

# EU strategy on the rights of the child (2021-2024)

08/12/2020

Fields marked with \* are mandatory.

## Introduction

Children's rights are the human rights of all those below the age of 18. According to the United Nations Convention on the rights of the child, every child in the world is entitled to the same set of civil, political, economic, social and cultural rights – irrespective of their ethnicity, gender, religion, language, abilities, migration status, sexual orientation or any other status.

The protection of children's rights is an objective of the European Union; a guiding principle for EU institutions' actions, and for the EU Member States. The EU Charter of Fundamental Rights is the legal basis for the EU action. The Charter applies to the EU institutions and bodies and the Member States when they are implementing EU law. In some areas which relate to children's rights, the EU has the competence to harmonise legislation at national level, while in others it has the power to act through other tools, such as policy coordination, or funding. Several areas of EU action also have an influence, direct or indirect, on the rights of children.

The Covid-19 pandemic, and the measures taken to respond to it, have a significant impact on children's rights.

The European Commission is preparing a new strategy on the rights of the child – and this consultation constitutes a key milestone in its preparation. The strategy will provide the policy framework for EU action on children's rights. It will present the actions (legislative, policy, funding etc.) at EU level that contribute to the protection of the rights of the child, both internally and in its external action.

The strategy will address challenges to children's rights, including in the context of the current Covid-19 pandemic, and ensure synergies with recent and upcoming policy developments. The strategy will include a list of actions for the Commission to implement in the course of the current mandate. It will also include recommendations for actions by other EU institutions and bodies, Member States and stakeholders.

The strategy will focus on several thematic areas, which could include the following priorities (non-exhaustive and non-definitive list): Child participation; Digital and Information Society; Violence against children; Health, welfare and social inclusion; Education, leisure and culture; Child-friendly justice; Migration; children affected by armed conflicts. It will also include horizontal actions to foster mainstreaming and coordination. Not all thematic areas are touched upon in this consultation, which aims at collecting more in depth input under selected topics.

The strategy will build on the 2011 EU Agenda for the Rights of the child, and other relevant policy frameworks.

The ultimate objective of the strategy is to contribute to strengthening the protection of children's rights through EU action, both in the EU and in the world.

## **Guidance on the questionnaire**

Thank you for your contribution.

All replies as well as position papers will be published [online](#). Please read the privacy statement on how personal data and contributions will be processed.

The estimated time for completion is 30 minutes.

## About you

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### \* Language of my contribution

English

French

### \* I am giving my contribution as

Non-governmental organisation (NGO)

### \* Scope

International

### \* Organisation name

*255 character(s) maximum*

Council of Bars and Law Societies of Europe (CCBE)

### \* Organisation size

Small (10 to 49 employees)

Transparency register number

*255 character(s) maximum*

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

4760969620-65

### \* Country of origin

Please add your country of origin, or that of your organisation.

Belgium

### \* Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

**Anonymous**

Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

**Public**

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

I agree with the [personal data protection provisions](#)

## A. General questions

1. Over the past 10 years, the overall situation of children's rights has:

	Significantly declined	Slightly declined	Not changed	Slightly improved	Significantly improved	I don't know
In your region	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In your country	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In the EU	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Outside of the EU	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

4. Which of the following should be a priority for EU action? 1 star = least important, 8 stars = top priority

Child participation in the political and democratic life	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
Digital and information society	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
Violence in all its forms	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
Welfare, health and social inclusion	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
Education, leisure and culture	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
Child-friendly justice	<input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/>
Mainstreaming child rights in all actions	<input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/> <input checked="" type="radio"/>
Coordination among relevant actors	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>

5. What areas should EU action focus on, to foster the protection of children's rights?

*between 1 and 5 choices*

- Introduce new or revise existing EU legislation
- Enforce and monitor the application of EU legislation
- Enhance the mainstreaming of children's rights in all relevant EU policies
- Draft or review specific framework(s) in key policy areas
- Help Member States and third countries implement their obligations under the UNCRC
- Provide funding for projects on children's rights inside and outside the EU
- Gather data on children's rights

- Capacity-building and training for professionals
- Information and awareness-raising campaigns, including for children
- Strengthen cooperation and coordination between Member States
- Provide for mutual learning between EU Member States and third-countries  Collaborate with civil society organisations and international organisations

6. Please further explain your choices above:

*1500 character(s) maximum*

As regards question 1, the CCBE is in a position to only comment on the development of the overall situation of children's rights over the past 10 years in Europe. It can, however, be noted that the HCCH 1996 Child Protection Convention and the UN Convention on the Rights of the Child have improved the situation, especially outside of the EU.

When it comes to the awareness of children's rights of the different population groups /professional sectors as listed in question 2, and in particular the judiciary as well as the law enforcement and migration authorities, the situation can be very different in different countries. Therefore, it is not possible to give any common answer to this question.

Regarding question 4, it can be noted that all the above-mentioned issues are important, but considering its scope of activities, the CCBE would like to highlight the importance of child-friendly justice and mainstreaming the rights of the child in all actions, i.e., including in all courts' actions.

In general, EU action should mainly focus on enforcement and monitoring of the current EU legislation (as highlighted above in the response to question 5). When it comes to migration, introducing new EU / revising the existing legislation is, however, needed. Training of professionals, cooperation, and coordination within Members States as well as mutual learning between EU Member States and third countries are also of utmost importance.

7. Covid-19 has significantly impacted children and their rights. How could child rights and child protection be better embedded in response mechanisms to the pandemic, and to emergency situations in general.

The current COVID-19 pandemic has raised several problems and challenges in the field of family law, in particular when it comes to taking of decisions and their enforcement (especially in cross-border situations). The first wave showed that, for example, the case law regarding visitation rights varied even within one country (between different regions): such an incoherence caused legal uncertainty, resulting in a situation where lawyers were cautious and were avoiding going to the court.

Both aspects of the child's best interest, on one hand, and the public interest, on the other hand, need to be considered in emergency situations such as the current COVID-19 pandemic. It is important for the relevant authorities to make guidelines and other briefing documents to ensure the coherent and consistent application of the measures adopted each time in response to the emergency situation in question, in particular their application in the specific field of law (such as family law or criminal law). Moreover, sharing information and experiences between authorities and professionals at national and EU level is crucial, and should be further highlighted in response mechanisms to this pandemic and to any emergency situation.

In general, all proceedings related to children should continue without interruption in case of any kind of crisis, such as during the second wave of COVID-19.

Finally, violence against children should be mentioned as a serious concern, especially when schools are closed due to an emergency such as COVID-19. There are not enough foster families to cope with the situation.

Another related problem is that not all children (living in less favourable conditions) have access to laptops and other online tools, which prevent them from having access to education and communication.

During the pandemic, there has also been a lack of places for minor criminals in institutions. These kinds of situations should be more anticipated.

## C. Digital information and society

The implications of the digital age for children’s rights are manifold and ever changing. Examples are: the right to privacy and to be forgotten; the right of access to information and the right to education; the right to be safeguarded from abuse; the right to freedom of expression and the right to be heard. EU actions include the [European Strategy for a Better Internet for Children](#) - with EU funding to the [Safer Internet Centres](#) network and the [Alliance to better protect minors online](#), the [Digital Education Action Plan](#), the [2018 Audiovisual Media Services Directive](#) and data protection compliance via [GDPR](#), as well as the potential regulatory framework on artificial intelligence (White Paper on Artificial Intelligence of 19.2.2020).

11. To what extent do you agree with the following statements

	Fully agree	Partially agree	Partially disagree	Fully disagree	I don't know
The European Strategy for a Better Internet for Children should be renewed	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The EU legislation in this field adequately caters for the protection of children’s rights	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The EU plays a key role in fostering protection of children’s rights in the digital environment	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
IT companies should play a bigger role in ensuring the protection of children’s rights in the digital environment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Children need to be involved in designing and regulating the world of new technologies, where they are the main users	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

12. What should EU action focus on, in order to foster the protection of children’s rights in the digital environment?

*at most 4 choice(s)*

- Introduce new or revise existing EU legislation
- Enforce and monitor the application of EU legislation
- Draft or review specific policy frameworks
- Provide funding (e.g. for Safer Internet Centres)
- Gather data on children’s use of new media, and the impact on their rights
- Capacity-building and training for professionals
- Information and awareness-raising campaigns, including for children
- Strengthen cooperation with IT companies
- Facilitate the participation of children to the creation of new technologies

## D. Violence against children

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To tackle violence against children, the EU adopted – amongst others - the [2011 Directive on sexual abuse and sexual exploitation of children \(including child pornography and child prostitution\)](#), the [2011 Directive on trafficking in human beings](#), the [Victims' Rights Directive](#), the 2020 EU strategy for a more effective fight against child sexual abuse, and the [2008 EU guidelines on children in armed conflict](#). In addition, it co-funds Safer Internet Centers, and EU legislation established the 116 000 hotlines for missing children and the 116 111 child helplines in almost all EU Member States.

13. Which of the following should the EU focus on to help fight violence against children?

*at most 4 choice(s)*

- Further elaborate and promote the 2015 Principles on Integrated Child Protection Systems
- Support Member States in improving the collection of data on children affected by all types of violence
- Support cooperation and exchange among actors at national and EU level involved in the fight against violence
- Set up a Member States expert group on violence against children
- Support funding of assistance programmes in development and cooperation, assistance to the neighbourhood and humanitarian aid
- Focus on online violence, and all forms of violence related to new technologies
- Focus on gender-based violence, including harmful practices, also outside the EU
- Further promote and support the existing European child helpline and hotline for missing children
- End and prevent violence against children affected by conflicts

14. Based on your professional experience, does violence particularly affect certain groups of children?

*at most 4 choice(s)*

- Girls
- Boys
- LGBTI children
- Children in migration
- Children with disabilities
- Children belonging to an ethnic minority
- Children in care
- Children at school
- Street children
- Children in poverty
- Children in the online space
- Children living in conflict-affected countries/humanitarian settings  I don't have professional experience related to this

## E. Justice & Migration

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In the area of child-friendly justice, a [Directive on procedural safeguards for children suspected or accused in criminal proceedings](#) was adopted in 2016. Child victims are also a focus of the [2012 Victims' Rights Directive](#). A recast of Brussels IIa Regulation was adopted in 2019 to make cross-border family proceedings cheaper and faster for children and their families. The [2020 EU Justice Scoreboard](#) provides a comparative assessment of national developments on child-friendly justice.

In 2017, the Commission issued a [Communication on the protection of children in migration](#). The EU migration acquis contains special provisions for children, such as the [2003 Family reunification Directive](#), the [Dublin Regulation](#), the [2013 Reception conditions Directive](#) or the [2013 Asylum Procedure Directive](#).

15. Do you see gaps in EU legislation on child-friendly justice, or issues in its implementation? What further legislative action, if any, should the EU take in this field?

*2000 character(s) maximum*

In general, it should first be noted that the term "child friendly justice" is vague and therefore, it is complicated to give a sound answer to this question.

However, issues, such as further encouraging the use of mediation and other ADR proceedings, when suitable and when no quick decision is necessary, might be considered in this respect. Another very specific issue that can be mentioned concerns international adoptions on which no common EU rules exist. Some aspects related to adoption, such as care before adoption and nationality aspects (for example, where the child loses his/ her nationality when adopted) could be addressed in this regard.

16. Where should the EU act first, to contribute to child-friendly justice systems?

*at most 4 choice(s)*

- Introduce new or revise existing EU legislation (where it is competent to legislate)
- Enforce and monitor the application of EU legislation
- Draft or review specific policy framework
- Provide funding for authorities and other actors involved in the justice system
- Gather data
- Capacity-building and training for professionals, also outside the EU
- Information and awareness-raising campaigns, including for children
- Strengthen cooperation and coordination at EU level and between Member States

17. The 2017 Communication on the protection of children in migration remains the framework for EU action in this field. What parts of the Communication have not progressed enough in your opinion, and where would you suggest efforts be concentrated in the future?

*2000 character(s) maximum*

There is a need to train professionals on the ground who are working directly or indirectly with children on the move. In particular, special training must be given to judges and prosecutors who have to take a decision on their status, removal, age-assessment, reunification, Dublin procedures, etc. to acquire sound knowledge about child-friendly justice and to apply the principle/ the right to be heard and the participation of children in any decision that affect their lives.

Other principles of EU law must be better implemented, such as the "principle of urgency", the "principle in favour of minor" and the best interest of the child (as recognised under both international law and EU law). Furthermore, the application of these principles and child-friendly approaches must be extended to administrative authorities dealing with migration and asylum proceedings. In all these procedures, an accurate assessment of the best interest of the child must be guaranteed. Efforts should be made in this respect and steps must be taken to unify migrant and asylum procedures in that sense.

The safeguards applying for children on the move must always be guaranteed: it is necessary to ensure access to information, access to legal advice and access to a qualified and independent lawyer to receive adequate legal advice in all the procedures where migrant children are involved, and more specifically for those who are unaccompanied. This would ensure adequate legal representation and an effective access to a remedy at any level (administrative or judicial).

The urgency principle must be applied in reunification procedures (and Dublin procedures). Efforts must therefore be made in this respect to avoid that children get stranded in hotspots (or any place) for long periods of time, separated from their families.

Moreover, there are other issues for which efforts would still be needed (see the responses below).

18. Are there other priorities (which are not included in the 2017 Communication) which you would like EU action to focus on?

*1500 character(s) maximum*

Given that the detention of migrant children is never in their best interest, even if EU law allows it in exceptional circumstances, the practice or general principle not to detain any child because of his/her migrant status should be extended to all circumstances. Alternatives to detention need therefore to be implemented where exceptional circumstances exist.

As pointed out below, actions should be taken at EU level to ensure an early access to information and to legal assistance for migrant and refugee children in order to ensure better compliance with principles of EU law related to children's protection and to make procedures in the EU more child friendly.

- **Moreover, in addition to the response to question 17**, the fundamental presumption must always be that it is in the best interests of the child to be together with his/ her family members. It is therefore essential to maintain both the practice and the principle of keeping a child together with their siblings and relatives when they arrive in the EU. Separation of such persons should not be possible until DNA testing results conclusively establish that the family link does not exist and furthermore that it is in the best interests of the child that separation occurs. This practice and principle is of fundamental significance where national authorities are considering separating minors from accompanying persons who appear to all intents to be their mothers and must only occur following a procedure determined in advance by law which is based on the best interests of the child. The burden of proof for establishing that it is in the best interests of the child to be separated from the accompanying person always remains on the national authorities proposing the separation.

#### **Further information**

If you wish to add further relevant comments or information, please do so here:

*2000 character(s) maximum*

- **In addition to the responses to question 17 and 18:**  
In general, it is crucial to implement the resolutions pointed out in the 2017 Communication (i.e. to name a "child protection officer" in hotspots and in the point of arrivals of migrants (not properly hotspots). Furthermore, efforts must also be made in unifying the EU age-assessment procedures to avoid invasive practices or any kind of medical testing (such as X-rays, etc.), as scientists have proven that these were not able to properly determine the chronological age of a person using such practices. In case a test would be required, the child's consent should always be obtained before any testing can take place. The child should therefore receive all essential information he/she is able to understand and such information should be adapted to his/her the maturity, age, and gender. In case a child does not consent to do such a test or does not agree with the result, access to a lawyer must be provided in case he/she would like to appeal this decision in order to have access to an effective remedy if needed. Access to information, in particular to legal information, from the very beginning of such procedure is therefore essential. In general, early access to legal assistance in all the procedures where children on the move are involved is very important.
- **In addition to the responses to the questions of Section D**, it should be highlighted that more efficient cooperation at EU level is necessary when it comes to the criminal aspects of online violence. Moreover, the notion of "violence made to children" can also be environmental, including pollution, and traffic accidents.

Please feel free to upload a concise document, such as additional evidence supporting your responses, or a position paper.

The uploaded document will be published alongside your response to the questionnaire.

Please upload your file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed