responsibilities. Adolescents need, for example, to express their views on decisions which affect their lives. Moreover, parental poverty and social exclusion seriously limit the opportunities open to children and their access to their rights, thus compromising the future well-being of society as a whole. In addition, the place where children are living also influences their situation.

I.4.1. Global situation

Of the 2.2 billion children in the world, 86% live in developing countries and over 95% of the children dying before the age of five, lacking access to primary education or suffering forced labour or sexual abuse are also located in these countries. Over half of all mothers in the world lack adequate rights including care during pregnancy and childbirth. This situation handicaps the future of many children from the moment of birth.

During the first five years of life, one third of all children lack adequate food and develop some degree of malnutrition. This affects not only their health and chances of survival, but also their ability to learn and develop. Besides receiving inadequate nutrition, many children live in conditions with limited access to safe water, poor sanitation and indoor pollution and lack of access to adequate disease prevention and health care. As a result, over ten million children under five die every year from diseases which are easy to prevent or treat, and one billion children suffer impaired physical, intellectual and/or psychological development which is often irreversible.

One sixth of all children (predominantly girls) are not enrolled in primary school and will lack opportunities to learn, develop and integrate in society. Worldwide, some 218 million children can be found at work¹⁰. Over 5.7 million children (some even not yet adolescents) work under especially horrific circumstances, including virtual slavery of bonded labour, and an estimated 1.2 million children are victims of trafficking in human beings¹¹. At any given time, some 300 000¹² are fighting as child soldiers in more than 30 armed conflicts all over the world.

An estimated 130 million girls and women worldwide have undergone Female Genital Mutilation, with another two million girls being affected each year, often through initiation rites at the break of adolescence. One third of all girls are subject to coercive sexual relations, one fifth are subjected to forced marriages¹³ and some 14 million girls between the ages of 15 and 19 give birth each year.

⁹ EU statement for the 57th UNGASS meeting, 2003.

¹⁰ The end of child labour: Within reach, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, report to the 95th session of the International Labour Conference, Geneva, 2006.

¹¹ source : UNICEF.

¹² Ibidem.

¹³ Source : UNIFEM.

Over one million adolescents became infected last year with HIV, two thirds of them girls. More than one million children worldwide live in detention as a result of conflict with the law and a large proportion lack the special attention and protection they need. There are also children who deserve particular attention to their rights and needs: over 200 million children live with serious disabilities and 140 million children are orphans, a number that is growing due to HIV/AIDS.

1.4.2. In the EU

Today, the EU is experiencing significant economic, political, environmental and social changes that also affect children. Children in the EU face a higher risk of relative poverty than the population as a whole (20% for children aged 0-15 and 21% for those aged 16-24, compared to 16% for adults). Children living with poor parents or who cannot live with their parents, as well as children from some ethnic communities, such as the Roma, are particularly exposed to poverty, exclusion and discrimination. Moreover, children – and poor children in particular – suffer disproportionately from environmental degradation. The EU has started to address these challenges when putting its strategy for more sustainable growth and more and better jobs on the top of the European agenda. Its success is a precondition for inclusive European societies in which also the rights and the needs of children of the present and of future generations are firmly anchored.

Issues of identity have also come to the fore across Europe in recent years. Alongside long-standing manifestations of all forms of racism, hostility towards and fear of ‘outsiders’ has become an increasingly worrying phenomenon in EU societies. Children from minorities are easy targets for such racism. Conversely, some children from majority populations may be readily swayed by the simplistic solutions presented by extremist politicians and parties.

Violence against children has been of increasing concern within the EU in recent years. It takes a range of forms, from violence in the family and in schools, to issues with a transnational dimension, including child trafficking and exploitation, child sex tourism and child pornography on the internet. Another challenge is to ensure that the rights of children as immigrants, asylum seekers and refugees are fully respected in the EU and in Member States' legislation and policies.

Over decades, more than 50% of the medicines used to treat children have not been tested and authorised for use on children, making it difficult to know whether the medicine will be truly effective and what the side effects may be. This problem has now been addressed by the paediatric regulation, which will be adopted shortly.

II. WHY AN EU STRATEGY ON CHILDREN’S RIGHTS IS NEEDED

II.1. The added value of EU action

As stated above, children’s rights are still far from being generally respected, and basic needs are not being met for each and every child within the EU.

The European Union can bring essential and fundamental added value in the field of children’s rights. First of all, it can build on its long tradition and legal and political commitments with regard to human rights in general and children’s rights in particular. It has the necessary weight and presence to push children’s rights to the forefront of international agendas and can use its global presence and influence to effectively promote universal human rights at national level worldwide, particularly with regard to children. It can also promote and support attention to children’s needs,

drawing on the European model of social protection and on its policy commitments and programmes in different fields.

The Union can support the Member States in their efforts, both by assisting them, in certain areas, in taking into account the rights of the child in their actions, and by providing a framework for mutual learning within which the Member States can identify and adopt the many good practices to be found across the Union. Such an approach, based on broad and coordinated action, would add value to the efforts of the Member States and would strengthen recognition of and respect for the principles of the UNCRC both within the Union and beyond.

There is thus an urgent need for a comprehensive EU strategy to increase the scale and effectiveness of EU commitments to improve the situation of children globally and to demonstrate real political will at the highest possible level to ensure that the promotion and protection of children's rights get the place they merit on the EU's agenda.

II.2. The EU response to date: steps already taken

The EU has made significant progress in this area in recent years and has developed various concrete policies and programmes on children's rights under different existing legal bases. These span both internal and external policies and cover a broad range of issues, such as child trafficking and prostitution, violence against children, discrimination, child poverty, social exclusion, child labour (including trade agreements committing to the abolition of child labour), health and education.

A non-exhaustive summary of EU actions affecting children's rights can be found in the Annex.

In particular, within the EU, the Commission and the Member States have given a high priority to the issue of child poverty under the Open Method of Coordination on Social Protection and Social Inclusion (OMC), which forms a framework for mutual learning between the Member States based on a series of common objectives and indicators, and the adoption of national strategies to promote access to and the quality of social protection systems.

The enlargement process is another powerful tool providing opportunities to promote children's rights. One of the criteria for membership of the EU is that the candidate country have achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and the protection of minorities. In the framework of these so-called political criteria identified by the European Council in Copenhagen in 1993, the Commission has, throughout the accession process, promoted the reform of child protection and closely monitored progress on children's rights in all the acceding and candidate countries.

The European neighbourhood policy as well as the strategic Partnership towards Russia are important tools to promote children's rights in the EU's neighbourhood and first actions have already been launched.

II.3. The need for effectiveness

To maximise the value of EU action on children's rights, it is necessary to address a number of challenges, to produce:

- more comprehensive analysis of the needs and priorities and of the impact of relevant EU actions undertaken so far;

- more efficient mainstreaming of children's rights in EU policies, strategies or programmes and enhanced coordination within the European Commission;
- better cooperation with key stakeholders, including children;
- stronger communication and increased awareness of children's rights and of EU actions in this field.

III. TOWARDS AN EU STRATEGY ON THE RIGHTS OF THE CHILD

To tackle the above challenges, this Communication marks the Commission's launch of a long-term strategy to ensure that EU action actively promotes and safeguards children's rights and to support the efforts of the Member States in this field. The strategy is structured around seven specific objectives, each supported by a series of actions.

III.1. Specific objectives of the EU strategy on children's rights

1. *Capitalising on existing activities while addressing urgent needs*

The Commission will maximise the use of its existing policies and instruments, in particular the follow-up to the Communication on fighting trafficking in human beings¹⁴ and the relevant Action Plan¹⁵, the Open Method of Coordination on Social Protection and Social Inclusion, the strategic partnership with the International Labour Organisation to fight child labour and the EU Guidelines on children in armed conflicts¹⁶. The Commission will continue to fund specific projects promoting children's rights.

In external affairs, including in the pre-accession process and in the accession negotiations, the Commission will keep promoting the ratification and implementation of the UNCRC and its Optional Protocols, the ILO conventions on the elimination of the worst forms of child labour and the minimum age for admission to work, and other relevant international human rights instruments. It will address children's rights in political dialogue with third countries, including civil society and social partners, and use its other policy instruments and cooperation programmes to promote and address children's rights worldwide.

In the short term, and especially due to the urgency of certain challenges, the Commission will, in particular, take the following additional measures:

- *To attribute one single six digit telephone number (116xyz) within the EU for child helplines and one for child hotlines dedicated to missing and sexually exploited children (end 2006)*
- *To support the banking sector and credit cards companies to combat the use of credit cards when purchasing sexual images of children on the Internet (2006)*
- *To launch an Action Plan on Children in Development Cooperation to address children's priority needs in developing countries (2007)*
- *To promote a clustering of actions on child poverty in the EU (2007)*

¹⁴ COM(2005) 514.

¹⁵ OJ C 311, 9.12.2005.

¹⁶ Council of the European Union document No 15634/03.

2. *Identifying priorities for future EU action*

To identify the main priorities for future action, the Commission will analyse the scope and causes of the barriers to children's full enjoyment of their rights. On this basis, it will assess the effectiveness of its existing action (legislative and non-legislative, internal and external) affecting children. This analysis will draw on existing initiatives (UNICEF, Council of Europe, ChildONEurope, etc.).

The assessment should be updated every five years and gradually tackle some critical areas, rather than attempting to cover all areas of relevance from the start. The update will be supported by data on children's rights by Eurostat, the Member States, the Council of Europe, the ChildONEurope network, and the future EU Agency on Fundamental Rights.

On the basis of this analysis, the Commission will launch a wide public consultation, including children, that will enable the EU to address children's rights in a comprehensive manner and to identify the main priorities for future action.

- *To assess the impact of the existing EU actions affecting children's rights (2007-2008)*
- *To issue a consultation document to identify future actions (2008)*
- *To collect comparable data on children's rights (2007 onwards)*

3. *Mainstreaming children's rights in EU actions*

It is important to ensure that all internal and external EU policies respect children's rights in accordance with the principles of EU law, and that they are fully compatible with the principles and provisions of the UNCRC and other international instruments. This process, commonly referred to as "mainstreaming", has already been pursued in a number of Community policies, e.g. gender equality and fundamental rights. The process will take into account work carried out under the Council of Europe Programme "Building a Europe for and with Children (2006-2008)" to effectively promote respect for children's rights and protect children against all forms of violence.

- *To mainstream children's rights when drafting EC legislative and non-legislative actions that may affect them (2007 onwards)*

4. *Establishing efficient coordination and consultation mechanisms*

The Commission will strengthen cooperation among the main stakeholders, making optimal use of existing networks and international organisations or bodies involved in children's rights. To this end, the Commission will bring the stakeholders together in a *European Forum for the Rights of the Child*. The Forum will include all the relevant stakeholders¹⁷, and will contribute to the design and monitoring of EU actions and act as an arena for exchange of good practice.

The Commission will consider how it can replicate this mechanism in third countries where the EC Delegations could initiate systematic dialogue with international and national partners active in the field of children's rights.

¹⁷ Including the Member States, UN agencies, the Council of Europe, civil society and children themselves.

To increase the involvement of all relevant stakeholders, the Commission will set up a web-based discussion and work platform¹⁸. This platform will be a tool to promote and encourage the effective exchange of information using the available expertise in a given area. The members of the platform will have access to a library of documents and be able to launch discussions or surveys among members.

As recognised in Article 12 of the UNCRC, children need to express their views in dialogues and decisions affecting their lives. The Commission will promote and strengthen networking and children's representation in the EU and globally, and it will gradually and formally include them in all consultations and actions related to their rights and needs. The Forum and the web-based platform will both contribute to involving children.

Lastly, the Commission will improve coordination between its various actions to increase consistency and effectiveness by setting up a formal inter-service group on the rights of the child composed of designated contacts, who will be responsible to follow up the strategy. A Commission coordinator for the Rights of the Child will be appointed.

- *To bring together stakeholders in a European Forum for the Rights of the Child (2006)*
- *To set up a web-based discussion and work platform (2006)*
- *To involve children in the decision-making process (2007 onwards)*
- *To set up a Commission Inter-service Group and to appoint a coordinator for the rights of the child (2006)*

5. *Enhancing capacity and expertise on children's rights*

All actors involved in implementing and mainstreaming children's rights in internal and external Community policies should acquire the necessary knowledge and skills. To this end, the Commission will continue to make training available. In addition, practical tools such as guidance notes and instructions should be improved, distributed and used as training material.

- *To provide the necessary skills and tools to actors involved in mainstreaming children's rights in Community policies (2007 onwards)*

6. *Communicating more effectively on children's rights*

Children are able to exercise their rights only if they are properly aware of them and in a position to use them.

Children's rights in general, and EU action in this field, remain largely unpublicised. To raise awareness of these questions, the Commission will design a communication strategy on children's rights. This will help both children and their parents to improve their knowledge of children's

¹⁸ With the SINAPSE e-Network (Scientific Information for Policy Support in Europe, <http://europa.eu.int/sinapse/sinapse>).

rights, and contribute to the dissemination of relevant experience and good practice among other interested parties.

Key EU measures with a direct impact on children's rights will be publicised in a child-friendly manner. To this end, the Commission will develop a child-friendly website, dedicated to children's rights, preferably in close cooperation with the Council of Europe, and linked to similar initiatives by, for example, Member States, the United Nations and civil society.

- *To design a communication strategy on children's rights (2007 onwards)*
- *To provide information on children's rights in a child-friendly manner (2007 onwards)*

7. *Promoting the rights of the child in external relations*

The European Union will continue and further enhance its active role in promoting the rights of the child in international forums and third country relations. The role and impact of the EU actions has been strengthened by good coordination and unified and coherent messages in the UN human rights forums.

The Union will continue to pay particular attention to the rights of girls and children belonging to minorities. The EU will also continue its ongoing work on children and armed conflict. The EU will also discuss the global study on violence against children which is currently conducted by the UN Secretary General's independent expert Paulo Sergio Pinheiro.

- *Continue and further enhance EU's active role in international forums to promote the rights of the child*

III.2 Resources and reporting

The Commission is committed to allocating the necessary human and financial resources to implement this strategy. Efforts will be made to secure the financial resources necessary to fund the actions proposed in this communication and the future strategy. To ensure the efficiency of programmes that affect children's rights, the Inter-service Group will pay due attention to possible synergies.

To increase transparency and monitor developments, a progress report will be presented every year.

IV. CONCLUSION

The Commission:

- will develop a comprehensive strategy to ensure that the European Union contributes to promoting and safeguarding children's rights in all its internal and external actions and supports the efforts of the Member States in this field;
- calls on the Member States, on the European institutions and on other stakeholders to take an active part in the development of this strategy and so to contribute to its success.