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**Challenges to children's rights today: What do  
children think?**

**A desktop study on children's views and priorities to inform the next Council  
of Europe Strategy for the Rights of the Child**

**(prepared by Dr Aoife Daly, Sandy Ruxton, Mieke Schuurman)**



## Challenges to children's rights today: What do children think?

**A desktop study on children's views and priorities to inform the next Council of Europe Strategy for the Rights of the Child**

*Dr. Aoife Daly*

*Sandy Ruxton*

*Mieke Schuurman*

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## 1. Summary

This desktop study aims to establish the most important rights issues for children in Europe based on available research. In this way, it is intended that children's views on their rights, and their recommendations for improving their enjoyment of those rights, can feed into the Council of Europe's next Strategy for the Rights of the Child, 2016-2019. A broad range of research on children's views from across Europe is reviewed in order to highlight the themes which children identify as most important to them. The methodology for identifying the most important information includes consideration of factors such as geography, disadvantaged groups, and principles of the UNCRC. The points outlined here are those made by children. Within this framework, the themes identified as most important to children are:

**Violence:** Children report experiencing high levels of violence in the home and elsewhere. They wish to be believed and supported where they report it. They give recommendations on how to tackle it, such as ending physical punishment, services better suited to children's needs, and greater control over action taken to deal with the problems they report.

**Child-Friendly Justice:** Children wish to receive more information on their rights in the justice system, and authorities must seek ways to help children to trust those working in the system. Children should not be in custody: Alternatives such as community service should be used instead. Children in custody have numerous recommendations for improving living conditions, which are often dire in less industrialised countries. Children of prisoners require explicit acknowledgement and assistance.

**Child Participation:** Although children strongly believe that they should have a say in the key decisions that affect their lives, they face a range of obstacles in this regard, such as over-complex procedures and adult indifference. A wide range of mechanisms should be developed to facilitate participation across different groups and contexts, and children should always get feedback on how and whether their views have had an impact.

**Children in Care:** Being heard is of huge importance to children in care, but many feel that they are not listened to. Children think that better supports and interventions are necessary to avoid children being taken into care and to ensure the best care experience possible. Children in care place great emphasis on the quality of their placement, and on retaining links with birth families.

**Discrimination:** Children suffer discrimination on various bases, and can therefore suffer 'double discrimination' – i.e. on the basis of childhood and their other status. Discrimination against children on the basis of age is little understood or acknowledged and it should be tackled through awareness-raising and legislation. Children from disadvantaged groups such as cultural and racial minorities and children with disabilities wish for greater understanding of their experiences and cultures.

**Education:** Children want more opportunities to participate at school and on decisions concerning their education. Children from disadvantaged groups are especially concerned about education and require special measures to facilitate their participation. Bullying at school is an issue of huge concern to many children. It could be tackled better through more opportunities to discuss it and better responses from teachers.

***Child Poverty and Austerity:*** Children are concerned about the current economic climate and the impact it may have on their own financial situation and that of their families. Their recommendations in the area include: Better work-based training and employment opportunities for young people; welfare systems which ensure adequate incomes and security for those out of work; and free services such as youth and leisure centres. Children want to be included in decision-making about government expenditure.

There are universal themes which emerge from the variety of views and experiences included here. First, children in Europe overwhelmingly wish to be heard and to have some influence on matters regarding their rights. Although there are some very good initiatives which seek to involve children, many are tokenistic and children quickly become disillusioned. Secondly, children enormously value their families and friends, and this has consequences for the enjoyment of their rights: Service providers should think about how to better involve family where children require information about legal proceedings, for example. Thirdly, children recognise that adequate protection of rights requires sufficient allocation of public resources, particularly targeting more marginalised groups. They are concerned about the current economic climate and cuts in expenditure. Resources are highly relevant to children's recommendations on improving rights provision, as they wish to see education and training of professionals and others to ensure that they facilitate and understand children's rights across many areas.

## 2. Introduction

Article 12 of the UN Convention on the Rights of the Child (UNCRC), the right of children to be heard, is arguably the most ground-breaking provision in that instrument. It is, at least in part, due to this provision that there is acceptance by many states, organisations and others that legal standards and policies concerning children should be informed by their views. It is on this basis that the Council of Europe has commissioned a desktop study on the views and priorities of children<sup>1</sup> across Europe on their rights, so that they can feed into the next Strategy for the Rights of the Child, 2016-2019.

Children in Europe enjoy on average a high level of implementation of their rights compared to their counterparts elsewhere in the world. However many obstacles to the enjoyment of their rights persist. Children suffer discrimination as a group, and their unique needs are often not recognised within the family, schools, the local community and service provision. Particularly disadvantaged groups of children – for example children who suffer abuse, children with disabilities and children from other vulnerable groups – can experience acute and unacceptable rights abuses. Children themselves have much to say about these matters and how to address them.

The current desktop study, therefore, aims to explore research on children's views on which rights issues are most important to them, and ways in which they feel those issues should be resolved. It seeks to identify existing reports from across as broad a geographical spectrum as possible within Europe; and from the perspective of many of the most disadvantaged groups of children. Therefore this study aims to provide a snapshot of children's views, based on available research. This report does not aim to provide a comprehensive overview of children's rights, nor does it include the opinions of the authors. Instead it focuses on reports which cover children's views, as this is its remit.

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<sup>1</sup> The term 'children' will be used here to describe all of those under 18, although it is acknowledged that not all under-18s will identify with this term. The term 'young people' will be used where this is important to the point being made.

### **3. Methodology**

#### **3.1 Data Gathering**

It is a challenging task to generalise about what rights issues are most important to children as children are such a diverse group. The exercise is, of course, heavily dependent on available research, although we devised methods according to which we narrowed our focus on particular themes.

The first undertaking was a general desk-based review of recent literature involving children's views on issues and challenges affecting them. We identified a wide range of research resources from intergovernmental organisations such as the Council of Europe and the EU, governmental/statutory organisations, academic sources and non-governmental organisations. We surveyed lists of websites of the European Network of Ombudspersons for Children<sup>2</sup> and UNICEF country websites in order to locate relevant research. The studies utilised involve a broad range of methodologies, including child-led forms of participation with children; though most methodologies were found to be consultative.<sup>3</sup> The research covered includes case studies, focus groups, interviews, polls, surveys and questionnaires. The team worked to identify research which:

- 1.1 Has been conducted on children's rights in Europe;
- 1.2 Includes children's views;
- 1.3 Has been conducted in recent years, with particular focus on the last four years.

These criteria were obligatory when determining whether to include consideration of individual research reports in this study. In order to determine what rights issues are most important to children, however, the following other factors were also considered:

##### **3.1.1 Hidden Themes and Geography**

We prioritised research which related to particularly vulnerable children, whose problems tend to be the most hidden, such as victims of sexual abuse and children with disabilities (hereafter referred to as "hidden themes"). We also placed priority on research from Eastern European and non-EU countries, for the reason that there has not been as much research conducted on children's views as in other European countries, therefore it needs greater emphasis (i.e. "geography"). A request, directed at children's non-governmental organisations (NGOs) and others, was made for information on our priority areas. This was facilitated by the University of Liverpool's European Children's Rights Unit and European network NGO Eurochild. It was hoped that this would achieve the aim of accessing research from the geographical areas in question and on hidden themes. We aimed in the desktop study to include information from as many states as possible. Although we may not have found research studies specifically from each European country, this is mitigated by the fact that there are a number of research studies included in which children's views were gathered from across Europe.

We also included research reports which are written in a number of different European languages, with the aim of accessing as broad a linguistic and geographical variety of

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<sup>2</sup> Available at: [http://enoc.eu/?page\\_id=210](http://enoc.eu/?page_id=210).

<sup>3</sup> Child-led here is taken to mean where children were involved in the design and execution of the research, whereas consultative means that they were asked their views.

documents as possible, whilst bearing in mind our geographical preference for less-researched countries. Most of the studies we found on the basis of our literature search (including through the request for information throughout Europe), however, are in English. This may reflect the mother tongues of the authors (English and Dutch) and the effect of this on our ability to search for documents, but it probably also indicates that many research studies are published in English, even where they are conducted in non English-speaking countries. There is however a high proportion of research studies from the UK referenced in our desktop study, reflecting perhaps the comparatively high investment in participatory work involving children in the UK.

### **3.1.2 Size of Study and Frequency of Theme**

Other factors were also considered relevant. Where a document has exceptionally rich data, (for example covering the views of a large number of children), this was given particular attention.<sup>4</sup> If there was a large amount of research available on a particular issue (e.g. children in care), this was taken into consideration, although it was borne in mind that this could indicate the importance of a matter to governments and NGOS rather than necessarily children themselves.

### **3.1.3 UNCRC and Participation**

The general principles of the UNCRC were also a strong consideration. These are: Article 2: non-discrimination; Article 3: the best interests of the child; Article 6: the right to life, survival and development; and Article 12: the right to be heard.<sup>5</sup> It was intended that the themes on which we focused would encompass all of these principles with as much equality as possible, considering all rights are indivisible and interdependent.

The principle of participation was, of course, key to the thinking behind the methodology. Whilst the scope of this study did not permit the direct involvement of children, the research focuses on the studies which utilise genuinely robust methodology to access their views.<sup>6</sup> In addition, a number of academic and NGO experts on children's participation were asked to provide support in terms of identifying whether the desktop study covered the appropriate issues from a children's rights perspective.

### **3.1.4 Mapping Available Research and Identifying Themes**

Relevant research studies were gathered, and the details of these studies were put into an excel document (please see appendix). This permitted the team to identify available research, and the extent to which particular studies met our criteria for prioritisation, and consequently which themes would be included in this study.

After a review of available literature and consideration of relevant factors outlined above, the research team came to conclusions on which rights themes appear to be of greatest importance to children. The themes which come across most clearly are: violence; child-friendly justice; child participation; children in care; discrimination; education and child

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<sup>4</sup> For example the study: Kilkelly, U., *Listening to children about justice: Report of the Council of Europe's consultation with children on child-friendly justice* (Council of Europe, 2010) involved more than 3,700 children from over 25 European countries.

<sup>5</sup> See Committee on the Rights of the Child, *General comment no. 5: General measures of implementation of the Convention on the Rights of the Child* (27 November 2003) CRC/GC/2003/5.

<sup>6</sup> For example children were involved in the design and execution of the study: Children's Rights Alliance for England, *Speaking freely – Children and young people in Europe take action on ending violence against children in custody: Campaign report* (Children's Rights Alliance for England, 2013).



poverty & austerity. There does not appear to be a way in which these themes can be put in order of priority, as there has not been any direct research in recent times in which children across Europe are directly asked an open question about which rights are most important to them.<sup>7</sup>

The four UNCRC general principles are clearly evident in these themes. Whilst all the themes identified have elements of each general principle (e.g. children in poverty can feel their right to be heard is neglected), every theme clearly fits into one category – child participation is neatly categorised under Article 12 (right to be heard); child poverty and education under Article 6 (the right to life, survival and development). The areas of care, violence and justice can be categorised under the heading of Article 3 (protecting children’s best interests) and discrimination covers Article 2.

### **3.2 Data Analysis**

Data was analysed using the ‘coding’ method of analysis in order to establish broad themes emerging from the data of the studies examined. Once the seven primary themes emerging from the research were identified (i.e. violence etc.), a more in-depth analysis was conducted whereby further themes and patterns were identified (e.g. violence in the home). Regular cross-checks were conducted in order to ensure that the representation of children’s views was as broad as possible across our prioritisation method. Summary findings were gleaned from each section.

Recommendations provided on the basis of the data analysis are those of children, gathered from the research studies examined. In some cases, where we have deemed it necessary and appropriate, we have included recommendations of the authors of the reports examined, as long as they are based on consultation with children themselves. The authors of this desktop study have refrained from providing their own opinions, as the purpose of this study is to ensure children’s views are included in the Council of Europe’s next Strategy for the Rights of the Child.

### **3.3 Challenges of the Research**

It is a challenging task to provide a broad overview of the views of children in Europe on their rights in a short desktop study. Children are as varied and heterogeneous a group as adults. Experiences and views will differ according to age, gender, race, ethnicity, nationality, disability, economic status, and indeed a host of other factors including personality. Another issue is the lack of availability of research on children’s views in many areas, and the lack of clarity in some reports concerning the positioning of children’s views in the conclusions reached, particularly where they are only a small part of a research study. Therefore the generalisations and conclusions in this desktop study are certainly made with these challenges in mind.

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<sup>7</sup> It is worth noting that in a Eurobarometer poll in 2009, violence and education appeared to be the main issues about which children were concerned. In this poll, children were given a restricted list of issues from which to choose, and these issues do not appear to have been based on the UNCRC. Although this data is highly valuable, these factors arguably limit the potential of the study to permit some broad conclusions on children’s views of their rights. European Commission, *Flash Eurobarometer – The rights of the child* (May 2009).

## 4. Violence

Article 19 of the CRC obliges states to protect children from all forms of violence. Yet children experience high levels of violence across spheres from within the family context to peer groups and to the institutions with which they have contact. This has a knock-on effect on all rights for children, for example it may prevent them from speaking their mind and enjoying their right to participation.<sup>8</sup> In particular, research on children's views indicates that vulnerable groups such as asylum seeker children,<sup>9</sup> children who live in deprived areas,<sup>10</sup> and children with other vulnerabilities such as children with disabilities and those belonging to minority groups (see e.g. research in Romania<sup>11</sup>) can be at greater risk of violence and harassment. Girls and women report experiencing widespread gender-based violence.<sup>12</sup> Children indicate that they have a significant level of awareness of the threat of violence which they face, as they list it as priority rights issue in a number of studies.<sup>13</sup>

### Summary Points – In general, children's views are that:

#### *Violence in the Home*

- Physical punishment should not be used as a method of discipline, and positive parenting should be taught.
- In order to tackle domestic violence, children should have services tailored to their individual needs as well as those of the adults in the family.
- Efforts should be made to strengthen informal support networks and existing relationships (e.g. mother and child) to support children experiencing domestic violence, as formal approaches can be frightening.
- Children fleeing domestic violence require good-quality, easily accessible accommodation. Teenage sons (who are often excluded) must be accommodated.

#### *Violence in Custodial Settings*

- Clear and strict rules must be applied on the use of restraint in custody. Children should not feel that they are not trusted when reporting incidents.
- It must be ensured that staff are carefully vetted and chosen on the basis of genuinely enjoying working with children and young people.

<sup>8</sup> See e.g. Council of Europe, *Child and youth participation in the Republic of Moldova – A Council of Europe policy review* (Council of Europe, 2013).

<sup>9</sup> See e.g. Children's Commissioner for England, *What's going to happen tomorrow – Unaccompanied children refused asylum* (Children's Commissioner for England, 2014).

<sup>10</sup> Unicef, *Écoutons ce que les enfants ont à nous dire - Adolescents en France: Le grand malaise – Consultation nationale des 6-18 ans 2014* (Unicef, 2014).

<sup>11</sup> UNICEF Romania, *Helping the 'invisible' children- Second evaluation report* (UNICEF Romania, 2013). The report states that "Roma children have a considerably higher probability of being victims of domestic violence compared to [...] Romanian children."

<sup>12</sup> See e.g. Integrated Response to Violence against Women in Serbia/UNICEF, *Preliminary research results* (Integrated Response to Violence against Women in Serbia/UNICEF, 2013).

<sup>13</sup> 44% of young EU citizens listed this as a first or second place priority issue in European Commission, *Flash Eurobarometer – The rights of the child*, supra note 7. See also Ofsted, *Children on rights and responsibilities: a report of children's views by the Children's Rights Director for England* (Ofsted, 2010) in which children list abuse and cruel treatment in their top ten priorities.

### *Sexual Violence*

- Services working with child survivors of sexual violence and exploitation should be understanding, non-judgmental, and cohesive – children should be able to establish a relationship of trust with a key person.
- Counselling, contact with other children in the same situation, security of housing and adequate education will assist children in this situation.
- Children require education on sexual consent which tackles ‘victim blame’. The matter of sexual consent and gangs requires particularly urgent action.
- Criminal justice systems must be established so as to avoid re-traumatising children who come forward as a victim of or witness to sexual violence.
- Children and parents require better education on how children can stay safe online and sex education is required to engage with children about the matter of internet pornography.

## **4.1 Violence in the Home**

### **4.1.1 Physical Punishment**

Children generally state that they value their family relationships over all other factors, and for most children the family is a very happy place.<sup>14</sup> Yet children report experiencing high levels of violence in the home, in spite of the fact that physical punishment has been banned in many European countries.<sup>15</sup> In a German study, for example, one in five children state that they experience violence in their families.<sup>16</sup> In many states in Europe physical punishment of children remains acceptable both socially and legally.<sup>17</sup> In a study on children’s rights conducted in Moldova, one child states that: *“Parents use violence against their child without reason, because they get annoyed either at work or at home and the child is like a toy of their parents’ mood.”*<sup>18</sup> Irish research shows that the use of physical punishment by parents makes children: *“...[F]eel bad in some way, including feeling sad, upset, unloved, sore, scared, angry and embarrassed.”*<sup>19</sup> Although some children see physical punishment as acceptable in some circumstances, numerous research studies from across Europe indicate that most do not.<sup>20</sup> As one young person from Hungary states: *“From hitting, one cannot learn.”*<sup>21</sup> Young people from throughout Europe emphasise the need to end physical punishment, and

<sup>14</sup> See e.g. Ipsos MORI and Nairn, A., *Children’s well-being in UK, Sweden and Spain: The role of inequality and materialism – A qualitative study* (Ipsos MORI, 2011).

<sup>15</sup> Sweden was the first country to explicitly ban all forms of physical punishment of children in 1979. See e.g. Bussmann, K. D., *The effect of banning corporal punishment in Europe: A five-nation comparison* (Martin-Luther-Universität Halle, 2009).

<sup>16</sup> Child and Youth Welfare Association, *First children and young people’s report on UN reporting on the implementation of the UN Convention on the Rights of the Child in Germany* (Child and Youth Welfare Association, 2010).

<sup>17</sup> See e.g. Council of Europe, *Child and youth participation in the Republic of Moldova*, *supra* note 8 and Department for Children, Schools and Families, *A study into children’s views on physical discipline and punishment* (Department for Children, Schools and Families, 2006).

<sup>18</sup> Council of Europe, *Child and youth participation in the Republic of Moldova*, *ibid*.

<sup>19</sup> Nixon, E., *Children’s perspectives on parenting styles* (Children’s Research Centre, 2011).

<sup>20</sup> See e.g. Nixon, *ibid*; Department for Children, Schools and Families, *supra* note 17; Schuurman, M. (ed.), *Speak up! Giving a voice to European children in vulnerable situations* (Eurochild, 2012).

<sup>21</sup> Schuurman, *ibid*.

recommend that positive parenting is taught.<sup>22</sup> Children in Moldova emphasise the need to: “Set up a campaign to combat corporal punishment of children.”<sup>23</sup>

#### 4.1.2 Domestic Violence

Domestic violence is commonly experienced by children, and most often perpetrated by fathers. Children report being used as a tool by the violent parent (e.g. being harmed in order to upset their mother) and experiencing extreme distress whilst seeing or hearing a parent being attacked.<sup>24</sup> Research conducted with children strongly indicates the failure of service providers to ensure a focus on the particular needs of children,<sup>25</sup> instead focusing on the needs of the adults involved and assuming that this will automatically help children. Although children do stress how important it is to them that their mothers receive the help they need, they also report that it is very important that a holistic approach is taken to their family, with children being treated as individuals: “Whole family support helps... a support worker for 1-2-1 with children and mum has another support worker.”<sup>26</sup>

Children living with domestic abuse face significant challenges. Children report that moving house to flee the violent parent causes them distress, and makes it very hard for them to make and keep friends.<sup>27</sup> Many children also state that they prefer informal channels of assistance, primarily because they fear the repercussions for their mothers if the problem is met with official intervention.<sup>28</sup> Another common problem encountered is that teenage boys are not permitted to stay in women’s refuges, which separates parent and child, and increases the risk of homelessness for affected young people.<sup>29</sup> Domestic violence is a frequent factor in family court disputes. Research in Scotland shows that 55% of children who were asked their views in a family dispute involving domestic violence did not want contact with the (alleged) abuser: “Children described being hit and shouted at, destruction of property, feeling ‘sad’ or frightened and parental alcohol abuse as key reasons for not wanting contact.”<sup>30</sup>

Voice Against Violence is a group of young people in Scotland with first-hand experience of domestic abuse. They have many recommendations for improvement of practical services, including strengthening relationships with professionals and others, for example: “Better advice from social workers...trust.”<sup>31</sup> They also talk about the difficulties experienced accessing emergency accommodation: “Need good place to stay fast!! No waiting lists! In refuges, more room so you don’t need to share a bathroom and stuff, being able to invite your friends and to decorate your own room.”<sup>32</sup>

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<sup>22</sup> European Network of Ombudspersons for Children, *ENYA Annual Seminar 25th and 26th of July 2011, Belfast, Northern Ireland* (European Network of Ombudspersons for Children, 2011).

<sup>23</sup> Council of Europe, *Child and youth participation in the Republic of Moldova*, *supra* note 8.

<sup>24</sup> National Society for the Prevention of Cruelty to Children, *Meeting the needs of children living with domestic violence in London* (National Society for the Prevention of Cruelty to Children, 2011); Office of the Minister for Children Ireland, *Listening to children: Children’s stories of domestic violence* (Office of the Minister for Children Ireland, 2007).

<sup>25</sup> *Ibid.*

<sup>26</sup> Voice Against Violence, *Question time- Peer education project report* (Voice Against Violence, 2012).

<sup>27</sup> National Society for the Prevention of Cruelty to Children, *supra* note 24.

<sup>28</sup> *Ibid.*

<sup>29</sup> National Society for the Prevention of Cruelty to Children, *supra* note 24; Office of the Minister for Children Ireland, *supra* note 24.

<sup>30</sup> McKay, K., *The treatment of the views of children in private law child contact disputes where there is a history of domestic abuse* (Scottish Commissioner for Children and Young People, 2013).

<sup>31</sup> Voice Against Violence, *supra* note 26.

<sup>32</sup> *Ibid.*

Most children who experience domestic violence report that their families are their greatest support. In Ireland, for example, research has shown that: “*For most of the children interviewed, their greatest supports — practical and emotional — came from their siblings and then from their mothers.*”<sup>33</sup> A common point emphasised in the research is the assistance required to rebuild relationships between mother and children where it has been damaged by domestic violence. Voice Against Violence young people emphasise that they want: “*Mums also supported to help build relationship again.*”<sup>34</sup> In Romania, children report very rarely using helplines or other assistance outside of friends and family when they have problems, again emphasising the importance of finding ways to support children’s personal relationships.<sup>35</sup>

Education campaigns should also play a part in tackling domestic violence. Research in Serbia indicates that the majority of students would like to have issues around gender violence – including prevention – discussed in school.<sup>36</sup>

#### **4.2 Violence in Custody**

There is a significant body of evidence that children experience much violence in custodial settings.<sup>37</sup> A number of studies have been conducted in recent years which gather the views of children on this matter. The Children’s Rights Alliance for England conducted a study in which children campaigned on ending violence against children in custody in Austria, Cyprus, England, the Netherlands and Romania. In this and other studies, clear themes emerge on children’s views on how to tackle this issue.

A major issue for children in custodial settings is that of violence perpetrated by staff.<sup>38</sup> In England for example, children report experiencing violence through the use of restraint: “*Someone’s got your arm and head down...it makes you want to struggle. It hurts.*”<sup>39</sup> In particular, girls report mental health problems resulting from such use of force. Children feel that too much force is being used, and that greater attempts should be made to talk through the issues.<sup>40</sup>

Children have a number of insightful recommendations regarding staff recruitment. They emphasise the need to recruit staff who like working with children, and who have a proven ability of doing so.<sup>41</sup> They should be from similar backgrounds to the children with whom they are dealing, and should be fair and willing to listen to children.<sup>42</sup> Staff should be well trained on matters such as child psychology and children’s rights and on tackling conflict

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<sup>33</sup> Office of the Minister for Children Ireland, *supra* note 24.

<sup>34</sup> Voice Against Violence, *supra* note 26.

<sup>35</sup> UNICEF Romania, *State of adolescents in Romania* (UNICEF Romania, 2013).

<sup>36</sup> Integrated Response to Violence against Women in Serbia/UNICEF, *Preliminary research results* (Integrated Response to Violence against Women in Serbia/UNICEF, 2013).

<sup>37</sup> Children’s Rights Alliance for England, *supra* note 6.

<sup>38</sup> Children’s Rights Alliance for England, *supra* note 6; Children’s Commissioner for England, *Young people’s views on restraint in the secure estate* (Children’s Commissioner for England, 2011).

<sup>39</sup> National Society for the Prevention of Cruelty to Children, *A consultation with young people on the use of restraint in custody* (National Society for the Prevention of Cruelty to Children, 2008); cited in Children’s Rights Alliance for England, *You feel like you’re nothing: The UN study on violence against children* (Children’s Rights Alliance for England/ National Society for the Prevention of Cruelty to Children, 2008).

<sup>40</sup> Children’s Commissioner for England, *supra* note 38.

<sup>41</sup> National Society for the Prevention of Cruelty to Children, *supra* note 39.

<sup>42</sup> Children’s Rights Alliance for England, *supra* note 6.

without violence. Children should be involved in training in order to get across their perspectives on, for example, when to intervene or not in various situations which can arise in custody. There should be clear rules for staff on the use of force and staff should be well trained in this area. Restraint should only be used as a last resort when alternatives have failed. In England, children drafted a job description for youth custody staff, describing the personal qualities necessary for working well with children in custody, including “*positive attitudes*” and “*non-judgmental*”.<sup>43</sup>

In both England and Romania, efforts have been made by young campaigners to instigate the installation of cameras and sound recording in both custody and police settings.<sup>44</sup> In England, children argue that such equipment would mean that there would be evidence of what happened in a given incident rather than two different stories, particularly as they feel that more credibility is given to the words of staff over children, and it would discourage staff from perpetrating violence.<sup>45</sup>

In some states, violence against children in custody is particularly common and severe. In Ukraine, children report that they receive severe beatings from police and others when detained for questioning: “*they started to beat me again without even asking me any questions.*”<sup>46</sup> Although detention facilities in Ukraine are described by children as less violent places than pre-trial detention facilities,<sup>47</sup> they still come with great dangers. Not only do sub-cultures exist in some facilities whereby powerful detainees can perpetrate abuse on more vulnerable detainees, but these practices can be encouraged by staff: “*The teacher will tell them to beat me and they will.*”<sup>48</sup>

#### **4.3 Sexual Violence and Exploitation**

There is strong evidence that girls regularly negotiate the experience and threat of sexual violence and exploitation. In Serbia, 74% of high school students reported experiencing some form of gender-based violence since the beginning of the 2013/2014 school year.<sup>49</sup> In England, schoolgirls report regular harassment from strangers in the street, as well as from peers and gangs in their neighbourhoods.<sup>50</sup> Most never report it, in large part because they feel that the police “look down” on them.<sup>51</sup> Girls in Scotland have in the past described the threat of sexual violence as a strong feature of their daily lives.<sup>52</sup>

A large body of research has been conducted in England and Wales in recent times on sexual exploitation, due to the emergence of cases highlighting widespread and systematic problems in this area.<sup>53</sup> The Association for Young People’s Health has developed an innovative and

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<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> UNICEF, *Torture and ill-treatment of children in conflict with the law in Ukraine* (UNICEF, 2013).

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

<sup>49</sup> Integrated Response to Violence against Women in Serbia/UNICEF, *supra* note 36.

<sup>50</sup> *Real voices – child sexual exploitation in Greater Manchester: An independent report* by Ann Coffey, MP. October 2014.

<sup>51</sup> *Ibid.*

<sup>52</sup> Burman *et. al.*, “*A view from the girls*” – *Exploring violence and violent behaviour: ESRC full research report* (ESRC, 2000).

<sup>53</sup> *Real voices – child sexual exploitation in Greater Manchester, supra* note 50.

youth-led project in England, *Be Healthy*.<sup>54</sup> It highlights a number of crucial issues for young people with experience of sexual exploitation. Young people express that low self-esteem can lead to, amongst other things, depression, risky behaviour with alcohol and drugs and unhealthy relationships. In the words of one girl from the project: “*young girls are vulnerable, if someone gives them the slightest bit of attention, they think they know what they are getting themselves into. However, they just end up getting used and abused.*”<sup>55</sup>

Children in need of relevant services<sup>56</sup> state that services should be understanding, non-judgmental, and should give them a choice about how to express themselves. They clearly express that they do not want to be pushed into any particular type of help: “*If services don’t make it easy for young people to say ‘no’ to them they might just find another ways to avoid them – turning off their phone or giving stupid excuses!*”<sup>57</sup> Working with the same person over time is important for children, and a single service to help with different issues is desirable: They want consistency and not to have to go to different services for different things.<sup>58</sup> This strongly indicates the importance of building trust in relationships with service providers, something which children frequently emphasise. Children experiencing sexual exploitation explain: “*I hardly ever see my social worker ... she doesn’t really know what’s going on with me.*”<sup>59</sup> Research in Srpska points to the need for greater cooperation between government agencies in providing relevant services to children.<sup>60</sup>

Children say that counselling, contact with others in the same situation, security of housing and adequate education will assist them.<sup>61</sup> Peer support is a dominant theme for children to enable themselves to overcome the effects of exploitation: “*...[i]t’s good to know you’re not the only one.*”<sup>62</sup>

#### 4.3.1 Consent and Sexual Violence in Gangs

Children’s views on sexual consent are hugely challenging, reflecting attitudes of the population generally. Research in Serbia indicates that the majority of students blame sexual violence on the victim.<sup>63</sup> In England, although young people mainly have an awareness of legal frameworks around consent, children of both genders also generally blame rape on the actions of the victim, for example wearing revealing clothing or drinking alcohol:<sup>64</sup> “*It gives out the wrong idea the way you’re dressed.*”<sup>65</sup> Research in the UK emphasises that children require education which challenges “victim blame”.<sup>66</sup>

<sup>54</sup> The Association for Young People's Health, *Be Healthy* (University of Bedfordshire/ Association for Young People's Health, 2013).

<sup>55</sup> National Working Group for Sexually Exploited Children and Young People, *In a new light – Photographs & words from the Having Our Say Project* (Children in Need/University of Bedfordshire).

<sup>56</sup> The Association for Young People's Health, *supra* note 54.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

<sup>59</sup> Smeaton, E., *Running from hate to what you think is love: The relationship between running away and child sexual exploitation* (Barnardos, 2013).

<sup>60</sup> Ombudsman for Children of Srpska, *Child sexual exploitation* (Ombudsman for Children of Srpska, 2010).

<sup>61</sup> Street Reach, *Our stories: Out of the box: Young people's stories* (Street Reach, 2009).

<sup>62</sup> National Working Group for Sexually Exploited Children and Young People, *supra* note 55.

<sup>63</sup> Integrated Response to Violence against Women in Serbia/UNICEF, *supra* note 36.

<sup>64</sup> Coy, M. et. al., “*Sex without consent, I suppose that is rape*” – *How young people in England understand sexual consent* (Children’s Commissioner for England, 2013).

<sup>65</sup> *Ibid.*

<sup>66</sup> *Ibid.*

Research on sexual violence within gangs in England and Wales demonstrates that attitudes to sexual consent are particularly problematic amongst this cohort.<sup>67</sup> There are insufficient services to deal with problems that are likely to occur, e.g. those presenting to professionals as potential perpetrators.<sup>68</sup> Children recognise the negative impact that cuts in funding in this jurisdiction are having on the ability of victims to access support: *“There were things like...a lot of youth clubs but there’s not as many as there used to be. The funding’s been cut and most of them have been closed, so I don’t know where they would go...other than the police.”*<sup>69</sup> The need for both education of children and others about the nature of consent, and for holistic, long-term work (particularly community-based youth work and youth mentoring systems) is highlighted in this research with children with experience of gangs.

#### 4.3.2 Experiences of Criminal Justice for Victims of Sexual Violence

One strong message from children in the UK concerns: *“The need for a justice system that is appropriate to victims of child sexual exploitation and does not result in the re-traumatisation of those brave enough to go through it.”*<sup>70</sup> Young people often feel that they can be left even more vulnerable after coming forward about abuse; that they are sometimes not adequately protected when they do;<sup>71</sup> and that outcomes are inadequate: *“Why are there shorter sentences for rape than for drugs offences?”*<sup>72</sup> They state that they meet with a lack of understanding and communication in the system, and are left feeling that they lack control of processes in which they become engaged: *“If you tell an adult something then they kind of decide what’s going to go on next...then police get involved and you might not want that...”*<sup>73</sup> Young people meet with too much paternalism when they engage with the criminal justice system as a victim of or witness to sexual violence and feel that decisions in this area should be made with them rather than for them.<sup>74</sup> They hugely value where professionals explain the reasons behind legal processes, however such explanations are not frequent.<sup>75</sup>

#### 4.3.3 Sexual Violence and the Internet

With the prevalence of internet pornography and social media, the internet not only poses opportunities for children, but dangers as well. Research in Srpska indicates that children see the fun of internet before the dangers, and that secondary school students think that it is primary school children that are more at risk.<sup>76</sup> Research with children in England indicates that internet pornography plays an important role in their lives, often shaping sexist attitudes: *“...it’s very degrading towards women, so it can make people a little bit sexist towards women.”*<sup>77</sup> This can skew children’s understandings of sex and permeate attitudes towards girls and women.

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<sup>67</sup> Beckett, H. et. al., *“It’s wrong...But you get used to it” – A qualitative study of gang-associated violence towards, and exploitation of, young people in England* (University of Bedfordshire/Children’s Commissioner for England, 2013).

<sup>68</sup> *Ibid.*

<sup>69</sup> *Ibid.*

<sup>70</sup> Young Peoples’ Advisory Group, *What works for us – Young Peoples’ Advisory Group Annual Report 2010-2011* (University of Bedfordshire, 2011).

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*

<sup>74</sup> *Ibid.*

<sup>75</sup> Beckett, H. and Warrington, C., *Making justice work – Experiences of criminal justice for children and young people affected by sexual exploitation as victims and witnesses* (University of Bedfordshire, 2015).

<sup>76</sup> Ombudsman for Children of Srpska, *Exploitation of children on the internet* (Ombudsman for Children of Srpska, 2013)

<sup>77</sup> Coy et. al., *supra* note 64.



Children have many suggestions for staying safe online. The first is: “*Learning to keep yourself safe online*”<sup>78</sup> through education for both adults and children.<sup>79</sup> In some countries, such as Serbia, parents are less competent with internet use than parents in other countries, and children report that this results in parents being seen less as “partners” in internet use.<sup>80</sup> This can potentially put children at risk, and states must ensure that parents are educated to assist and monitor the internet usage of their children. Children involved with the European Network of Ombudspersons for Children recommend that education in this area should be conducted through the school curriculum and through the government working together with website providers.<sup>81</sup> Sex education which deals with issues of relationships and sexual consent is also required to tackle the widespread use of internet pornography by children.

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<sup>78</sup> National Working Group for Sexually Exploited Children and Young People, *supra* note 55.

<sup>79</sup> Ombudsman for Children of Srpska, *supra* note 76.

<sup>80</sup> Popadić, D. and Kuzmanovic, D., *Utilisation of digital technologies, risks, and incidence of digital violence among students in Serbia - Summary* (UNICEF, 2013).

<sup>81</sup> European Network of Ombudspersons for Children, *supra* note 22.

## 5. Child-Friendly Justice

Children can encounter the justice system in a number of ways, for example through being accused of a crime, through the care system, or where family law matters arise. This is a key area for children, and they are particularly concerned that their needs are considered in policy-making in the area of justice.<sup>82</sup> Children have a number of rights at international and domestic level relevant to child-friendly justice, including the right to be equal before courts and tribunals (Article 14 of the International Covenant on Civil and Political Rights), the right to a fair trial (Article 6 of the European Convention on Human Rights) and the right to be heard in proceedings affecting them (Article 12 CRC). A number of large-scale research studies have been conducted of late concerning children's experiences of legal systems in Europe and the matter of how to make these systems more child-friendly.

### **Summary Points – In general, children's views are that:**

#### *Participation in Justice Systems*

- Children require better and more child-friendly information to help them to participate more effectively in justice systems. They wish to receive it primarily through families, who should be supported to inform and help children.
- The efficacy of receiving information through other means such as officials and helplines should be examined, as they are not attractive to children.
- Officials need to examine how to better ensure that children can trust them.
- Proceedings should be conducted in a way that children can attend, understand what is going on, and feel that their participation is both possible and welcome.

#### *Children in Conflict with the Law*

- Police must communicate more effectively with children and ensure that they behave respectfully towards them.
- Legal representatives should represent children's wishes, they should communicate well with them, and ensure that they demonstrate to children a good understanding of their cases.
- Children wish to speak with the decision-maker, and they wish to do this before others have made submissions and before the decision is made.
- Children wish to have better activities, education and training when in custody – in particular it should prepare them to get a job on release.

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<sup>82</sup> European Commission, *Flash Eurobarometer – The rights of the child*, supra note 7.

- Living conditions in custody need to be better for children. Food, for example, is of great importance to their quality of life. In less economically well-off countries in Europe, there is an urgent need for improvement, for example children should never be in custody with adults.
- Children in custody require more psychological services. They highly value peer-based mentoring systems, whereby an older or former prisoner provides support.
- Children in custody do not have faith in complaints systems. They also require greater contact with their families, and wish for them to be involved in their rehabilitation.
- The majority of children do not think that the criminal justice system is the best place to deal with their offending behaviour, and instead want community activities, mediation, and in appropriate cases, a trusted key support worker.

#### *Children of Prisoners*

- Police should be trained to behave appropriately when arresting someone in front of their children.
- Children of prisoners need counsellors, they need to meet other such children, and they ask that school bullying against them is tackled.
- Greater assistance needs to be provided to ensure that children can visit parents more frequently, and prisons need to better facilitate visits through permitting games and other activities.

### **5.1 Participation in Justice Systems**

The Council of Europe's large-scale consultation with children on child-friendly justice aimed to establish children's views and experiences of justice systems. In this research, 3,700 children from over 25 European countries completed a questionnaire (focus groups were also held); reaping enormous amounts of information on children's views and experiences in this area. Children's experiences in a broad variety of proceedings – criminal, care, family and immigration – were examined. The main messages from the research are that children want support from family and friends, they “...[H]ave little faith in those in authority”, and they want to participate in matters affecting them in justice systems.<sup>83</sup>

#### **5.1.1 Information and Child-Friendly Proceedings**

One crucial issue concerning participation is that children require better information when they interact with legal systems. Children often express that they are getting insufficient information about legal matters in order to adequately understand them. Of children who responded to the Council of Europe's consultation on child-friendly justice, 77% said that they would have liked more information about their rights when interacting with the justice system.<sup>84</sup> If possible, they want information from people close to them, such as their parents. Beyond this, children primarily wish to get general information online, through local community services such as doctors' offices, and perhaps surprisingly the last place from which they want to seek such information is through hotlines.<sup>85</sup> The reasons behind the lack of attraction of hotlines for children should be examined, as these may be a last resort for

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<sup>83</sup> KilKelly, *supra* note 4.

<sup>84</sup> *Ibid.*

<sup>85</sup> *Ibid.*

children who do not have anywhere else to turn. There may be a need to better publicise such services, as was recommended recently by a report on children's participation in Moldova.<sup>86</sup>

In Scotland, the children's hearings system is a unique model in which a highly-trained lay panel establishes the welfare needs of children in care cases and some criminal law cases. It is assumed that the child involved will be present at hearings; in fact they have a *duty* to be present. One would assume that children would therefore be well prepared for such hearings. However, in one study, only 30% of those interviewed reported having spoken before the hearing to their social worker about it.<sup>87</sup> Children complain that they have large amounts of paperwork sent to them beforehand which they find it hard to process: "*There is lots of paper... I hate it.*"<sup>88</sup> Even where a document or leaflet is prepared with children in mind, this is no replacement for speaking to someone trusted about the matter in question. Children in Scotland are often left unprepared and uninformed about their hearings, leading to feelings of anxiety and fear at the actual hearing.<sup>89</sup>

Children overwhelmingly wish for parents and friends to be the ones who they speak to about legal matters concerning them. Yet in Slovakia, children report that they have the impression that their parents do not wish to discuss such matters with them in the belief that this will protect them.<sup>90</sup> This points to the need for authorities to engage better with parents and others close to children in order to ensure that families are open about legal matters to the extent appropriate. Families should be supported to share information with and give explanations to children, as this is what children want,<sup>91</sup> and it is clear that being open, rather than secretive, benefits children's well-being.<sup>92</sup>

### 5.1.2 Mistrust of Authority

One very striking finding of the Council of Europe's consultation on child-friendly justice is that, whilst most children would tell family or friends if they were being mistreated, most would *not* tell an official like a police officer or health worker. The reasons given by children for their reluctance to speak to officials included fear for their family, fear of not being believed, or fear that confidentiality would not be respected. The Council of Europe report points to the huge challenge for those who aim to provide services to children at risk, in particular concerning the question of how to develop and maintain positive relationships of trust with them.<sup>93</sup>

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<sup>86</sup> Council of Europe, *Child and youth participation in the Republic of Moldova*, *supra* note 8.

<sup>87</sup> See e.g. Zoie Montgomery, *Let's all make a change for children and young people: A young person's review of research on children's views of the children's hearings system* (Scottish Children's Reporter Administration, 2012).

<sup>88</sup> Children's Hearings Reform Team, *The views of children* (Children's Parliament/ Children's Hearings Reform Team, 2010), at 4, cited in Children's Hearings Scotland, *Children and young people's views and experiences of children's hearings – A summary* (Children's Hearings Scotland, 2013).

<sup>89</sup> Who Cares? Scotland, *Hearing Scotland's children: The expert views of Scotland's children and young people* (Scottish Children's Reporter Administration, 2011), cited in Children's Hearings Scotland, *ibid.*

<sup>90</sup> Council of Europe, *Child and youth participation in the Slovak Republic – A Council of Europe policy review* (Council of Europe, 2012).

<sup>91</sup> Kilkelly, *supra* note 4.

<sup>92</sup> See e.g. Martynowicz A., *Children of imprisoned parents* (The Danish Institute for Human Rights, Bambinisenzasbarre, Ulster University and European Network for Children of Imprisoned Parents, 2011).

<sup>93</sup> Kilkelly, *supra* note 4.

### 5.1.3 Right to be Heard and Presence at Proceedings

About half of children in the Council of Europe consultation said they were asked their opinion on the legal matter in question, although 16% could not remember.<sup>94</sup> The vast majority of children express that it is important to them that their views be heard. Children “overwhelmingly” wish to speak directly to the person making the decision.<sup>95</sup> Only 36% of children in that study felt their views had been taken seriously, however, indicating: “...[A] failure to explain to the child the weight attached to his/her views during the process.”<sup>96</sup> As noted above, in Scotland the failure to adequately prepare and inform children for their hearings<sup>97</sup> can lead to children being not only ill-positioned to participate, but actually nervous concerning what the hearing is about. One girl remarked that “...[M]y first time at a hearing I thought they were the Police and if I said anything I would get arrested.”<sup>98</sup>

The Council of Europe highlights that children reported being present about half the time when important legal decisions were being made about them, for example in criminal or family law. Children express that proceedings are not conducted in a way that children can understand. Research in Slovakia determined that the few children who had been present at proceedings concerning them had been unable to understand what was going on: “*They just announced a bunch of paragraph numbers, which I didn’t understand at all and therefore I had no clue what they were talking about.*”<sup>99</sup> This leaves children with the impression that they were not considered important in those proceedings. Children in Scottish hearings also say that they feel confused and alienated by the complex language used, which they refer to as “*big words*” or “*posh words*”.<sup>100</sup> Clearly, better efforts need to be made so that proceedings are conducted in a way that children can attend, understand what is going on, and feel that their participation is both possible and welcome.

## 5.2 Children in Conflict with the Law

Children in conflict with the law are amongst the most vulnerable in society, particularly those who end up in custody, i.e. being held by police, in prison, or in secure care. Of children in prison, one in three are estimated to have mental health problems,<sup>101</sup> and the often lonely experience of incarceration can exacerbate this: “*I felt disaffected and separate from the world that the rest of you live in.*”<sup>102</sup>

### 5.2.1 Interactions with Police

The Council of Europe consultation highlights the “...[I]mportant role that the police play as the principal point of contact between children and the justice system, even for those who never have deeper involvement.”<sup>103</sup> Children display negative attitudes towards the police in a number of research reports. In Belgium, children state that they are questioned by the police without reason: “*When you ask them why we are being inspected when we didn’t do anything,*

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<sup>94</sup> *Ibid.*

<sup>95</sup> *Ibid.*

<sup>96</sup> *Ibid.*

<sup>97</sup> See e.g. Montgomery, *supra* note 87.

<sup>98</sup> Who Cares? Scotland, *supra* note 88.

<sup>99</sup> Council of Europe, *Child and youth participation in the Slovak Republic*, *supra* note 90.

<sup>100</sup> Children’s Hearings Scotland, *supra* note 88.

<sup>101</sup> Kilkelly, *supra* note 4.

<sup>102</sup> National Children’s Bureau, *Children and young people in the youth justice system – Report of seminars organised by the All Party Parliamentary Group for Children 2009/10* (National Children’s Bureau, 2010).

<sup>103</sup> Kilkelly, *supra* note 4.

they just say: ‘Shut up.’”<sup>104</sup> In the Council of Europe consultation, children also gave numerous examples of perceived unfair treatment by police, such as being stereotyped for wearing a hoodie, or being shouted at.<sup>105</sup> Perceptions of police can be even poorer amongst minority groups. In Scotland, for example, of lesbian, gay, bisexual and transgender (LGBT) young people, “...[J]ust over half (54%) felt safe and supported by the police.”<sup>106</sup> The Council of Europe consultation report refers to an ingrained mistrust of police in many children due to experiences which they have had in their communities and in the justice system.<sup>107</sup> It points to a need, according to the author, for police to communicate more effectively with children and to ensure that they behave respectfully towards them.<sup>108</sup>

### 5.2.2 Children’s Experiences of Lawyers

Some children interviewed as part of the Council of Europe consultation feel that their lawyer was ineffective when they were in conflict with the law. They complain about the lack of meaningful contact with their lawyers while they were in detention. Some children feel that their lawyers failed to prepare them for custody, for example suggesting that they would get bail where ultimately they did not. Others complain of changes of legal representation during their proceedings, or feeling that their lawyer was insufficiently informed about the child’s case.<sup>109</sup> Children in Belgium also state that lawyers should better represent them, including by listening better to their young clients and being specially trained to work with them: “*The legal aid counsel often does not know your case and does not defend you at all. He usually just agrees with the judge’s judgment.*”<sup>110</sup>

In Scotland, the role of the legal representative at children’s hearings can be quite ambiguous,<sup>111</sup> which is an issue that can arise frequently in domestic law in non-criminal law cases. Often it is unclear whether lawyers represent children’s wishes or best interests or both. Children interviewed in Scotland are clear, however, that they want the role of the legal representative to be to represent their wishes, not to represent what the representative believes is in the child’s best interest.<sup>112</sup>

In some states, due process appears particularly lacking and children suffer in this context. In Ukraine, young people report significant problems with their legal representation, and generally describe them as disinterested: “*I don’t know if he read my case before trial*” or even describing their representative as appearing to be on the side of the prosecutor.<sup>113</sup>

### 5.2.3 Criminal Proceedings

A strong theme of the voices of children in criminal law proceedings is that they wish to have the opportunity to speak directly to the judge. Children want to be able to speak to the judge before others have done so, otherwise they feel negative and prejudicial things have already

<sup>104</sup> UNICEF Belgium, *This is what we think about it! Second report by the Belgian children to the Committee on the Rights of the Child* (UNICEF Belgium, 2010).

<sup>105</sup> Kilkelly, *supra* note 4.

<sup>106</sup> Scottish Government, *Children and young people’s experiences of, and views on, issues relating to the implementation of the United Nations Convention on the Rights of the Child* (Scottish Government, 2013).

<sup>107</sup> Kilkelly, *supra* note 4.

<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*

<sup>110</sup> UNICEF Belgium, *This is what we think about it!*, *supra* note 104.

<sup>111</sup> Rachel Ormston and Louise Marryat, *Review of the children’s legal representation grant scheme: Research report* (Scottish Government, 2009),

<sup>112</sup> *Ibid.*

<sup>113</sup> UNICEF, *Torture and ill-treatment of children in conflict with the law in Ukraine*, *supra* note 46.

been said about them by the time they get to speak. They particularly wish to tell the judge on sentencing that they know they did wrong, and they wish to have a second chance.<sup>114</sup> Belgian young people express that they want to tell the judge their story in their own way: “*Ten minutes after the judgment has been heard, we are already outside and on our way to the juvenile centre. When I started speaking to explain my situation, I had the feeling they did not believe me because of their distrustful looks. I felt my words were not believed, now I don’t want to say anything anymore, they don’t listen anyway.*”<sup>115</sup>

Treatment during the trial is a major issue for children, who describe for example feeling embarrassed by being in handcuffs in front of family. In particular they express distress at having to sit long distances from family during their hearings, as: “*...[T]his frustrated their own need to be close to their family where they would be able to enjoy their support.*”<sup>116</sup>

In Ukraine, one urgent rights issue is that criminal trials rarely result in acquittal, as acquittal will result in the judge having to initiate criminal proceedings against the investigator and prosecutor. One child reports having been asked by the judge in his trial: “*What do you think I will choose?*”<sup>117</sup> Judges are often described by children in Ukraine as: “*...[I]ndifferent to the case*”.<sup>118</sup>

#### 5.2.4 Children and Custody

Detention is supposed to be a measure of last resort for children. They describe it as “*scary*”<sup>119</sup> and indeed being removed from one’s family will likely be a much more upsetting experience for children than it is for adults. As outlined in the previous section on violence, children in custody are for example very susceptible to violence by staff and others. There are also a number of other rights issues which children identify in relation to their custody experiences.

##### 5.2.4.1 Activities and Education

Activities are described by children as a crucial tool for decreasing violence in custody. In Romania, for example, children report that violence between inmates is most common at weekends, when there are less activities and they are bored.<sup>120</sup> In Austria, children describe sport as something which can build relationships and also “*calm everyone down.*”<sup>121</sup> Creative pastimes such as music and art are also commonly cited by children as crucial to enhancing well-being, creating solidarity between inmates and providing an emotional outlet.<sup>122</sup> However such activities are often not provided for children in custody. In England, in 2012-13 only 45% of children asked said that it was possible to go outside for exercise every day, and in one institution the number was only 5%.<sup>123</sup>

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<sup>114</sup> Kilkelly, *supra* note 4.

<sup>115</sup> UNICEF Belgium, *This is what we think about it!*, *supra* note 104.

<sup>116</sup> Kilkelly, *supra* note 4.

<sup>117</sup> UNICEF, *Torture and ill-treatment of children in conflict with the law in Ukraine*, *supra* note 46.

<sup>118</sup> *Ibid.*

<sup>119</sup> Kilkelly, *supra* note 4.

<sup>120</sup> Ana Balan, ‘Juvenile justice in Romania - From best practices to institutions and procedures’ 1-2 *Romanian Journal of Sociology* 51 (2011).

<sup>121</sup> Children’s Rights Alliance for England, *supra* note 6.

<sup>122</sup> E.g. Children’s Rights Alliance for England, *ibid.*

<sup>123</sup> Youth Justice Board, *Children and young people in custody survey* (Youth Justice Board, 2012-13).

Adequate education and training is seen as crucial rights issue by children in custody, but provision is frequently cited as inadequate.<sup>124</sup> It is an important issue for children in Bosnia and Herzegovina, for example: “*We are wasting our time here, we don’t go to school. When we go out we won’t be able to find job.*”<sup>125</sup> In England, one in ten children asked reported that they were not in education or training in research in 2012-13, and the numbers were even higher for black and minority ethnic persons.<sup>126</sup> In Romania, children emphasise that education needs to be of higher quality, as it makes them: “...[F]eel more positive about themselves” and increases the opportunities of young people to succeed when they leave custody.<sup>127</sup> It is also recommended by Romanian children that pre-trial detention facilities should have education and training, in order not to lose time which could be spent in education.<sup>128</sup>

#### 5.2.4.2 Living Conditions

The living conditions in custodial settings are described by children as key to their rights, and relevant to decreasing inmate violence. Larger cells would make children feel less constrained and therefore less aggressive. Abusive inmates should be identified and kept away from others – children should also be asked their opinions on these matters in order to identify hidden violence, which they report that they experience frequently.<sup>129</sup>

Food also emerges as a prominent issue for children in custody. In Bosnia and Herzegovina, children remark that the food is poor and repetitive: “...[E]verything is the same, which means the same rice, beans, stewed vegetables...”<sup>130</sup> In Austria children believe that better food in custodial settings would actually lead to less aggression amongst children in custody.<sup>131</sup>

Living conditions are of course worse for children in some European states than others. In Bosnia and Herzegovina, children must hand wash their own clothes in their cells.<sup>132</sup> Temporary detention facilities are described by children in many states as the worst accommodation, for example in Ukraine, in research conducted by UNICEF: “*One of the children reported that in one of the temporary detention facilities the floor was simply concrete and the mattress provided was the only piece of furniture. Children had to take turns sleeping on beds and on the floor, as there were only three sleeping spaces to four or five detainees.*”<sup>133</sup> In some states, children are not separated from adults, either in detention facilities or prison,<sup>134</sup> in violation of international law.<sup>135</sup> In Bosnia and Herzegovina, children describe how: “*[I]n the prison yard we are together with them all the time...*”<sup>136</sup> In

<sup>124</sup> See e.g. Include Youth (2009) *Young people’s response to the Independent Monitoring Board Annual Report Hydebank Wood YOC and Prison 2007/08* (Include Youth, 2009).

<sup>125</sup> The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, *The juveniles and children in conflict with law* (The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, 2012).

<sup>126</sup> Youth Justice Board, *Children and young people in custody survey* (Youth Justice Board, 2012-13).

<sup>127</sup> E.g. Children’s Rights Alliance for England, *supra* note 6.

<sup>128</sup> Balan, *supra* note 120.

<sup>129</sup> Children’s Rights Alliance for England, *supra* note 6.

<sup>130</sup> The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, *supra* note 125.

<sup>131</sup> Children’s Rights Alliance for England, *supra* note 6.

<sup>132</sup> The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, *supra* note 125.

<sup>133</sup> UNICEF, *Torture and ill-treatment of children in conflict with the law in Ukraine*, *supra* note 46.

<sup>134</sup> See e.g. the experience in Cyprus in Children’s Rights Alliance for England, *supra* note 6. See also The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, *supra* note 125.

<sup>135</sup> E.g. Article 10 ICCPR.

<sup>136</sup> The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, *supra* note 125.



Cyprus, one child commented on: “...[H]ow unsafe and uneasy she felt being locked up with adults.”<sup>137</sup>

#### 5.2.4.3 Services

Children in custody state that they have a great need for services to assist their mental health and behaviour and they have a number of recommendations for dealing with this. In many states, such as Bosnia and Herzegovina,<sup>138</sup> the need for psychological services for young people in custody is emphasised. Austrian children add that confidence-building exercises and anti-violence training is needed.<sup>139</sup> In Romania, children believe that mediation for disputes between them would be more effective if conducted by individuals from outside the prison, rather than by prison staff.<sup>140</sup> Children consistently emphasise the value of older peers, i.e. older inmates and former prisoners, in order to provide support and advice. A “buddy system”<sup>141</sup> whereby older inmates could mentor younger ones is suggested in order to help children cope in prison. Other types of mentoring systems, whereby people outside the prison build a relationship with them, are also recommended by children.<sup>142</sup>

#### 5.2.4.4 Visits and Complaints

More outside visits and more contact with families is something which children feel that they badly need whilst they are in custody.<sup>143</sup> In Bosnia, children in custody complain that they face high charges to call their families by phone.<sup>144</sup> In Ukraine, restriction of children’s contact with their families is very common: “*My mother called me once...[I] was not given the chance to talk to my mom.*”<sup>145</sup> Children in Ukraine report complex procedures to receive permission for family visits, and even report the refusal of such visits as punishment for undesirable behaviour.<sup>146</sup> In the Netherlands, children particularly emphasise the possibility of the involvement of their families in their treatment and support whilst in custody.<sup>147</sup>

Adequate complaints mechanisms are cited by children as an important safeguard against violence in prison. Yet children report feeling like they are not taken seriously when they make complaints: “*It will get thrown out*”<sup>148</sup> and children in the Netherlands report instances where they have not had any response at all after making complaints.<sup>149</sup> Children recommend that they themselves should be involved in the establishment of complaints policies, and they want to see practical changes, such as the setting of time limits within which they would have to hear back about a complaint.<sup>150</sup>

#### 5.2.4.5 Crime Prevention and Alternatives to the Criminal Justice System

Research indicates that the early criminalisation of children fails to tackle criminal behaviour, and that problem behaviour should be dealt with by the welfare system, not the criminal

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<sup>137</sup> E.g. Cyprus: Children’s Rights Alliance for England, *supra* note 6.

<sup>138</sup> The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, *supra* note 125.

<sup>139</sup> Children’s Rights Alliance for England, *supra* note 6.

<sup>140</sup> Balan, *supra* note 120.

<sup>141</sup> Children’s Rights Alliance for England, *supra* note 6.

<sup>142</sup> See e.g. recommendations of Cypriot young people in Children’s Rights Alliance for England, *supra* note 6.

<sup>143</sup> Children’s Rights Alliance for England, *supra* note 6.

<sup>144</sup> The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, *supra* note 125.

<sup>145</sup> Children’s Rights Alliance for England, *supra* note 6..

<sup>146</sup> UNICEF, *Torture and ill-treatment of children in conflict with the law in Ukraine*, *supra* note 46.

<sup>147</sup> Children’s Rights Alliance for England, *supra* note 6.

<sup>148</sup> National Society for the Prevention of Cruelty to Children, *supra* note 39.

<sup>149</sup> Children’s Rights Alliance for England, *supra* note 6. See also Include Youth, *supra* note 124.

<sup>150</sup> Children’s Rights Alliance for England, *supra* note 6.

justice system.<sup>151</sup> Children agree with this point. In Bosnia and Herzegovina, children: “[B]elieve that they shall, following release, be only ‘worse’ than they were before.”<sup>152</sup> The Council of Europe consultation shows that only 30% of all children involved with the justice system believe that it is the best place to deal with the problems they face. Most children feel that the justice system is beset with problems whereby adults cannot adequately communicate or empathise with children and that: “[T]hey work too slow while children suffer.”<sup>153</sup>

Children strongly feel that there is a need to prioritise alternatives to custody. In Ukraine, it is necessary to make greater use of bail and house arrest, and to prioritise therapeutic interventions rather than custodial measures.<sup>154</sup> One Belgian child states that: “If I had to pick my own sentence, I would choose to do community service, or working at a project or something like that. In that way problems are addressed that should be addressed.”<sup>155</sup> Children consulted as part of the Council of Europe research propose mediation and arbitration and “giving children a chance” as alternative solutions.<sup>156</sup> Research with children also indicates that they need to have the opportunity to solve their own problems, and to be given more responsibility over how to do that.<sup>157</sup>

Children also believe that there is much that can be done to prevent crime in the first place. In England, children feel that better leisure activities in their local areas would help to prevent them from getting involved in crime.<sup>158</sup> This is particularly of concern at a time when resources for local activities for young people are being withdrawn.<sup>159</sup>

The evidence on children’s mistrust of authority points to the need for much work to be done in this area. Children in conflict with the law who may be lacking family and peer support require key persons (e.g. in social work) to develop relationships of trust and support to enable them to get their lives back on track. One young person in the UK who was previously in care and in conflict with the law, but who is now raising his own young family states: “Before meeting Pete [youth worker] I wasn’t doing anything and had been thrown out of my care home. He helped me get into college and start my training as a chef. He helped buy my books and my chefs whites. Now I can focus on looking after my family, keeping a good job and going from there.”<sup>160</sup>

### 5.3 Children with Parents in Custody

One issue which has been given great prominence in the past few years is the views and experiences of children in Europe who have a parent in prison, a group which is estimated to include 800,000 children.<sup>161</sup> One large-scale project which has addressed the information deficiency in this area is the COPING project (*Children of Prisoners, Interventions and Mitigations to Strengthen Mental Health*), which gathered the views of 891 children in four

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<sup>151</sup> See e.g. National Children’s Bureau, *supra* note 102.

<sup>152</sup> The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, *supra* note 125.

<sup>153</sup> Kilkelly, *supra* note 4.

<sup>154</sup> See e.g. UNICEF, *Torture and ill-treatment of children in conflict with the law in Ukraine*, *supra* note 46.

<sup>155</sup> UNICEF Belgium, *This is what we think about it!*, *supra* note 104.

<sup>156</sup> Kilkelly, *supra* note 4.

<sup>157</sup> National Children’s Bureau, *supra* note 102.

<sup>158</sup> Davey, C., *What do they know? Investigating the human rights concerns of children and young people living in England* (Children’s Rights Alliance for England, 2008).

<sup>159</sup> See e.g. Beckett *et. al.*, *supra* note 67.

<sup>160</sup> National Children’s Bureau, *supra* note 102.

<sup>161</sup> Jones, A., *et. al.*, *Children of Prisoners: Interventions and mitigations to strengthen mental health* (University of Huddersfield, 2013).

countries: The UK (England and Wales), Germany, Romania and Sweden.<sup>162</sup> As noted in the Council of Europe consultation, this is an aspect of justice systems in which decisions which heavily affect children are taken without any requirement that children's needs are considered: "*Children are virtually silent from decisions to send their parents to prison...*" and often there are no services to support children who experience this life-changing event.<sup>163</sup> The COPING research indicates that children with a parent or carer in prison, particularly those aged 11 and over, are at far greater risk of mental health problems than the general population. They also express that they experience decreased well-being and quality of life compared to others, and in the COPING research, Romanian children were found to be doing worst amongst the four countries examined, with Swedish children doing best.<sup>164</sup>

The point at which parents are arrested is often a disturbing experience for children who witness it, and often little or no regard is had by police for children's presence. As one child in Denmark described: "*Mum was frying meatballs when they came and she was given just three minutes to clear it away and then they handcuffed her.*"<sup>165</sup> He was left with no idea where he would be taken after this event. The UK was found in the COPING research to perform particularly badly in the area of the treatment of parents in front of children. It is recommended that police require training on identifying whether a person being arrested has children, on refraining from using violence in front of children, and on permitting parents adequate time to say goodbye to children.<sup>166</sup>

The distress experienced by children with a parent in prison can be severe, and yet they often feel they must hide the fact that it has happened because of the stigma attached to it, for example children express that they had: "*no one to talk to*" when a relative went to prison.<sup>167</sup> In the COPING research, Romanian children report experiencing the greatest levels of stigma where they have a parent in prison. With few or no services available compared to those in other countries, they have to rely more on their own strengths to survive.<sup>168</sup> Another important issue for children is that they receive adequate information on the situation,<sup>169</sup> as often the imprisonment or some details are hidden from them in a misplaced effort to protect them. This causes them significantly more anxiety than receiving adequate information.<sup>170</sup>

Many children wish to speak to a counsellor when they experience having a parent in prison.<sup>171</sup> One child in the UK remarks: "*[I would like] for my sister to have like a counsellor, someone she could talk to because she seems to keep all her feelings inside...*"<sup>172</sup> Children of prisoners in Sweden are supported with such services by Bryggan, an NGO which works specifically with children of prisoners through an explicit children's perspective. Through Bryggan children can meet others with parents in prison,<sup>173</sup> something which children find invaluable. There are few services (either statutory or NGO) on the other

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<sup>162</sup> *Ibid.*

<sup>163</sup> Kilkelly, *supra* note 4.

<sup>164</sup> Jones, A., *et. al.*, *supra* note 161.

<sup>165</sup> Martynowicz A., *Children of imprisoned parents* (The Danish Institute for Human Rights, Bambinisenzasbarre, Ulster University and European Network for Children of Imprisoned Parents, 2011).

<sup>166</sup> Jones, A., *et. al.*, *supra* note 161.

<sup>167</sup> Kilkelly, *supra* note 4.

<sup>168</sup> Jones, A., *et. al.*, *supra* note 161.

<sup>169</sup> Kilkelly, *supra* note 4.

<sup>170</sup> Jones, A., *et. al.*, *supra* note 161.

<sup>171</sup> *Ibid.*

<sup>172</sup> Glover, J., *Every night you cry: The realities of having a parent in prison* (Barnardos, 2009).

<sup>173</sup> Jones, A., *et. al.*, *supra* note 161.

hand for children of prisoners and their families in Romania,<sup>174</sup> which could at least in part explain the more difficult experiences of children in that country.

Children of prisoners can experience ostracisation and bullying in school: “[H]e said they were calling him burglar and stuff like that. ‘Mummy, it upsetted me,’ he said.’ (mother).”<sup>175</sup> The COPING research emphasises that in the UK school bullying is particularly severe for children of prisoners, and in Romania there is evidence of bullying even by teachers. All four countries examined, however, need to tackle school bullying of children of prisoners.

As imprisonment of a parent often means a lost wage in the household, and financial hardship ensues: “[There is] no pocket money at the moment.”<sup>176</sup> This is compounded by having to afford visits to prisons which are often far from home.<sup>177</sup> Such visits can involve processes such as searches in which children are made to: “[F]eel like they were prisoners as well.”<sup>178</sup> One child in Denmark describes: “Once, I had a gift with me for Dad, they destroyed it because they had to see what was inside.”<sup>179</sup> Another important issue for children is that they wish to spend more time with parents and to be able to play games and other activities, rather than just sitting talking.<sup>180</sup>

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<sup>174</sup> *Ibid.*

<sup>175</sup> Glover, J., *supra* note 172.

<sup>176</sup> *Ibid.*

<sup>177</sup> *Ibid.*

<sup>178</sup> Kilkelly, *supra* note 4.

<sup>179</sup> Martynowicz, *supra* note 165.

<sup>180</sup> Kilkelly, *supra* note 4.

## 6. Children's Participation

Article 12 of the UNCRC requires that a child who is capable of forming his or her own views has: “[T]he right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.” Article 12 therefore highlights the role of the child as an active participant in the promotion, protection, and monitoring of his or her rights.

### **Summary Points – In general, children's views are that:**

- Although children strongly believe that they should have a say in the key decisions that affect their lives, they are often denied opportunities to influence matters affecting them.
- Children face a range of obstacles in enacting their right to participation. These include adult indifference, tokenism, over-complex procedures, and practical barriers (e.g. lack of time for proper participation, language difficulties and insecure living conditions).
- Children generally feel they are able to voice opinions within the family, but experiences vary significantly. They believe that parents should listen more to their opinions, and allow them to have a greater say in decisions on both minor issues (e.g. punishments, clothes) and major issues (e.g. residence, school).
- Children often argue that opportunities and structures to enable them to participate more fully in their local community and in service provision should be improved.
- Many children feel politically disengaged and do not believe that politicians represent their interests.
- The awareness of both children and adults about children's rights, including their right to participate, should be improved.
- A wide range of mechanisms should be developed to allow children to express their views creatively in ways that suit their capacities and interests.
- Professionals working directly with children should be trained to listen to children and support their participation rights.
- Honesty, trust, and good relationships are key to improving relations and communication between children and adults, and to facilitation of children's participation.
- Children should be informed in advance about processes and decisions that may affect them, so they have a reasonable amount of time to consider properly the issues involved and have their say.
- Children should be made aware of how their opinions have impacted on decision-making processes.

## 6.1 General issues

Children strongly believe that they should have a say in the key decisions that affect their lives. They want to be consulted, to be listened to and to have their views taken seriously.<sup>181</sup> Although there is no consensus on the meaning of ‘participation’, it is: “[N]early always experienced as being most tangible and meaningful when viewed in the context of everyday interactions, whether at home, in school, or in the community.”<sup>182</sup>

The extent to which the expectations of children are met vary widely in practice. In some European states, children are not often listened to, even if there is legislation in place in some policy areas to ensure this. Results from Council of Europe consultations in Moldova<sup>183</sup> and Slovakia<sup>184</sup>, for example, showed that many children feel that their voices are not being heard. Moreover, adults and children are not aware of what children’s participation means and how to implement this right. More positively, in a focus group based study for the Children’s Rights Alliance for England, 50% of children reported that adults listened to what they had to say ‘always’ or ‘most of the time’ with a further 36% stating that they were listened to ‘sometimes’.<sup>185</sup> Only 5% thought adults ‘hardly ever’ or ‘never’ listened to them. Almost all of these children (96%) reported having been told, often by their parents/carers, teachers or their peers, that they had a right to be listened to, and to have their views taken seriously.<sup>186</sup>

Nevertheless, the research available suggests that it remains very common for children to be routinely denied opportunities to influence matters affecting their lives, and at best the situation is patchy. As the English report above goes on to say: “*National surveys about healthcare, quality of local service provision and civic activity often fail to ask children and young people about their experiences. In the most personal decisions affecting them – individual healthcare, private law proceedings, child protection investigations, the immigration and asylum seeking process and school exclusion – children’s views are often not sought, and where they do appear, they often have little impact.*”<sup>187</sup> Similar findings have been reported in other countries. For instance, of children consulted for a Council of Europe review in Finland the majority of children felt that their views are listened to and taken seriously when they are participating in informal structures, such as the family and dealings with school staff, doctors and health workers.<sup>188</sup> They were less likely, however, to be listened to in other settings, such as local and national administration; in dealings with lawyers and judges; by child care workers in residential institutions, and by the media. Research also indicates that experiences of participation vary for individual children, depending on their living circumstances, location, and individual factors (e.g. age, gender, ethnic background, disability).<sup>189</sup> This is considered further in section 8, *discrimination*.

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<sup>181</sup> Schuurman, *supra* note 20. This Eurochild research involved projects in Bulgaria, Greece, Hungary, Ireland, Netherlands, Poland, Sweden, and UK.

<sup>182</sup> Ecorys/University of West of England/Child-to-Child, *Evaluation of legislation, policy and practice on child participation in the EU* (European Commission, 2015). This evaluation involved the establishment of 11 ‘child-led’ projects in five European countries (Croatia, Greece, Netherlands, Poland, and England).

<sup>183</sup> Council of Europe, *Child and youth participation in the Republic of Moldova*, *supra* note 8.

<sup>184</sup> Council of Europe, *Child and youth participation in the Slovak Republic*, *supra* note 90.

<sup>185</sup> Davey, C., *Children’s participation in decision-making – A summary report* (Children’s Rights Alliance for England/Children’s Commissioner, 2010).

<sup>186</sup> *Ibid.*

<sup>187</sup> *Ibid.*

<sup>188</sup> Council of Europe, *Child and youth participation in Finland* (Council of Europe, 2011).

<sup>189</sup> Ecorys/University of West of England/Child-to-Child, *supra* note 182.

A range of obstacles to children's participation can be identified in the literature on children's views. Participation is likely to be less effective for various reasons. Adults often assume they know what is best for children; they may treat participation in a tokenistic way; or children are given little or no feedback on the outcomes of their projects.<sup>190</sup> Children also indicate that practical barriers – insufficient time for proper participation; language difficulties; cultural and religious factors; or insecure living conditions – can also be problematic.<sup>191</sup> Procedures may be too lengthy or too complicated to enable children to defend their rights.<sup>192</sup> Conversely, it has been found that positive experiences are more likely where: “[T]here is a culture of honesty and respect; everyone understands why it is important for children and young people to participate; extra support is provided; children and young people can take part in ways that suit them and are optional; and children and young people are supported.”<sup>193</sup>

Children indicate that formal structures established for children's participation must function effectively and must not be tokenistic, as this leads to disillusionment. A report of the Children's Ombudsman in Greece, involving consultations with 48 young people aged 13 to 18, concluded that initiatives such as youth councils can “create a feeling of frustration.”<sup>194</sup> Instead children feel that participation in teams, projects and other activities reinforces the feeling of their participation and empowers them. Children also report feeling that the Children's Ombudsman is an institution that helps them express themselves and resolve their problems.<sup>195</sup> Likewise, in Scotland children describe seeing genuine commitment to child participation in some areas, while in other areas they perceive involvement to be: “tokenistic, indirect, sporadic or non-existent.”<sup>196</sup>

## 6.2 Participation in the Family

Generally speaking, children and young people do feel that they are able to voice opinions within the family. In one Scottish survey of 11 to 16 year olds children express that they feel listened to most by their parents and least by politicians.<sup>197</sup> Ninety percent of children thought that parents took account of their views a ‘great deal’ or a ‘fair amount’, compared to friends – who also fared very well at 87% – teachers (68%), and politicians (24%). Experiences vary significantly, however. In a report to the Committee on the Rights of the Child, Belgian children state that they want parents to have more confidence in them: “At home, a lot depends on what mom and dad say and decide. We are allowed to make or help make decisions about a few things, but our freedom to choose friends, to spend our pocket money, to choose which clothes we wear, is limited. Parents act like this because of their concern, which we do understand, but still we would like to feel more trusted.”<sup>198</sup> They conclude that parents should listen to their opinions, and allow them to have a greater say in decisions on

<sup>190</sup> Elsley, S., Tisdall, K., Davidson, E., *Children and Young People's Experiences of, and Views on, Issues relating to the Implementation of the UNCRC* (Scottish Government, 2013).

<sup>191</sup> Ecorys/University of West of England/Child-to-Child, *supra* note 182.

<sup>192</sup> European Commission, *Flash Eurobarometer – The rights of the child*, *supra* note 7. The Eurobarometer survey was carried out among 10,000 young people aged 15-18.

<sup>193</sup> Elsley, S., Tisdall, K., Davidson, E., *supra* note 190.

<sup>194</sup> Report cited in Ecorys/University of West of England/Child-to-Child, *supra* note 182.

<sup>195</sup> *Ibid.*

<sup>196</sup> Scottish Youth Parliament, *Community Empowerment and Renewal Bill: Response from the SYP* (Scottish Youth Parliament, 2012).

<sup>197</sup> YouthLink Scotland, *Being young in Scotland* (YouthLink Scotland, 2009).

<sup>198</sup> UNICEF Belgium, *This is what we think about it!*, *supra* note 104.

both minor issues (e.g. punishments, clothes) and major issues (residence, school) affecting their lives.<sup>199</sup>

Comparable views are expressed by children in Norway.<sup>200</sup> They say that adults must take time to listen to children: “[E]ven though they might think that it is a waste of time.” Children do not just want to be heard, however. They express that their views must also be taken seriously, and they should be able to make some decisions. They go on to criticise the fact that: “[A]dults tend to listen when they are in a good mood, when something is wrong, when the topic is homework, when children are sad and when children speak in an adult manner – then they ‘believe’ that they are speaking to an adult.”<sup>201</sup>

These views are echoed in research conducted by the Children’s Ombudsman in Greece.<sup>202</sup> It was found that in general children do express themselves in the family, but when parents disagree with them, children usually have to give in. Although some children are able to discuss issues with their parents and believe that their opinion is always heard, others say their opinion is not asked and is not taken into consideration, even about issues which concern them directly: “They consider me immature and young. Because they are adults, their opinion is superior to mine. My opinion does not count for my parents. Power decides.”<sup>203</sup>

Similarly, in an Estonian survey, many of those asked were found to agree that children must always be heard in matters affecting the children themselves (89% of adults and 97% of children) or the entire family (79% of adults and 86% of children).<sup>204</sup> In practice, however, not all children actually report that they have a say in these matters. For example, 24% of children say they are usually or always unable to have a say in the family’s holiday plans and 12% state that they have no say in what the family eats at home.<sup>205</sup>

The extent to which children are able to participate within the family is affected by a range of identity issues. For instance, in peer-led research among children from the *Somali Development Group* in England,<sup>206</sup> most reported feeling that they have some voice within the family, but significant gender differences were found to exist. Boys comment that they have more of a say in decisions than girls. Girls note a tension between their lives outside the home, and the restrictions they face when at home: “I cannot go out on my own like my brothers.” They reflect in the study on traditional notions of appropriate roles for girls and women, a downgrading of the importance of education for girls, and over-protective parenting.<sup>207</sup> Age is also a key factor in the extent to which children and young people can

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<sup>199</sup> *Ibid.*

<sup>200</sup> Redd Barna/Barneombudet/LNU, *The Children’s Hearing 2009: Children in Norway had their say* (Redd Barna/Barneombudet/LNU, 2009).

<sup>201</sup> *Ibid.*

<sup>202</sup> Report cited in Ecorys/University of West of England/Child-to-Child, *supra* note 182.

<sup>203</sup> *Ibid.*

<sup>204</sup> Government Office Estonia, *Monitoring of the rights of the child and parenting* (Government Office Estonia, 2012).

<sup>205</sup> *Ibid.*

<sup>206</sup> Report cited in Ecorys/University of West of England/Child-to-Child, *supra* note 182.

<sup>207</sup> *Ibid.*



participate in the family, and a number of projects highlight the capacity of very young children to have opinions about the things that matter to them.<sup>208</sup>

### 6.3 Participation in the Local Community

Children often argue that there should be greater opportunities and structures to enable them to participate more fully in their local community and in service provision. For instance, four out of five young people responding to a Scottish Youth Parliament Manifesto Consultation agreed that: “*All young people should be involved in the services that affect them and should have the opportunity to get involved in local decision making opportunities.*”<sup>209</sup> According to surveys commissioned by the government in Estonia, 65% of adults and 76% of children strongly agree or tend to agree that children should have a say in matters concerning local life.<sup>210</sup>

This is not just a wish voiced by older children. Young children aged 6-11 in 21 research projects among primary schools and community groups in Wales highlight a wide range of issues they are concerned about in relation to their local communities.<sup>211</sup> The highest priorities for them are issues relating to play, and to safety: “*More leisure opportunities such as swimming, more parks, football fields, youth clubs, places to play, better play equipment, better school yard and making the local area more exciting for children; environmental issues such as litter, pollution, composting; behaviour such as bullying, fighting and people being mean; and speeding and road safety.*” Belgian children concur that younger people should be included in participation exercises and structures, and that youth councils are often composed only of older children.<sup>212</sup>

A number of structures to facilitate children’s participation exist, including school councils, children’s parliaments, and city-based forums. But the evidence suggests that children’s experiences of these mechanisms are mixed. A positive example is provided by the *Children’s City Council* in Opatija, Croatia.<sup>213</sup> This forum provides opportunities for children aged 10-13 to question the mayor and the chairman of the City Council, and enables children to present the results of projects and annual consultations. They are also able to make proposals in relation to the city budget, and have their own small budget to conduct a competition for projects for children. Whilst the children involved are concerned that some officials are not informed about children’s issues, they primarily feel that adults from the City Council do take them seriously.<sup>214</sup>

In contrast, a French survey of children’s attitudes indicated that being able to participate was not as widespread as one might have thought.<sup>215</sup> Only 48% said they are able to give their opinion on the operation of their leisure centre or youth centre and only 41% stated that they can say what they think to elected members of the local Council. Only 40% of children

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<sup>208</sup> See Report cited in Ecorys/University of West of England/Child-to-Child, *supra* note 182, and Harcourt, D. and Mazzoni, V. ‘Standpoints on quality: Listening to children in Verona, Italy’ 37 *Australasian Journal of Early Childhood* 2 (2012).

<sup>209</sup> Scottish Youth Parliament, *Change the picture: SYP youth manifesto* (Scottish Youth Parliament, 2011).

<sup>210</sup> Government Office Estonia, *supra* note 204.

<sup>211</sup> Funky Dragon, *Little voices big choices* (Funky Dragon, 2014).

<sup>212</sup> UNICEF Belgium, *This is what we think about it!*, *supra* note 104.

<sup>213</sup> Report cited in Ecorys/University of West of England/Child-to-Child, *supra* note 182.

<sup>214</sup> *Ibid.*

<sup>215</sup> UNICEF France, *Ecoutons ce que les enfants ont a nous dire* (UNICEF France, 2014).

report having a *Children's Town Council* – a forum through which children can give their views on local matters – in their area.<sup>216</sup>

#### 6.4 Participation in Service Provision

Children's direct experiences of service provision, for example of health services, tend to be fairly limited outside the area of education. Opinions on the extent to which children and young people are able to participate in such services appear to vary. The report of the Children's Ombudsman in Greece (mentioned above) states that the right of participation in fields such as these was "extremely deficient" and that: "[I]n the few cases young people have the opportunity to express their opinion it is not taken into consideration."<sup>217</sup>

Medical issues are an obvious concern for children. Although some say that their doctors explain health issues of concern to them, most say that doctors usually talk to their parents and ignore them.<sup>218</sup> By contrast, the *Off the Record* project in England which includes the views of those aged 13-21 with experience of mental health difficulties, establishes that this group tends to feel that opportunities to participate in relevant services are good.<sup>219</sup>

There is a high level of agreement on the need to improve access for children to more and better information about available services. As a report by children in the *Black Young Carers* project (England) puts it: "[T]he research shows that young people are often not aware of what support and activities are on offer or how to access them, let alone how to have a say in what services should be provided or how."<sup>220</sup>

#### 6.5 Participation in Regional/National Government

At regional and national levels, children and young people argue that politicians should pay greater attention to their views. A report by Belgian children to the Committee on the Rights of the Child states, for instance, that Ministers should listen to children's views before taking decisions that affect them.<sup>221</sup> They suggest however that this is not sufficient in itself, and that: "Ministers should come to see us and talk with us." They also propose that children could create a website on which they could post their opinions, to which ministers and political decision-makers would have ready access.<sup>222</sup> Recent research with young Russians shows that young people are politically disengaged. Only one-fourth report being interested in politics or even knowing what the state is for. Young Russians fear the authorities and over 90% believe there is no political party that expresses their interests.<sup>223</sup>

In an online survey of children in Finland,<sup>224</sup> half say the Children's Ombudsman, the Children's Parliament, the municipal youth councils and the local children's parliaments do a lot to ensure their views were heard. However, almost a third did not know what these bodies were and were unable to answer the question. According to the children, the Finnish Parliament and its members do less than other formal and informal bodies to listen to their

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<sup>216</sup> *Ibid.*

<sup>217</sup> Report cited in Ecorys/University of West of England/Child-to-Child, *supra* note 182.

<sup>218</sup> *Ibid.*

<sup>219</sup> *Ibid.*

<sup>220</sup> *Ibid.*

<sup>221</sup> UNICEF Belgium, *This is what we think about it!*, *supra* note 104.

<sup>222</sup> *Ibid.*

<sup>223</sup> Kryshstanovskaya, O., *Attitudes of young Russians in 26 large cities* (2013). Information available at: <http://imrussia.org/en/analysis/nation/449-putins-lost-children>. Original language Russian.

<sup>224</sup> Council of Europe, *Child and youth participation in Finland*, *supra* note 188.

views. Similar views are expressed in a large-scale survey of young people in Wales.<sup>225</sup> They argue that the Assembly Government should not just engage with them in relation to specific policies. Individual members should take an active role in listening to the young people they represent through structures such as youth fora or school councils.

Evidence from research conducted by the Children's Rights Alliance for England suggests some differences in the attitudes of children at different ages towards governments.<sup>226</sup> Focus groups with English primary school children reveal that they are particularly keen to highlight the role government can play in prioritising the importance of listening to children; they also believe government structures are the most powerful and influential mechanisms for making change happen. But findings from a broader survey show that as children get older, they become more sceptical of the power of government to initiate change: Forty-one per cent of children thought they had 'a little' or 'no influence' on decisions made by the government and a further 21 per cent of children thought that the government 'never' or 'hardly ever' took children's views seriously.<sup>227</sup>

Children in some countries express that they wish for voting ages to be lowered. Welsh young people express the wish that consideration is given to lowering the voting age to 16. In the Scottish Young People's Manifesto, over two-thirds (65%) of the 42,804 responses support lowering the voting age to 16, and one-quarter (25%) disagreed.<sup>228</sup> Reflecting this endorsement, young people were able to vote at age 16 in the referendum on Scottish independence in 2014.

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<sup>225</sup> Funky Dragon, *Our rights our story* (Funky Dragon, 2008).

<sup>226</sup> Davey, *supra* note 185.

<sup>227</sup> *Ibid.*

<sup>228</sup> Scottish Youth Parliament, *supra* note 209.

## 7. Children in Care

Children whose families are not able to care for them are particularly vulnerable. Such children may live in alternative care, including residential institutions, foster care and other forms of care. Much research has been conducted on children's views in this area. There are a number of provisions in the UNCRC related to the rights of children in care, such as Article 3, the right of children to have decisions made in their best interests and Article 7, the right of children to know and be cared for by his or her parents.

### **Summary Points – In general, children's views are that:**

- Being heard is of huge importance to children in care, but many feel that they are not listened to. This is particularly so for children living in Eastern European countries.
- Children think that better supports and interventions are necessary to avoid children being taken into care and to ensure the best care experience possible.
- Children in care place great emphasis on the quality of their placement. Greater efforts should be made to find fostering and adoption placements for children, and to ensure that children's experiences of care homes are the best possible.
- Children in care place enormous importance on retaining family links. Children's views should be taken seriously where they wish to have more contact with birth families.
- Children require adequate support when in care and when leaving care, and where the age for leaving care is low, it should be raised.
- In some countries child abuse is a major concern for children in care. There is an urgent need in some countries to put in place adequate child protection systems for children in care, as well as the need for children's rights education for children and their carers.

### **7.2 Hearing Children in Care**

Having a say in matters that affect them is of enormous importance to children in care. Consultations carried out with English children in care aged four to 14 found that at all ages, they wish to be given the opportunity to be involved in decision-making processes.<sup>229</sup> It is important for their well-being and for the development of resilience.<sup>230</sup> Research conducted with very young children in care (aged four to seven) also found that they wish to express their views and are capable of doing so. Seeking the views of this group should be on the basis of the principles of transparency and respect.<sup>231</sup>

Children in care, however, often feel that they are not listened to. As part of a review of the child protection system in England,<sup>232</sup> children in care were asked about the extent to which they feel they are heard on matters affecting them. The majority of children (63%) express that their wishes and feelings have not made much difference or no difference at all. Likewise, in Wales, many children express frustrations about not being listened to by those in

<sup>229</sup> Leeson, C., *The involvement of looked after children in making decisions about their present and future care needs*, Thesis submitted to the University of Plymouth, 2009.

<sup>230</sup> *Ibid.*

<sup>231</sup> Winter, K., 'Ascertaining the perspectives of young children in care: case studies in the use of reality boxes' 26 *Children and Society* 5 (2010).

<sup>232</sup> Munro, E., *The Munro review of child protection: Final report* (Department for Education, 2011). The review was commissioned by the UK government in 2011.

services purporting to help them.<sup>233</sup> In Slovakia, Moldova and Finland, children's views on the extent to which they are heard by child care workers in residential care institutions are mixed. The majority of Finnish and Slovak children feel they are listened to seriously 'most of the time' or 'always', but only a third of the Moldovan children give the same answer. A considerable group of Moldovan children in care feel they are only listened to 'sometimes'.<sup>234</sup> Clearly the overall conclusion is that, whilst children feel that they are heard to some extent, there is much more work to be done in order for children in care to feel that they are given the opportunity to be heard, and that their views are taken seriously.

The adults around them have much responsibility in ensuring that children in care enjoy the right to be heard. As one girl from Latvia expresses in research by Quality4Children on children in care throughout Europe: "*I am very thankful to my foster parents... They taught me not to be afraid to express my feelings and to tell if something is weighing on my mind.*"<sup>235</sup> Social workers and other service providers are of course crucial for transmitting children's views. Children do wish, however, to express their views directly to the decision-maker when decisions are being made on their best interests.<sup>236</sup>

### 7.3 Important Issues for Children in Care

A majority of the children in the England review (mentioned above) understand why they were taken into care, and the majority of children perceive that it was the best place for them: "*I have had a better life than I ever would have got at home with my family.*" This is linked by many children to the need for adequate services, such as a good social worker.<sup>237</sup> Almost half of the children consulted, however, feel that more support for themselves and their families would have kept them out of care.<sup>238</sup> Several children in Wales are concerned that there are not enough foster carers and placements available to them.<sup>239</sup> This points to a perception by children that better supports and interventions are necessary to avoid children being taken into care and to ensure the best care experience possible.

Children in care place great emphasis on the quality of their placement: "*Being in care can be OK, even a good experience if you have the right placement...*"<sup>240</sup> Far more foster children feel that they are in the right placement compared to those in care homes.<sup>241</sup> Children across Europe state that greater efforts should be made to facilitate fostering and adoption for children. This will make them feel more as though they are part of mainstream society and hence have a "good future".<sup>242</sup>

Greater efforts should also be made to ensure that children's experiences of care homes are the best possible. Children's everyday living conditions in care homes are obviously very important to them. Some states provide examples of good practice in how children can participate in how institutions are run. Care institutions in the Netherlands, for example, are

<sup>233</sup> Children's Commissioner for Wales, *It's my life* (Children's Commissioner for Wales, 2015).

<sup>234</sup> *Ibid.*

<sup>235</sup> Quality4Children, *Standards for out of home child care in Europe* (Quality4Children, undated).

<sup>236</sup> Munro, *supra* note 232.

<sup>237</sup> *Ibid.*

<sup>238</sup> *Ibid.*

<sup>239</sup> Children's Commissioner for Wales, *supra* note 233.

<sup>240</sup> Munro, *supra* note 232.

<sup>241</sup> Ofsted, *supra* note 13.

<sup>242</sup> European Commission, *Eurobarometer qualitative study – The rights of the child: Aggregate report* (European Commission, 2010); Timms, J.E. and Thoburn, J., *Your Shout! A survey of the views of 706 children and young people in public care* (National Society for the Prevention of Cruelty to Children, 2003).

legally obliged to establish youth councils through which children in care can contribute to decisions about the institution and their care.<sup>243</sup> Children are trained by their peers from the Dutch National Youth Council on how to run the councils, something which children highly value: *“The children feel more comfortable when training is given by young people.”* Children feel they are making changes in their living conditions: *“We have achieved several things, such as an internet cafe, where we can have internet access for a few hours per day.”* It has been found that staff in these institutions are taking children’s views seriously, providing feedback on recommendations and implementing them where possible.<sup>244</sup>

Children living in care raise in various consultations the importance of retaining family links where possible.<sup>245</sup> Research in Ireland with 211 children in care demonstrates the importance of this matter to children, concluding that: *“With limited exception, most young people living in foster care still had contact, or aspired to have contact and/or further contact, with their birth family.”*<sup>246</sup> As a social worker in Malta remarks of one child: *“Contact has been strongly encouraged by the social worker...It has been of tremendous help to him to know that his mother and foster mother are on good terms.”*<sup>247</sup> Yet there is evidence that, despite how important it is to children, their views are not sufficiently respected by courts and others where they wish to have more contact with birth families.<sup>248</sup>

Another crucial matter for children is stability in care. In Wales, for example, children in care express that they face disruption in their lives when they are moved around a lot.<sup>249</sup> Children describe the impact on their well-being moving can have; as one child in Ireland expressed: *“You can’t settle if you keep moving.”*<sup>250</sup> As well as affecting mental health, repeated changes in care can also affect children’s educational outcomes. Consequently, it is recommended that in key moments in the education of children in care, stability and continuity of care placements should be enhanced.<sup>251</sup>

Leaving care is a significant issue for children. Children in care in France express that they need to have a say in such decisions and that they need to be supported to take informed choices.<sup>252</sup> As one boy from Greece describes, children feel they are capable of making decisions on this matter: *“When my mom [...] found a place to live, my father told me I could go home, but I didn’t want to because I liked both, the school and the activities [...] I went home after my 18th birthday [...] I am pleased with my choices.”*<sup>253</sup> In some countries the age

<sup>243</sup> Schuurman, M. (ed.), *Valuing children’s potential: How children’s participation contributes to fighting poverty and social exclusion* (Eurochild, 2010).

<sup>244</sup> *Ibid.*

<sup>245</sup> European Commission, *Eurobarometer qualitative study – The rights of the child: Aggregate report*, *supra* note 242; Timms and Thoburn, *supra* note 242.

<sup>246</sup> Department of Children and Youth Affairs, *Listen to our voices: A report of consultations with children and young people living in the care of the state* (Department of Children and Youth Affairs, 2011).

<sup>247</sup> Quality4Children, *Standards for out of home child care in Europe* (Quality4Children, undated).

<sup>248</sup> See e.g. Vis, S. and Fossum, S., ‘Representation of children’s views in court hearings about custody and parental visitations — A comparison between what children wanted and what the courts ruled’ 35 *Children and Youth Services* 2101 (2013). See also Department of Children and Youth Affairs, *supra* note 246.

<sup>249</sup> Children’s Commissioner for Wales, *supra* note 233.

<sup>250</sup> Department of Children and Youth Affairs, *supra* note 246.

<sup>251</sup> Darmody, M., McMahon, L. and Banks, J., *Education of children in care in Ireland: An exploratory study*, (Ombudsman for Children Ireland, 2013).

<sup>252</sup> Robin, P., et. al., *Des jeunes sortant de la protection de l’enfance font des recherches sur leur monde: Une recherche par les pairs sur la transition à l’âge adulte au sortir de la protection de l’enfance* (Observatoire Universitaire International Education et Prevention, 2014).

<sup>253</sup> Quality4Children, *supra* note 247.

of leaving care is much lower than 18, for example in Albania this happens when the child is 14. Children in Albania, Finland, Czech Republic and Poland are of the opinion that the age for leaving care should be 20.<sup>254</sup> Children across Europe agree that children require significant supports when leaving care.<sup>255</sup>

Children in care can be more susceptible to abuse and violence than children in the general population. In certain countries, children are more likely to experience poor or even dangerous care situations. Research conducted in Hungary with children in care highlights that children had very little knowledge about their rights.<sup>256</sup> They discussed their experiences of abuse, degradation and humiliation by the staff in the residential home. They felt that this was due to a hierarchical and punitive culture within institutions. Some children in this research who had previously lived in foster care also referred to incidences of abuse within families with which they had been placed.<sup>257</sup>

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<sup>254</sup> Stein, M. and Verweijen-Slamnescu, R., *When care ends: lessons from peer research, insights from young people on leaving care in Albania, the Czech Republic, Finland and Poland* (SOS Children's Villages, 2012).

<sup>255</sup> Robin, P, *et. al.*, *supra* note 252; Stein and Verweijen-Slamnescu, *ibid.*

<sup>256</sup> Schuurman, *supra* note 20.

<sup>257</sup> *Ibid.*

## 8. Discrimination

Children have the right to freedom from discrimination under a number of international legal standards, for example Article 2 of the UNCRC. Such international instruments stipulate that children (and others) should be protected against discrimination on various grounds, such as race, ethnic origin, disability, sex, language, gender, or the status of their parents or legal guardians. However children can also experience discrimination on the basis of their age. Non-discrimination is a key rights issue for children.

### **Summary Points – In general, children’s views are that:**

- A large group of children across Europe feel discriminated against and identify discrimination as a key rights issue to be dealt with.
- Age discrimination is a particular problem for children, and it should be tackled through awareness-raising and legislation.
- Children suffer discrimination on the basis of gender and sexuality and they wish to have more opportunities to talk freely about such issues.
- Children from particularly vulnerable groups such as those from ethnic and racial minorities can suffer ‘double discrimination’ – i.e. on the basis of childhood and their other status.
- Greater efforts must be made to facilitate the participation of children with disabilities in decision-making and in society.
- Children from particularly vulnerable groups stress that, in order to tackle the discrimination they experience, they wish to be better facilitated to access services such as education, and they wish for greater awareness of their cultures and experiences amongst the general population.

Children place a high priority on the right to freedom from discrimination. When a group of children living away from home were asked about their top 10 priority rights within the UNCRC, not suffering discrimination was one of them.<sup>258</sup> In a Eurobarometer survey on children’s rights, 27 % of the responding children stated that non-discrimination is a problem that should be addressed as a priority within their country, with children from vulnerable groups expressing this as a particularly important issue for them.<sup>259</sup> Children express that those in authority should raise awareness of discrimination and tackle discriminatory attitudes.<sup>260</sup>

### **8.1 Discrimination on the Basis of Age**

Children will not always see themselves as vulnerable,<sup>261</sup> and indeed their power as active agents in their lives and the lives of others must be recognised. However children can be far more at risk than adults because of their lack of experience and dependent status. This is linked to the fact that those under 18 years can experience discrimination on the basis of childhood, i.e. because they are children.

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<sup>258</sup> Ofsted, *supra* note 13.

<sup>259</sup> European Commission, *Eurobarometer qualitative study – The rights of the child: Aggregate report*, *supra* note 242.

<sup>260</sup> *Ibid.*

<sup>261</sup> See e.g. Coy *et. al.*, *supra* note 64, and Schuurman, *supra* note 243.



Many research studies point to negative stereotyping of children and poor treatment on the basis of childhood.<sup>262</sup> A study by Eurochild (which gathers the views of children from eight European countries)<sup>263</sup> emphasises that children are acutely aware of discrimination against them on this basis. As one boy from the UK stated: “*Some adults these days don’t listen to what us kids say. Am I right or wrong?*” Research of the Children’s Rights Alliance for England provides numerous examples of discrimination against children.<sup>264</sup> Children often describe being moved on from shops and other areas. As one Northern Ireland girl observes: “*[W]e get chucked out of the food court.*”<sup>265</sup> Children are also regularly denied access to medical services; because, for example at age 16 they are too old for children’s wards yet too young for adults wards.<sup>266</sup> Yet there is little recognition or understanding of age discrimination against children, and there are few policies to address it.<sup>267</sup>

On the basis of extensive consultation with children, Eurochild recommends that there is a need to increase awareness of age-discrimination against children and its impact, both within countries and at EU level. Anti-discrimination legislation at EU level should also be used to protect children.<sup>268</sup> The Children’s Rights Alliance for England argues strongly that children should have legislative protection against age discrimination at domestic level.<sup>269</sup>

## 8.2 Gender and Sexuality

Children express that they experience discrimination on the basis of gender and sexuality. Women and girls face many specific prejudices and dangers due to their gender, something which is considered in more detail in section 3 (*Violence*). In Welsh research examining the views of younger children on gender, sexual identity and relationships, children were often able to identify what they felt was ‘sexist’: “*I feel pushed to be a girl*”.<sup>270</sup> Many children express anger with the discriminatory attitudes towards women and, as the authors in the Welsh research summarise, with: “*[H]aving to live in a sexist peer culture and society.*”<sup>271</sup> In Scotland, LGBT young people state that the direct discrimination they experience comes primarily from their peers. They ask that adults create safe environments for children and young people and that they provide the appropriate support.<sup>272</sup> In the Welsh study, most

<sup>262</sup> See e.g. Northern Ireland Commissioner for Children and Young People, *Young people’s thoughts about and experiences of age-related negative stereotyping, An analysis of questions from the Young Life and Times Survey* (Northern Ireland Commissioner for Children and Young People, 2010) and Children’s Rights Alliance for England, *Making the case: why children should be protected from age discrimination and how it can be done. Proposals for the Equality Bill* (Children’s Rights Alliance for England, 2009).

<sup>263</sup> Schuurman, *supra* note 20. The countries included were Bulgaria, Greece, Hungary, Ireland, the Netherlands, Poland, Sweden and the UK.

<sup>264</sup> Children’s Rights Alliance for England, *supra* note 262.

<sup>265</sup> Northern Ireland Youth Forum, *What we want* (Northern Ireland Youth Forum, 2009).

<sup>266</sup> Children’s Rights Alliance for England, *supra* note 262.

<sup>267</sup> Schuurman, *supra* note 20.

<sup>268</sup> *Ibid.*

<sup>269</sup> Children’s Rights Alliance for England, *supra* note 262.

<sup>270</sup> Cardiff University/National Society for the Prevention of Cruelty to Children, *Boys and girls speak out: A qualitative study of children’s gender and sexual cultures* (Cardiff University/National Society for the Prevention of Cruelty to Children, 2013).

<sup>271</sup> See e.g. Beckett *et. al.*, *supra* note 67 and Cardiff University/National Society for the Prevention of Cruelty to Children, *ibid.*

<sup>272</sup> Children in Scotland, *What’s the difference? Views and experiences of young people in Dumfries and Galloway concerning equality and diversity*, (Children in Scotland, 2006).

children express that they wish to have the space to talk freely about gender and sexuality issues in ways that are relevant to their current lives, not just their futures.<sup>273</sup>

### 8.3 Particularly Vulnerable Groups

Children from particularly vulnerable groups such as children from ethnic and racial minorities, children living in poverty and children with disabilities express that they can be at greater risk of discrimination. Such children often face ‘double discrimination’ because of their age and other status.<sup>274</sup>

#### 8.3.1 Race and Ethnicity

In the Eurochild research some children describe facing racial discrimination, for example a girl in the Netherlands expresses how she was bullied because her father was Moroccan: *“Children would suddenly start talking like foreigners, with weird grammar... Primary school was actually hell for me and I cried at night.”*<sup>275</sup> Irish Traveller children describe widespread abuse and discrimination including derogatory name-calling and not being allowed into some schools.<sup>276</sup> Children of Roma origin in the Eurochild study talk about experiences of: *“[R]acial discrimination, prejudice, pain and humiliation.”* They are very eager to express opinions and to speak freely about the discrimination they face.<sup>277</sup>

Many children speak passionately in this study about their beliefs in equality. As one asylum-seeking child in the Netherlands stated: *“Some children are from Spain and others come from other countries. We aren’t all the same, but it’s essential that we are all treated as equally important.”*<sup>278</sup> In the Eurobarometer research, Roma children from Hungary, Romania, Spain, and the UK provide a number of recommendations for tackling discrimination.<sup>279</sup> One suggestion is that more information and positive messages about Roma culture should be disseminated. As one Roma young person from the UK expresses: *“I would let Romany culture be known. Let people know about what we do, how we do it, so all the stereotypes would be gone. Show people that we are a strong community...”*<sup>280</sup> Another point made is that Roma children should have equal educational opportunities so that they can have greater participation in the broader community. Where necessary, this should include incentives for parents who send children to school.<sup>281</sup>

#### 8.3.2 Poverty

Unequal access to services by vulnerable groups of children is a key issue for children, in particular access to education for children experiencing poverty (see further section on education).<sup>282</sup> One boy in the UK states: *“I think the rich people they go to high school and start getting a better education than lower people who don’t get higher education so then that gives them more opportunities for them to get better jobs, better qualifications, better everything. On the other hand the people who are poor, they’re more likely to sell drugs and*

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<sup>273</sup> Cardiff University/National Society for the Prevention of Cruelty to Children, *supra* note 271.

<sup>274</sup> Schuurman, *supra* note 20.

<sup>275</sup> *Ibid.*

<sup>276</sup> *Ibid.*

<sup>277</sup> *Ibid.*

<sup>278</sup> *Ibid.*

<sup>279</sup> European Commission, *Eurobarometer qualitative study – The rights of the child: Aggregate report*, *supra* note 242.

<sup>280</sup> *Ibid.*

<sup>281</sup> *Ibid.*

<sup>282</sup> Larkins, A. et. al., *We want to help people see things our way: A rights-based analysis of disabled children’s experience living with low income* (Children’s Commissioner for England, 2013).

stuff like that...”<sup>283</sup> Children experiencing poverty face significant discrimination in society and children have a number of recommendations on what should be done to tackle this (see further section 10, *Poverty and Austerity*).

### 8.3.3 Children with Disabilities

Children with disabilities, for example those in Belgium, emphasise that they are first and foremost individuals who can and want to actively participate in society.<sup>284</sup> It should be understood that it is society that needs to change for children with disabilities, not the other way around. For example Swedish deaf and hard-of-hearing children express the dream that all teachers be fully proficient in sign language: “*All deaf and hard-of-hearing are entitled to receive education in their language. Everyone has the right to use sign language.*”<sup>285</sup> Children who do not have disabilities generally agree with the right of children with disabilities to accommodation of their needs – research on children’s views in Spain and Italy found that the majority of children agree that a blind girl, for example, should be able to go to a regular school if she so wishes.<sup>286</sup>

Indeed education and training are very important issues for children with disabilities, and children feel it is necessary to have more special measures for children with disabilities to achieve equality in education. In recent research conducted in England, children express that their needs are often not being met, including where they are placed in special schools: “*My special school only taught me baking.*” The recommendations in this report include mandatory teacher training in the area of disability, and education plans that have greater focus on future careers.<sup>287</sup>

Children with disabilities particularly struggle to enjoy the right to participation in education. In England they express that they struggle to have an influence in shaping key decisions, and are often left feeling as if their voice has not been heard. This is particularly so when it comes to key personal decisions about school placements or arrangements for care and work experience once school comes to an end.<sup>288</sup> Only one third of the children with disabilities consulted in Wales expressed feeling that their opinion always counts when decisions are being made about them.<sup>289</sup> Children with disabilities can also struggle to engage with complaints mechanisms, in part because of lack of knowledge. The majority of children in the Welsh study had information on how to complain on a matter concerning their education, but one third of learners did not have information on this.<sup>290</sup>

Children with disabilities in England perceive that society in general holds unhelpful, negative stereotypes of them, and that their abilities are underestimated. They also suggest

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<sup>283</sup> Schuurman, *supra* note 20.

<sup>284</sup> UNICEF Belgium, *We are above all young people* (UNICEF Belgium, 2007).

<sup>285</sup> Schuurman, *supra* note 20.

<sup>286</sup> Casas, F., et. al., ‘Children’s rights from the point of view of children, their parents and their teachers: A comparative study between Catalonia (Spain) and Il Molise (Italy)’ 14 *The International Journal of Children’s Rights* 1 (2006). The children were given a hypothetical scenario on which they were asked to give their views.

<sup>287</sup> Children’s Commissioner for England, “*They still need to listen to more*”, *A report about disabled children and young people’s rights in England* (Children’s Commissioner for England, 2014).

<sup>288</sup> Pellicano, E. et. al. with Wac Arts, *My life at school: Understanding the experiences of children and young people with special educational needs in residential special schools* (Office of the Children’s Commissioner for England, 2014).

<sup>289</sup> Children’s Commissioner for Wales, *The right to learn, supporting children and young people at pupil referral units to reach their potential* (Children’s Commissioner for Wales, 2014).

<sup>290</sup> *Ibid.*

that the media portrays negative images of people with disabilities, often linking disability with benefit dependency.<sup>291</sup> Children with disabilities recommend that efforts are made to change attitudes towards them.<sup>292</sup> This would be helped by greater efforts to ensure that they can attend mainstream schools, and more opportunities for them to meet and spend time with children without disabilities: “*I want more clubs for disabled and non-disabled young people so we can play together.*”<sup>293</sup>

Children with disabilities value highly the ability to participate in decision-making, they particularly enjoy methods which are creative and fun; and they wish to have more opportunities to participate and to be kept informed of what happens.<sup>294</sup> Yet research indicates that children with disabilities are less likely to be involved in decision-making than children generally.<sup>295</sup> Reasons given for exclusion of children with disabilities include a lack of staff time to facilitate communication and assumptions by parents, carers and staff about the ability of children with disabilities to participate.<sup>296</sup> Children with disabilities recommend that they should be better facilitated to participate effectively, and children with profound disability require particular assistance in this regard: “*It’s hard for disabled children who are non-verbal. They still have an opinion but express it in a different way.*”<sup>297</sup>

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<sup>291</sup> *Ibid.*

<sup>292</sup> Every Disabled Child Matters, *Disabled children’s manifesto for change* (Every Disabled Child Matters, 2009), available at: <http://www.edcm.org.uk/young-campaigners/manifesto-for-change>.

<sup>293</sup> Children’s Commissioner for England, *supra* note 287.

<sup>294</sup> Franklin, A. and Sloper, P., ‘The right of disabled children to participate in decision-making’ 23 *Children in Society* 3 (2009).

<sup>295</sup> *Ibid.*

<sup>296</sup> Children’s Commissioner for England, *supra* note 287.

<sup>297</sup> Every Disabled Child Matters, *supra* note 292.

## 9. Education

The right of children to education is enshrined in the UNCRC. Article 28 stipulates the child's right to education on the basis of equal opportunities and Article 29 lays down the aims of education, indicating that education should be, amongst other things, directed at developing the child's personality and talents.

### Summary Points – In general, children's views are that:

- The right to education is a key right for children across Europe.
- Children often feel that they do not have not enough opportunities to participate at school.
- In particular, school councils need to be improved and teachers require training in the area, especially on following-up where children have been consulted. Children themselves feel they need more training on how to participate in school.
- Children from disadvantaged groups such as those with disabilities and those from ethnic and racial minorities are especially concerned about education and require special measures to assist in their participation.
- Bullying at school is an issue of huge concern to many children. It could be tackled better through more spaces for children to discuss it and better responses from teachers. The reasons why children do not trust officials and NGOs to assist should be examined.
- Children also wish to input into the type of learning in which they engage. Young children appreciate the authority of teachers, but want more positive engagement and think that teachers should not shout at them.

### 9.1 Education as a Key Right

Children across Europe were asked their opinions in a Eurobarometer poll on the most important area in which governments should take the particular interests of children into account. Education was the primary area of concern for children, with 77% of the respondents indicating that they consider it the most important area.<sup>298</sup> It is also significant that children tend to think most immediately about their rights in the context of family and school.<sup>299</sup>

### 9.2 Participation and Education

In the European Commission's recent evaluation of children's participation in the EU, schools and early education settings are noted as a key point of engagement in social learning with adults.<sup>300</sup> However there are wide variations in the quality of participatory practices within educational settings. In 'democratic schools' children's participation is embedded in everyday practice. Examples of these are the *Transparent and Participative School* programme (Poland) and the *Escola da Ponte* school (Portugal), which follow alternative curriculums based on 'mutual learning' between students and teachers. On the other hand,

<sup>298</sup> European Commission, *Flash Eurobarometer – The rights of the child*, *supra* note 7.

<sup>299</sup> European Commission, *Eurobarometer qualitative study – The rights of the child: Aggregate report*, *supra* note 242.

<sup>300</sup> Ecorys/University of West of England/Child-to-Child, *supra* note 182.

however, many schools across Europe engage children's participation in formal school structures and committees, limiting and formalising participation.<sup>301</sup>

Children, for example those in Finland and Moldova, state that school councils are an important method for facilitating children to be heard in school.<sup>302</sup> However children are sometimes very dissatisfied with school councils; for example where they feel that they do not adequately represent all children. Research in Slovakia shows that children feel that: "[I]n practice children will select their school representatives from among the more articulate children who are able to represent their views, and it is not often that minority or disadvantaged children will be among them."<sup>303</sup> It is also sometimes felt that school councils do not tackle significant issues. In Scotland, children identified a lack of financial resources and "being let down by schools" as the main reasons for failing to achieve real change.<sup>304</sup> Indeed the success of school councils can be very much dependent on whether or not they are supported by schools and by national policy generally. In Wales, legal obligations are in place which compel schools to ensure school councils are established.<sup>305</sup>

In spite of increasing efforts in schools around Europe, for example supporting student councils, children express in the European Commission study that they nevertheless encounter great difficulties in participating in decisions at schools. Numerous positive examples are given in this study of teacher's engagement with children. In a Scottish study, for example, an impressive 94% of the five-year-olds felt that adults at school did listen to them.<sup>306</sup> Council of Europe research indicates that most children in Finland feel that their views are taken seriously 'most of the time' or 'always' by teachers.<sup>307</sup>

Many studies, however, provide numerous examples of children who perceive that teachers do not listen to them; using discipline as a substitute for debate. Council of Europe research indicates, for example, that less than half of Moldovan children and only one third of children from the Slovak Republic feel that teachers listen to them.<sup>308</sup> The key reasons identified by children for this failure include age discrimination; a lack of awareness of children's rights; a fear on the part of teachers that it will erode their authority; and a perceived lack of time to engage in participation.<sup>309</sup> One English child in the Eurochild research states that teachers don't listen: "[B]ecause they don't care, they don't like you."<sup>310</sup>

Children also complain that teachers may ask for students' opinions but then do not take them into account. Children quickly become disillusioned if they do not observe changes following

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<sup>301</sup> *Ibid.*

<sup>302</sup> Council of Europe, *Child and youth participation in Finland*, *supra* note 188; Council of Europe, *Child and youth participation in the Republic of Moldova*, *supra* note 8.

<sup>303</sup> Council of Europe, *Child and youth participation in the Slovak Republic*, *supra* note 90.

<sup>304</sup> Children in Scotland/University of Edinburgh, *Having a say at school: Research on pupil councils in Scotland* (Children in Scotland/University of Edinburgh, 2010).

<sup>305</sup> School Councils (Wales) Regulations 2005. See Children in Scotland/University of Edinburgh, *Having a say at school: Research briefing paper 1: Local authorities and pupil councils* (Children in Scotland/University of Edinburgh, 2010).

<sup>306</sup> Children in Scotland, *What I think matters* (Children in Scotland). Interestingly in the same study a high proportion of older children felt that they were not heard— 50%.

<sup>307</sup> Council of Europe, *Child and youth participation in Finland*, *supra* note 188.

<sup>308</sup> Council of Europe, *Child and youth participation in the Republic of Moldova*, *supra* note 8; Council of Europe, *Child and youth participation in the Slovak Republic*, *supra* note 90.

<sup>309</sup> Schuurman, *supra* note 20.

<sup>310</sup> *Ibid.*

their consultations.<sup>311</sup> It is therefore crucial that efforts are made to ensure that there is always follow-up where children have been consulted in school. If their suggestions cannot be followed, then reasons for this should be provided.<sup>312</sup>

To address these obstacles to participation in education, children provide a number of different solutions. They feel there is much they can do themselves: They should have the courage to give their views, they should change any negative attitudes they may have towards school, and they should behave better.<sup>313</sup> However they also feel that schools and policy-makers have significant changes to make. School councils which are not functioning well should be improved.<sup>314</sup> Professional skills on child participation should be developed by teachers.<sup>315</sup>

Even very young children can contribute views on the education they receive. Research with Italian children aged three to five years in an early years setting found that their perceptions were “profound.”<sup>316</sup> The children acknowledge the authority of their teachers, and their responsibility to behave well. However children do not think that they should be shouted at: “*When the teacher shouts at me I feel sad and also I will start to cry.*” They express that the right kind of teacher would be firm when necessary, but would also offer kind words: “*This is the teacher and me. We are holding hands and sometimes we embrace. The teacher says ‘thank you’ to me. This is what I would like the teacher to do.*” The researchers state that sharing the views of children with their teachers enabled teachers to better understand the perspectives of children, the misunderstandings that can arise when trying to guide children’s behaviour, and better ways to establish positive environments for their growth.<sup>317</sup>

### 9.3 Education and Equality

As indicated in the previous section (*Discrimination*), vulnerable groups place particular importance on education as a rights issue. When children in care in England were asked about their top 10 priority rights within the UNCRC, having an education was one of them.<sup>318</sup> Children, for example those in Belgium, express that the education system should ensure equal treatment for all children; and that each child should be supported to reach his or her full potential. Children should be judged on individual qualities, and not on what the child is not good at.<sup>319</sup> School is an important place for children from disadvantaged groups to socialise. Immigrant children in Italy, for example describe school: “*as a place where children in immigrant families are able to build positive relationships.*”<sup>320</sup>

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<sup>311</sup> Ecorys/University of West of England/Child-to-Child, *supra* note 182, and Schuurman, *supra* note 20.

<sup>312</sup> *Ibid.*

<sup>313</sup> Council of Europe, *Child and youth participation in Finland*, *supra* note 188; Council of Europe, *Child and youth participation in the Republic of Moldova*, *supra* note 8; Council of Europe, *Child and youth participation in the Slovak Republic*, *supra* note 90.

<sup>314</sup> *Ibid.*

<sup>315</sup> Ecorys/University of West of England/Child-to-Child, *supra* note 182.

<sup>316</sup> Harcourt, D. and Mazzoni, V. ‘Standpoints on quality: Listening to children in Verona, Italy’ 37 *Australasian Journal of Early Childhood* 2 (2012).

<sup>317</sup> *Ibid.*

<sup>318</sup> Ofsted, *supra* note 13.

<sup>319</sup> UNICEF Belgium, ‘Iedereen gelijke kansen op school? Dat denken zij ervan. Het perspectief van maatschappelijk kwetsbare kinderen en jongeren in het onderwijsdebat’ (*Equal chances for all at school? This is what they think. The perspective of socially vulnerable children and young people in the educational debate*) (UNICEF Belgium, 2012).

<sup>320</sup> UNICEF, *The situation of children in immigrant families in Italy: changes and challenges* (UNICEF, 2009).

In the Eurochild study, children from vulnerable backgrounds often describe that they are unable to attend school because of working to support their families financially. This is despite the fact that they feel that it is important to be able to attend school, in order to acquire the skills necessary for survival in their world.<sup>321</sup> This phenomenon is even worse for children experiencing multiple disadvantages, such as for children with disabilities living in ‘urban poverty pockets’.<sup>322</sup> Other studies show that disadvantaged children may miss substantial periods of education, due to a variety of reasons. These can include family break-up due to domestic violence, moving to seek asylum, and placement in temporary institutional care. Such children are frequently let down by inflexible education systems, and they can also experience further problems which affect their education, such as bullying and racism.<sup>323</sup> Children recommend that teachers are better trained to be able to support socially disadvantaged children.<sup>324</sup>

### 9.4 School Bullying

Although the majority of children feel safe in the classroom and the school environment,<sup>325</sup> the Eurobarometer study indicates that children are very concerned with school bullying.<sup>326</sup> Recent European Commission research with 16,227 children across six EU countries indicates the widespread nature of the phenomenon.<sup>327</sup> One third of children in Greece, for example, state that they experience school bullying.<sup>328</sup> In all countries examined, children state that name-calling is the most frequent form of school bullying, with one exception: In Bulgaria, children state that physical violence is the most frequent form.<sup>329</sup>

Children can be bullied for many reasons related to personal factors – children in Estonia, for example, reference body weight as the most common reason for bullying.<sup>330</sup> However children from particularly vulnerable groups can also be at greater risk of bullying. Research in England indicates that children experiencing poverty, for example, are at greater risk of being bullied: “*Kids will pick on you at school – it’s unbelievable – if you don’t have the same lunch bag as them, or you haven’t got a new jacket, or a new bag.*”<sup>331</sup> This issue appears to be acute in England rather than generalisable everywhere, however, as research in Spain and Sweden shows that children do not place the same level of importance on material symbols of status.<sup>332</sup> Other sections of this desktop report demonstrate other bases on which children can be bullied such as race and ethnicity (see discrimination section); or having a parent in prison (see child-friendly justice section).

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<sup>321</sup> Schuurman, *supra* note 20.

<sup>322</sup> Grotowska-Leder, J., Dytrych, J., *Disability in a childhood as a particular threat of poverty and social exclusion in adulthood* (Original Polish language, 2010).

<sup>323</sup> Save the Children UK, *Missing out on education: Children and young people speak out* (Save the Children UK, 2003).

<sup>324</sup> UNICEF Belgium, *supra* note 319.

<sup>325</sup> European Commission, *European bullying research: Final report* (European Commission, 2012).

<sup>326</sup> European Commission, *Eurobarometer qualitative study – The rights of the child: Aggregate report*, *supra* note 242.

<sup>327</sup> European Commission, *European bullying research*, *supra* note 325.

<sup>328</sup> *Ibid.*

<sup>329</sup> *Ibid.*

<sup>330</sup> *Ibid.*

<sup>331</sup> Martin K. and Hart R., “*Trying to get by*”: *consulting with children and young people on child poverty* (Office of the Children’s Commissioner for England, 2011).

<sup>332</sup> Ipsos MORI and Nairn, A., *supra* note 14.



Children who are bullied have a higher risk of emotional distress and health problems which can prevent them from attending school or lead to a lower school performance.<sup>333</sup> It was found in the European Commission bullying research (mentioned above) that most children who are bullied talk about it with their families. Similar to findings in other areas such as justice, children express a lack of faith in officials such as those in social services, and NGOs to assist them where they are bullied.<sup>334</sup> It was also found that children who bully are more likely to be from families in which violence is used, “*or where the opinion of the strongest prevails*” indicating that dealing with family violence, and encouraging child participation in families, will have a positive effect on bullying rates.<sup>335</sup> Children have many ideas on tackling bullying. Norwegian children express that teachers should be trained to notice and respond better to bullying.<sup>336</sup> Children across Europe state that they would like space to discuss issues relating to bullying.<sup>337</sup>

## 9.5 Other Issues

There are a number of other varied issues which are important to children regarding the vindication of their right to education. Children of course wish to have input on the manner in which they are taught. Children in Tajikistan state that, whilst they are generally happy with the quality of the education they receive, they would prefer education methods which are more participatory.<sup>338</sup> Children across Europe also express that do not like to be put under pressure by teachers expecting them to engage in unrealistic amounts of work and study.<sup>339</sup> Some children also wish that adults close to them, such as parents and teachers, would play more of a role in preventing violations or breaches of their rights such as bullying or lack of participation.<sup>340</sup>

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<sup>333</sup> See website of the UK Anti-Bullying Alliance, available at:

<http://www.anti-bullyingalliance.org.uk/research/sen-disabilities.aspx>

<sup>334</sup> European Commission, *European bullying research*, *supra* note 325.

<sup>335</sup> *Ibid.*

<sup>336</sup> Save the Children, *The Children's Hearing 2009: Children in Norway had their say*, (Save the Children, 2009).

<sup>337</sup> European Commission, *European bullying research*, *supra* note 325.

<sup>338</sup> UNICEF CEECIS and UNICEF Tajikistan, *Youth perspectives of education quality in Tajikistan: A case study of education quality for youth in the CEECIS region* (UNICEF, 2011).

<sup>339</sup> European Commission, *Eurobarometer qualitative study – The rights of the child: Aggregate report*, *supra* note 242.

<sup>340</sup> *Ibid.*

## 10 Child Poverty and Austerity

Children's enjoyment of a wide range of rights set out in the UNCRC (for example Article 2, the right to life, survival and development) is seriously undermined by poverty and austerity. The effects of recession since 2008 – including rising living costs, job losses, and cuts to social benefits and public services – has had a hugely negative impact on the lives of children and families, worsening the circumstances of growing numbers who were already struggling to cope. The evidence suggests that children have suffered most from the economic and financial crisis, and will bear the consequences longest, especially in countries where the recession has hit hardest.<sup>341</sup> However the available statistical data does not fully capture the impact of poverty and austerity on children and young people, and how their views of their lives have changed. The research identified in this section provides a deeper insight into the perspectives of children and young people.

### Summary Points – In general, children's views are that:

- Children are concerned about the current economic climate and the impact it may have on their own financial situation and that of their families. They also fear that poverty puts additional strain on their family relationships.
- Children worry about becoming trapped in a cycle of poverty due to high rates of unemployment, low paid jobs, and low incomes, and believe that governments should address these issues as a priority.
- Work-based training and employment opportunities should be extended for young people, and welfare systems should ensure adequate incomes and security for those who are unable to find work
- All children should have free access to services such as youth and leisure centres and free or subsidised travel.
- Children experiencing poverty are willing and able to be involved in the issues that affect them, and this can contribute to new understandings of child poverty and social exclusion and can help to identify more effective responses.
- In order to fully participate in key decisions about their lives, children – including those experiencing poverty – need the support of their family, friends, youth workers and teachers.
- Children experiencing poverty feel that they have the right to be treated equally. Professionals should be trained in participative methodologies, in particular so that children experiencing poverty are able to participate.
- Children want to be included in decision-making about government expenditure, and they consider that their insight would help governments to make better decisions about investment.

<sup>341</sup> UNICEF, *Children of the recession: the impact of the economic crisis on child well-being in rich countries*, Innocenti Report Card 12 (UNICEF Office of Research, 2014).

## 10.1 How Children View Poverty

Children report that poverty is a significant issue for them. In German research where children were asked about rights concerns, one in eight of children's comments relate to rights limitations due to financial constraints.<sup>342</sup> Furthermore, 18% of children's suggestions to improve their rights situations involve calling for financial support, for example as transfer payments for families or as free services such as free school meals or advice services: "*Children who only have one parent should be given more support, since they often don't have the money they need because only one parent is working.*" "*Clubs (sports clubs) should be cheaper.*" This desire to see greater economic equality included many children who were themselves "better off".<sup>343</sup>

Despite the obstacles they face, research indicates that children who are experiencing poverty tend to value similar things to other children. They have a great deal of respect and loyalty for their family, and friends are important to them.<sup>344</sup> One young person in England states that such families: "*[M]ight be closer together and more of a family than some other people are...they have had to scrape everything and they have had to be together, whereas other families [haven't].*"<sup>345</sup> Children experiencing poverty in Belgium express that education is very important, as are leisure activities such as music and sport. The local neighbourhood is an important place in young people's lives: the place where they feel "at home". They also express that they are willing and able to be involved in the issues that affect them, but in order to fully participate they need the support of their family, friends, youth workers and teachers.<sup>346</sup>

Children living in poverty describe feeling excluded and stigmatised however, due to negative societal images and lack of opportunity.<sup>347</sup> The majority of young people from a study of urban, interface or disadvantaged communities in Northern Ireland, for example, describe themselves positively, but express negative views about their experiences.<sup>348</sup> They are more likely than other young people to highlight difficulties at home and school as an issue. They also believe there is not enough information and support for them, and that there is a lack of facilities in their areas.

In Belgium, the effect of poverty on the well-being of young people, specifically on their self-esteem, is largely illustrated by the young people themselves. Their lack of self-confidence acts as a barrier to them taking control of their lives and escaping poverty. Although some have a clear vision of their future (work, family, money), most realise how difficult it is to continue studying, to be ambitious or to have dreams: "*Limited access to education and training is a recurring problem for the young people questioned*"<sup>349</sup>

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<sup>342</sup> Child and Youth Welfare Association, *supra* note 16.

<sup>343</sup> *Ibid.*

<sup>344</sup> See e.g. UNICEF Belgium, *This is what we think: Young people experiencing poverty talk about their lives* (UNICEF Belgium, 2010) and Martin K. and Hart R., *"Trying to get by": consulting with children and young people on child poverty* (Office of the Children's Commissioner for England, 2011).

<sup>345</sup> Martin and Hart, *ibid.*

<sup>346</sup> UNICEF Belgium, *supra* note 344.

<sup>347</sup> See e.g. UNICEF Belgium, *supra* note 344 and Northern Ireland Youth Forum, *What we want* (Northern Ireland Youth Forum, 2009).

<sup>348</sup> Northern Ireland Youth Forum, *ibid.*

<sup>349</sup> UNICEF Belgium, *supra* note 344.

Many studies indicate that children experiencing poverty do not think of themselves as poor.<sup>350</sup> Research was conducted recently for the Office of the Children's Commissioner for England on the views of young people with experience of poverty.<sup>351</sup> The study found that young people are reluctant to apply the terms 'poor' and 'poverty' to their own circumstances.<sup>352</sup> There is greater familiarity with, and use of, terms such as 'less well off', 'low income', 'low- paid' or 'struggling': "*I wouldn't use the term poor. I'd just think they were less well off than I am.*"<sup>353</sup> The same has been found of children in Spain and Sweden.<sup>354</sup> The term poverty tends to be applied only to those in very extreme circumstances, for example, the homeless and those experiencing famine in other countries.

Children associate stigma with being poor and are consequently reluctant to tell others about their circumstances. They are embarrassed to ask for help and could be unwilling to accept support when it is offered (even by their own friends). One child in England describes not wanting to be seen to need school meals: "*So I told my mum to stop it and I paid for my own meals and obviously it got tougher for my mum.*"<sup>355</sup> Although children believe that those who are poor can be identified by their appearance, they agree that some people living in poverty could be difficult to identify and therefore support.<sup>356</sup>

The children in the English study report feeling greatly concerned about the current economic climate and the impact it might have on their own financial situation and that of their families.<sup>357</sup> They speak about 'new' groups of people becoming poor (as a result of redundancies and cost of living rises) and feel the gap is widening between rich and poor. They are also worried about becoming trapped in a cycle of poverty due to the current high rates of unemployment, the prevalence of low paid jobs, and income freezes. Being poor and living in poverty mean that children and young people could miss out on a range of material things (eg. branded clothing, mobile phones and PCs), and therefore feel socially isolated: "*[T]he whole school experience would be horrible for them. The amount of friends they would have would be affected.*" Children outline reasons why friendships are more difficult to develop/maintain for those who were poor, for example due to the high cost of transport.<sup>358</sup> It is of note that the UK is the most unequal state in Europe,<sup>359</sup> which possibly contributes to the feelings of exclusion children living in poverty can have.<sup>360</sup> Research indicates that levels of inequality certainly seem to have the effect of creating greater tensions and anxieties for children in the UK, as compared to elsewhere such as Spain and Sweden, where the focus on material goods appears to be much less acute.<sup>361</sup>

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<sup>350</sup> See e.g. UNICEF Belgium and Martin and Hart, *supra* note 344.

<sup>351</sup> Martin and Hart, *supra* note 344. The study included the views of 73 young people aged 10-20.

<sup>352</sup> Martin and Hart, *supra* note 344.

<sup>353</sup> *Ibid.*

<sup>354</sup> Ipsos MORI and Nairn, A., *supra* note 14.

<sup>355</sup> Martin and Hart, *supra* note 344.

<sup>356</sup> *Ibid.*

<sup>357</sup> *Ibid.*

<sup>358</sup> *Ibid.*

<sup>359</sup> Luxembourg Income Study, available at: <http://www.lisdatacenter.org/>.

<sup>360</sup> See further Ipsos MORI and Nairn, A., *supra* note 14.

<sup>361</sup> *Ibid.*

## 10.2 Children's Views on Austerity

Many children feel that their quality of life, and the ability to access services and educational opportunities, are hindered by poverty.<sup>362</sup> Limited research has been done on children's views of the specific impact of austerity on them. One innovative project in this area, however, is that of the European Network of Ombudspersons for Children which examined the views of 32 young people from across the EU on austerity and poverty, and how children's lives and rights are impacted.<sup>363</sup> One film made in England as part of the project concerns a boy with disability struggling to communicate. He feels he is being silenced by funding cuts to vital speech therapy support. Another is made by a boy from Marseille in France who believes his "city has two faces": the bright one for tourists and the flip-side of deprivation he and his peers experience. In Rome, Italian young people describe how sports facilities have become too expensive, access to sports clubs is beyond reach, and there are few open spaces to play. In a film from the Netherlands, a young boy describes how his family is one of many now relying on food banks to avoid hunger. In Belgium, a girl from Flanders highlights how more and more families live in cramped conditions: "*It's hard to be a girl, growing up with no personal space and no privacy.*" In Wallonia, fuel poverty is a major issue for many families.<sup>364</sup>

A more statistical UNICEF study has been undertaken in Greece,<sup>365</sup> one of the countries hardest hit by recession. This was based on the 2014 *Health Behaviour in School-aged Children* survey, drawing on the views of 11-, 13- and 15-year-old students. The survey shows that, despite the best efforts of families to protect their children from the worst consequences of the recession, the percentage of children reporting that their family's economic situation was 'not well off' doubled from 7% in 2006 to 14.5% in 2014. A growing number say that the economic situation of the area where they live had worsened (from 22% to 29% in the same period). In 2014, more than one child in five reported that at least one parent had lost their job, 5% said their family could not afford to buy food, and almost 30% reported that the family had stopped going on holiday trips,<sup>366</sup> indicating the severe effects on children's lives.

Though many of the children appear to have a good relationship with their parents, they feel that poverty can put a strain on these relationships, and on the relationship of their parents with each other – risking family breakdown.<sup>367</sup> Children describe scenarios where their parents must work long hours and consequently lack time for them.<sup>368</sup> In Greece, one study notes that: "...[A] noteworthy proportion of the students feel that the economic crisis has imposed a significant burden on their families resulting in tension and arguments as well as changes in everyday life."<sup>369</sup>

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<sup>362</sup> See e.g. Martin and Hart, *supra* note 344.

<sup>363</sup> European Network of Young Advisors, *Austerity bites: Children's voices* (European Network of Ombudspersons for Children, 2014). Available at: [http://enoc.eu/?page\\_id=475](http://enoc.eu/?page_id=475). The countries and regions involved are Italy, Netherlands, Flanders, Greece, Wallonia, Scotland, England and France.

<sup>364</sup> *Ibid.*

<sup>365</sup> Kokkevi, A. et. al., *The repercussions of the economic recession in Greece on adolescents and their families: Innocenti working paper No. 2014-07* (UNICEF Office of Research, 2014).

<sup>366</sup> *Ibid.*

<sup>367</sup> Martin and Hart, *supra* note 344.

<sup>368</sup> Martin and Hart, *supra* note 344.

<sup>369</sup> Kokkevi et. al., *supra* note 365.

### 10.3 Children, Poverty and Participation

According to a report by Eurochild there is evidence from across Europe demonstrating that all children – including disadvantaged and excluded children – have the potential to participate in decisions affecting their lives.<sup>370</sup> The participation of disadvantaged children can contribute to new understandings of child poverty and social exclusion, and can help to identify more effective measures to combat it. Drawing on case studies derived from NGOs around Europe<sup>371</sup> this work shows that all services, including those working with the most disadvantaged or damaged children and young people, can develop participatory activities. The report concludes that including disadvantaged children in such decision-making ensures well-informed and empowered individuals: *“Although it is often more time consuming and resource intensive to involve the most vulnerable children and young people, the outcomes for both their personal development and life circumstances are often positive.”*<sup>372</sup>

Children in vulnerable situations, who are more likely to experience poverty, are also less likely to know about their rights; in particular participation rights.<sup>373</sup> For example in research conducted by Eurochild, children from vulnerable groups were found to have far less knowledge than others. The research indicates that professionals should therefore be trained in participative methodologies, and should select the most effective methodologies when working with vulnerable children.<sup>374</sup>

### 10.4 Children’s Views on Government Expenditure

A recent large-scale consultation on investing in children was conducted with children from 71 countries.<sup>375</sup> 14 countries from Western Europe and 7 from Eastern Europe were included. This research demonstrates that children certainly want to be heard on budget matters, such as expenditure cuts. Children are experts in this area, as: *“Only they know what they miss the most.”*<sup>376</sup> Children have clear views about how governments should spend money in ways that will realise children’s rights. Although responses varied between contexts, in general children believed that investing in children’s rights was an investment in all of society, now and in the future; and that without investment to ensure that all children have an adequate standard of living, children could not enjoy their other rights.<sup>377</sup>

Children who completed the survey were asked if they agreed that their government thinks about children when making expenditure decisions. In Western Europe 38% agreed or strongly agreed, and 49% disagreed or strongly disagreed with this statement, compared with 25% and 51% respectively in Eastern Europe. The survey also offered children some specific examples of children’s rights and asked respondents to select all of those rights on which they believed governments were not spending enough. The top priority for children in both Western and Eastern Europe was ‘support for families who cannot afford food/housing etc.’ The second priority for children in Eastern Europe was ‘accessible healthcare’ and the third

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<sup>370</sup> Schuurman, *supra* note 243.

<sup>371</sup> Those who took part are: Action for Children (UK), FEDAIA (Spain), KREM (Norway), UNICEF (Belgium) and the Dutch National Youth Council and child care institutions in the Netherlands.

<sup>372</sup> Schuurman, *supra* note 243.

<sup>373</sup> Schuurman, *supra* note 20.

<sup>374</sup> *Ibid.*

<sup>375</sup> Lundy, L., Orr, K. and Marshall, C., *Towards better investment in the rights of the child: The views of children* (Queen’s University Belfast, 2015). 2,693 children aged 10-18 were consulted in 71 countries worldwide.

<sup>376</sup> *Ibid.*

<sup>377</sup> *Ibid.*

‘education’. In Western Europe, the second priority was ‘protection from harm’ and the third ‘have views taken seriously’.<sup>378</sup>

Among the main messages from the study were that all children should be included in public expenditure, especially children who are living in vulnerable conditions. Investment needs to reflect and meet the requirements of children in the communities and localities in which they live, and investing in families enables investment in children. The study concludes in addition that governments should provide information about how they are spending money for children, including in ways that are accessible to children, and that decisions about public expenditure should be made wisely to protect the rights of children, now and in the future. Finally, children want to be included in decision-making about government expenditure, and they consider that their insight would help governments to make better decisions about investment. Suggestions on how to do this include this point from a child from Eastern Europe: “*Maybe they need to be trained to understand our views.*”<sup>379</sup>

### 10.5 Impact on Particular Groups

In the same study children were asked to identify particular groups of children in their communities who may not enjoy their rights equally because of a lack of resources to address their specific circumstances.<sup>380</sup> The most frequent selection in Eastern Europe was ‘children with very little money’, followed by ‘children who are homeless’, and ‘children with disabilities’; the result was very similar in Western Europe, although the second and third priorities were reversed.

Other research with children provides a more detailed picture of the realities underlying these findings. One study in Scotland surveyed 145 young homeless people about their experiences, and highlights that the vast majority (84%) had run away from home before the age of 16 – often repeatedly.<sup>381</sup> Over half of young homeless people who ran away had been forced to leave. Almost two thirds (63%) of those who had run away had also experienced sleeping rough. Most respondents said that support to sort out problems at home or school might have helped prevent them from running away.<sup>382</sup> Children participating in the Scottish Youth Parliament Manifesto endorsed greater support to homeless children and young people, with 88% agreeing with the statement: “*No child or young person should have to live without a home. More support must be given to those who are homeless...*”<sup>383</sup>

Children with disabilities face increased risks of poverty. Research conducted for the Office of the Children's Commissioner for England with 71 children with disabilities provides some stark examples of this.<sup>384</sup> Some children with disabilities and their parents give accounts of not being able to heat their homes properly, afford adequate clothing and/or food. Some report not being informed about or involved in decisions about changes to where they live; some experience delays in adaptations being made to their homes and some do not have

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<sup>378</sup> *Ibid.*

<sup>379</sup> *Ibid.*

<sup>380</sup> *Ibid.*

<sup>381</sup> Shelter Scotland, *Running away and future homelessness – the missing link?* (Shelter Scotland, 2011). Children consulted were aged 16 to 24.

<sup>382</sup> *Ibid.*

<sup>383</sup> Scottish Youth Parliament, *supra* note 209.

<sup>384</sup> Larkins, C. *et. al.*, “*We want to help people see things our way*”: *A rights-based analysis of disabled children's experience living with low income* (Children's Commissioner for England, 2013). See also Children's Commissioner for England, *supra* note 287.

enough space nor support for independent living. They state that low income is often compounded by inadequate provision of services, personal support or information. Children with disabilities also experience financial disadvantage as a direct result of their higher living costs. This is because of the extra support services or specialist goods and services needed to meet the needs of disabled children and young people. Many suggest that benefit levels are inadequate and do not cover these costs.<sup>385</sup> Children in this study propose changes to the benefit, welfare and social support system. In particular they think that budgets should be set to give greater priority to ensuring that children with disabilities have the basic things they need for living. Plans for social security reform and benefit levels should be set through listening and giving due weight to the views of children with disabilities and their families. The provision, appropriateness and timeliness of services should be improved.<sup>386</sup>

Research from countries such as Slovakia<sup>387</sup> and Moldova<sup>388</sup> also highlights the heightened risk of poverty for vulnerable groups, for example for children left behind by parents who have migrated abroad to work. A considerable number of children in these studies state that they work, either in household activities or other activities aiming to contribute to their families' financial security. In addition, many children have to take up their parent's household and caring responsibilities for younger brothers and sisters due to their parents' migration and work abroad. Among these children, many are no longer able to attend school.

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<sup>385</sup> Larkins, *et. al.*, *ibid.*

<sup>386</sup> *Ibid.*

<sup>387</sup> Council of Europe, *Child and youth participation in the Slovak Republic*, *supra* note 90.

<sup>388</sup> Council of Europe, *Child and youth participation in the Republic of Moldova*, *supra* note 8.



## 11 Conclusions

This desktop study has examined research on the views of children from many different contexts. It is a challenge to encapsulate the many findings in the study conducted. However there are universal themes which emerge from the variety of views and experiences included here. Children in Europe overwhelmingly wish to be heard and to have some influence on matters regarding their own care, their families, and their communities and societies generally. It is clear that efforts are being made to facilitate this, however children wish to see a lot more activity in this area. This is particularly so for disadvantaged children and children from particular countries where child participation is less understood. Children often feel that adults do not trust or respect them, and where initiatives to hear their views do not yield outcomes or even feedback, children become disillusioned. Children feel that those working with them and making decisions affecting them, and even the general population, require education and training so the invaluable contributions that children can make are better recognised and utilised.

Another universal finding is that, perhaps unsurprisingly, children enormously value their families and friends. Whether children in care, minority children, or children experiencing poverty are asked their views, the vast majority place great emphasis on these relationships. This has some consequences for children's rights implementation. It appears that children do not frequently wish to engage with professionals, for example to receive support and information on legal proceedings, but instead they wish to receive this from trusted friends and family, and policy-makers must think of ways to engage parents and carers in processes where children require information and support.<sup>389</sup> It is necessary to consider why it is that children are so distrustful of those officials who purport to help them, and to find ways to build confidence with children so that they can seek assistance where they need it. It must be recognised that children often fear that they will lose control of already complex situations, because of misplaced paternalism, once they seek help. Authorities must also make greater efforts to ensure that vulnerable people, such as those in care homes and children who have suffered sexual exploitation, develop one or more key relationships of trust, considering that this is a core theme expressed across many groups of children.

The matter of resources emerges as another overarching rights issue for children in Europe. The current economic climate, and many government policies, harm children's education and employment opportunities; they affect vital provision for disadvantaged children such as those with disabilities; and they consequently influence children's mental health. As encapsulated in this desktop study, the recession and associated cuts cause children significant worry regarding their families and their futures. Children are very vocal that they wish to have a say on government expenditure. Crucially, many recommendations which children have for tackling rights issues include training and awareness-raising; these activities will also require resources. Indeed it does seem undeniable that training, for example on assisting children to participate; and awareness-raising on matters such as discrimination against children; will have a beneficial effect in all areas of children's rights in Europe.

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<sup>389</sup> See e.g. Kilkelly, *supra* note 4.