



CHILD PARTICIPATION ASSESSMENT TOOL

” Indicators for measuring progress in promoting the right of children and young people under the age of 18 to participate in matters of concern to them

Council of Europe
Children's Rights
Division and
Youth Department



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Preface

In recent years, children's participation in decision making in all matters affecting them has gained ground. Today the importance of listening to children and young people is recognised as fundamental to their human dignity and healthy development.

Allowing and encouraging children to participate in Council of Europe activities, and giving them a voice in the preparation of documents concerning them, has been a very rich and rewarding experience for everyone. One important example has been the preparation of the Council of Europe Strategy for the Rights of the Child (2012-2015).

Children were also involved from the very start in the preparation of the recommendation of the Committee of Ministers to member States on participation of children and young people under the age of 18, adopted in 2012. We carefully analysed the views expressed by children, because they gave us a deep insight into the reality — or sometimes the frustrations — a child faces when communicating and interacting in an adult-dominated world. The recommendation now provides the framework and guidance for many sectors within the Council of Europe.

Besides thanking the children for their valuable input, we are grateful to the many partners that have been involved in our work in preparing the Assessment Tool: international organisations, civil society, academia, youth and parent associations.

We all look to the United Nations Convention on the Rights of the Child as a source of inspiration, notably towards its Article 12 regarding respect for the views of the child. The overall objective of the General Comment to Article 12 is to support states parties in its effective implementation. This is where our Assessment Tool comes in: it provides a method, at European level, to facilitate and support the implementation of the child's right to participate.

This Assessment Tool is therefore the next step in a process towards supporting States in putting into place real and active child participation in all settings. The authors have made the tasks of verification, data collection and analysis less onerous for administrative entities. We hope that the Assessment Tool will shed more light on the current state of child participation in the member States of the Council of Europe.

One of the children involved in preparing this Assessment Tool considered that adults "underestimate children's opinion and do not understand the benefits of their participation". Our task is surely to help adults appreciate and understand how rich the contributions of children can be, and to make sure that children's participation is the rule and not the exception.

Snežana Samardžić-Marković
Director General of Democracy

Introduction

This Assessment Tool has been developed to provide specific and measurable indicators with which States can begin to measure progress in implementing Recommendation CM/Rec(2012)2 of the Committee of Ministers to member States on the participation of children and young people under the age of 18 (hereafter the recommendation). The recommendation recognises Article 12 (respect for the views of the child) both as a fundamental right and as a general principle of the UN Convention on the Rights of the Child (hereafter UNCRC). It further recognises that Article 12 is linked to all other articles of the UNCRC and in particular to Article 2 (the right to non-discrimination), Article 3 (primary consideration of the best interests of the child), Article 5 (guidance by parents and evolving capacities of the child), Article 6 (the right to life, survival and development), Article 13 (the right to freedom of expression), Article 15 (the right to freedom of association) and Article 17 (the right to information). The recommendation defines participation as *“individuals or groups of individuals having the right, the means, the space, the opportunity and, where necessary, the support to freely express their views, to be heard and to contribute to decision making on matters affecting them, their views being given due weight in accordance with their age and maturity.”*

■ Adoption of the recommendation is testimony to the significance attached by member States to the right of children to participate. However, despite the centrality of child participation to the values of this recommendation and the UNCRC, as well as to their effective implementation, it has been challenging for States to identify what measures are needed to achieve that goal. Furthermore, there have been few successful attempts to date to develop meaningful indicators against which States can begin to evaluate the extent to which it is implemented. For this reason, it was decided, through the Council of Europe Programme Building a Europe for and with Children, to help states to better engage with children and, together with the youth sector, an Assessment Tool (hereafter the Tool) was developed. This Tool provides 10 basic indicators that will enable States to:

- ▶ undertake a baseline assessment of current implementation of the recommendation;
- ▶ help identify measures needed to achieve further compliance by States;
- ▶ measure progress over time.

■ The aim of the Tool is to support States in meeting the goals of the recommendation, and in so doing, fulfilling their obligations to children and young people under the age of 18. It is recognised that the indicators will require the collection of data that may not currently be readily available. They may also require additional analysis of existing data. This is unlikely to be achieved in the short term. It is important, therefore, to understand progress towards meeting the indicators as an incremental process.

■ It is hoped that States will share the Tool across government ministries, throughout local authority administrations, with the courts and judicial systems, with relevant professionals working with children, with academic and civil society partners, and with organisations of children and young people. The greater the transparency and openness in disseminating the Tool, the greater will be its effectiveness in creating a transformation in the right of children to be heard.

■ This Assessment Tool has been developed with the assistance of Dr Anne Crowley, Independent Expert, Professor Helen Stalford, University of Liverpool and Ms Gerison Lansdown, Independent Expert.

Using the Assessment Tool

The Tool provides a common format for understanding each indicator, and provides short guidance on how to approach the task of measuring progress in its realisation.

THE INDICATORS

Each of the 10 indicators is described and supported by a short paragraph defining how it is intended to be understood and what it covers. The indicators are categorised as structural, process and/or outcome indicators:

- ▶ **Structural indicators** provide an indication of commitment to take action. They refer to the existence of institutions and policies aligned with the UNCRC and Council of Europe standards and the realisation of children's right to participate.
- ▶ **Process indicators** refer to efforts made and actions taken, following on from a commitment. They generally focus on specific activities, resources or initiatives in to ensure children's participation rights.
- ▶ **Outcome indicators** refer to a resultant and measurable change in the realisation of children's participation rights.

DATA SOURCES

Under each indicator, some potential sources of data are provided, although the availability of data will obviously vary from country to country. The evidence will also be easier to locate for some of the indicators than for others. For example, it should be relatively straightforward to determine whether or not specific legislation or a policy is in place. It is more challenging to assess whether or not training courses of all relevant professionals have adequately incorporated modules on the UNCRC and its application into their work. In addition, for some indicators, it will be necessary to undertake qualitative research in order to gather comprehensive knowledge on whether the indicator is being met. However, through partnerships with key stakeholders, it should be possible over time to gather the relevant information with which to determine the extent to which the indicator is achieved.

ASSESSMENT CRITERIA

Each indicator is accompanied by four graduated criteria for assessment, from 0-3. In addition, for several of the indicators, an additional outcome assessment criterion is suggested to help provide valuable information on whether children themselves consider that the indicator is being achieved in their daily lives. It is important to emphasise that the value of using this Assessment Tool is to help measure progress in meeting obligations to children. It is not a mechanism for comparing or judging States. Preparedness to be open and rigorous about the findings is essential in achieving that goal.

DISAGGREGATION

Disaggregated data is important as it will reveal any potential differences in the extent to which different groups of children are able to express their views and have them taken seriously. There are many categories of children who are at risk of being marginalised in the exercise of this right: for example, younger children, children with disabilities, Roma children and those from ethnic minority communities, poorer children, children from rural communities, and children in institutions. Analysis of data needs to examine whether there are any measures which directly or indirectly exclude certain groups of children, as well as assessing whether all children are able to access their rights to participate on an equal basis.

The Assessment Tool

PROTECTING THE RIGHT TO PARTICIPATE

1

Legal protection for children's right to participate is reflected in the national constitution and legislation

Indicator type:	Structural
Definition	<p>An unequivocal commitment to children's right to participate in decisions affecting them should be enshrined in national primary legislation. Reference in the constitution to the child's right to participate offers a particularly strong indicator of the member State's commitment to the right to be heard. Legal reference to the child's right to participate should be accompanied by a requirement that children's views will be given due weight in accordance with their age and capacity, and in the light of the child's best interests. This commitment should also be included in specific laws directly affecting children, notably in:</p> <ul style="list-style-type: none"> a) child protection/care/adoption procedures; b) custody and access in civil proceedings; c) matters relating to education; d) health care/consent to treatment; e) the family; f) immigration and asylum proceedings; g) criminal justice proceedings; h) other civil and administrative proceedings.
Data source (indicative only)	<p>national constitutions;</p> <p>key legal and policy instruments in the field of family law, child protection, education, health care, criminal justice and immigration and asylum.</p>
Assessment criteria	<p>States can measure progress towards the indicator using the following assessment criteria:</p> <p>0 = No known legal provision for children to express views and for those views to be given due weight.</p> <p>1 = Some legal expression of children's right to be heard in at least two of the settings specified.</p> <p>2 = Expression of children's right to be heard in at least four of the settings specified.</p> <p>3 = A clear legal obligation to hear and give due weight to children's views is enshrined in the constitution (if one exists) and in all of the settings specified.</p>
Disaggregation	<p>Are there any restrictions in the provision of the right to be heard on grounds of age/disability/vulnerability, etc.?</p> <p>Attention should also be drawn to the formal right of children to participate in alternatives to judicial proceedings, for example, alternative dispute resolution, such as mediation, in any of the above contexts.</p>

PROTECTING THE RIGHT TO PARTICIPATE

2

Explicit inclusion of child participation in a cross-sectoral national strategy to implement children's rights

Indicator type:	Structural/process
Definition	Children's participation should be explicitly included as part of a broader governmental strategy for implementing, monitoring and evaluating the UNCRC, and Council of Europe instruments and conventions. It should include concrete goals, indicators of progress, and a budget for its implementation.
Data source (indicative only)	National and regional policy and programming instruments.
Assessment criteria	<p>States can measure progress towards the indicator using the following assessment criteria:</p> <p>0 = There is no strategy in place on children's rights.</p> <p>1 = There is limited reference to children's rights within a broader national human rights strategy.</p> <p>2 = There is some reference to child participation as part of a cross-sectoral national children's rights strategy.</p> <p>3 = A distinct and coherent focus on child participation exists in a cross-sectoral strategy on children's rights and includes a dedicated set of goals, an established lead responsibility (such as a youth ministry) and specific resources allocated to achieve its implementation.</p>
Disaggregation	<p>Is implementation of children's participation, as part of the national strategy on children's rights, nationwide or does it vary regionally?</p> <p>Does it refer to all children or is it exclusive to certain groups in certain contexts?</p> <p>Does the strategy include ministries responsible for health, education, social welfare, youth, justice, child protection, play, recreation and culture, environment, transport and finance?</p>



PROTECTING THE RIGHT TO PARTICIPATE

3

An independent children's rights institution is in place and protected by law

Indicator type:	Structural
Definition	An ombudsperson or commissioner for children is established and protected by law with a specific mandate and the necessary resources (office, staff, budget) to pursue campaigns, trigger law and policy reforms or address concerns on behalf of children and young people. The office should be independent of government and not be constrained or influenced by any specific political agenda but, rather, is able to respond to the key concerns and issues as identified by children and young people.
Data source (indicative only)	national law; office of national ombudsman/commissioner; membership of the European Network of Ombudspersons for Children (ENOC); qualitative research.
Assessment criteria	States can measure progress towards the indicator using the following assessment criteria: 0 = No ombudsperson or commissioner for children. 1 = Ombudsperson/commissioner established but not protected by law. 2 = Ombudsperson/commissioner established and protected in law. 3 = Ombudsperson/commissioner established and fully compliant with Paris Principles. ¹
Disaggregation	Does the mandate extend to all children of all ages? Does the ombudsman/commissioner give sufficient attention to the concerns and voices of children from all marginalised communities, and to younger children? Does the work of the ombudsman/commissioner extend to all parts of the country and is it accessible to children in remote regions?

1. The "Paris Principles" are available in the Annex of the UNGA resolution A/RES/48/134, 85th plenary meeting, 20 December 1993: <http://www.un.org/documents/ga/res/48/a48r134.htm>



PROTECTING THE RIGHT TO PARTICIPATE

4

Existence of mechanisms to enable children and young people to exercise their right to participate safely in judicial and administrative proceedings

Indicator type:	Structural/process and outcome
Definition	The Council of Europe Guidelines on Child-Friendly Justice provide that children who come into contact with the justice system should be informed of their rights, have free access to a lawyer, be heard and taken seriously, and have decisions affecting them explained in a way that they can understand. These provisions should be available to children regardless of whether they are implicated as perpetrators of criminal activity, victims or witnesses of crime, implicated in private family disputes or public child protection proceedings, in immigration proceedings or other administrative proceedings.
Data source (indicative only)	<p>key legal and policy instruments in respect of judicial and administrative proceedings;</p> <p>UNCRC monitoring reports and concluding observations of the committee relating to the implementation of Article 12;</p> <p>European Commission for the Efficiency of Justice reports on efficiency and quality of justice;</p> <p>Eurobarometer surveys – a specific question/set of questions could be included relating to this issue (for example, under the section Engaging young in decisions)²;</p> <p>case law of the national courts;</p> <p>Fundamental Rights Agency (FRA) and European Commission forthcoming data on child- friendly justice;</p> <p>other sources to be determined by the state concerned.</p>
Assessment criteria	<p>States can measure progress towards the indicator using the following assessment criteria:</p> <p>0 = No direct access to the courts for children.</p> <p>1 = Rules and procedures to ensure access to information on children’s rights, to free access to a lawyer, and to be heard in judicial proceedings have been developed in accordance with the Council of Europe Guidelines on Child-Friendly Justice but are not yet fully operational.</p> <p>2 = Rules and procedures to ensure access to information on children’s rights, to free access to a lawyer, and to be heard in judicial proceedings are being applied in at least two judicial or administrative settings in accordance with the Council of Europe Guidelines on Child-Friendly Justice, for example, custody and access in private proceedings; care and child protection proceedings; immigration and asylum proceedings; or criminal justice proceedings.</p> <p>3 = Full implementation of the Council of Europe Guidelines on Child-Friendly Justice has been achieved in all judicial and administrative settings to facilitate children’s participation in justice procedures.</p> <p><i>Suggested outcome criteria: percentage of children who were satisfied with the way they were heard in any given judicial or administrative proceeding.</i></p>
Disaggregation	<p>Are there any conditions or limitations imposed on the availability of this support: for example, on grounds of nationality, age, disability, immigrant or socio-economic status or victim status?</p> <p>Are there any measures in place to facilitate access to justice for more marginalised or excluded children?</p> <p>Is there any data which disaggregates evidence of children participating in access to justice, for example on grounds of nationality, age, disability, etc.?</p>

2. http://ec.europa.eu/public_opinion/archives/quali/ql_right_child_sum_en.pdf

PROTECTING THE RIGHT TO PARTICIPATE

5

Child-friendly individual complaints procedures are in place

Indicator type:	Structural/process and outcome
Definition	<p>Complaints procedures are mandated by law and are easily accessible to all children in a range of contexts, notably:</p> <ul style="list-style-type: none"> a) judicial and administrative proceedings in civil and family justice; b) criminal justice proceedings; c) education; d) health; e) social welfare/care related issues f) housing; g) immigration proceedings. <p>A child-friendly complaints procedure requires that children and young people receive accessible information and assistance to enable them to lodge and pursue a complaint. Information should be made available in age – and disability – appropriate formats including leaflets, brochures and posters for schools, disseminated in locations where children are able to find them, and dedicated websites.</p> <p>Follow-up, referral and response mechanisms are well-established and effective and can demonstrate that changes are implemented in response to legitimate complaints.</p> <p>Feedback on such complaints is communicated directly to children and young people within a reasonable period of time in a manner that is adapted to their age and understanding.</p>
Data source (indicative only)	<p>national law;</p> <p>key legal and policy instruments in the field of family law, education, health care, juvenile justice, social welfare, housing, immigration;</p> <p>qualitative research in academic/NGO sectors, including with children and young people.</p>
Assessment criteria	<p>States can measure progress towards the indicator using the following assessment criteria:</p> <ul style="list-style-type: none"> 0 = No complaints or feedback mechanisms in place in any of the areas specified. 1 = Complaints procedures are accessible to some children in at least two of the areas specified. 2 = Complaints procedures are widely accessible in at least four of the areas specified with some evidence of follow-up referral and response mechanisms in place. 3 = Complaints procedures are mandated by law and easily accessible to all children across all of the areas specified. Children are provided with information about their right to complain and receive help and support to pursue a complaint in accordance with their age and capacity. Follow-up referral and response mechanisms are well-established and effective and changes implemented as a result of the complaint are directly communicated to the child/children concerned in a manner appropriate to their age and understanding. <p><i>Suggested outcome criteria: percentage of children who make a complaint and consider it was satisfactorily dealt with.</i></p>
Disaggregation	<p>Are complaints procedures appropriate and adapted to children's age and language ability and to children with disabilities?</p> <p>Are they free of charge?</p>

PROMOTING AWARENESS OF THE RIGHT TO PARTICIPATE

6

Training in child participation is embedded in training programmes for professionals working with and for children

Indicator type:	Process and outcome
<p>Definition</p>	<p>Information and competency-based training on children and young people's participation is embedded in training programmes for practitioners working directly with children, notably:</p> <ul style="list-style-type: none"> a) lawyers; b) judiciary; c) teachers and educators; d) police; e) social workers; f) housing officers; g) health care professionals; h) immigration officials; i) carer-givers and residential workers; j) psychologists; k) prison officers; l) community workers; m) children and youth leaders/workers; n) civil servants and public officials.
<p>Data source (indicative only)</p>	<p>nationally accredited professional training programmes for all of the disciplines specified; qualitative research on attainment of competencies in child participation by professionals working with children.</p>
<p>Assessment criteria</p>	<p>States can measure progress towards the indicator using the following assessment criteria:</p> <ul style="list-style-type: none"> 0 = Very limited or no training or information available on children and young people's participation and their right to be heard. 1 = Some training or information is provided on children and young people's participation and their right to be heard for at least 2 groups of professionals identified. 2 = Instruction on children and young people's right to participate is included in the training curricula of at least 4 groups of professionals identified. 3 = Detailed competency-based instruction (with children involved in design and delivery where possible) is included in pre-and in-service professional training for all of the groups specified. <p><i>Suggested outcome criteria:</i></p> <p><i>percentage of trained professionals who have changed their practice as a consequence of the training;</i></p> <p><i>percentage of children in any given field who experience respect for their right to be heard by professionals.</i></p>
<p>Disaggregation</p>	<p>Does this training and information account for the diversity of children's experience and needs, for example, is it sensitive to gender, ethnicity, disability, age, religion, nationality and the linguistic capacity of children?</p>

PROMOTING AWARENESS OF THE RIGHT TO PARTICIPATE

7

Children are provided with information about their right to participate

Indicator type:	Process and outcome
<p>Definition</p>	<p>Public information and education programmes (ideally as part of a national strategy) are in place to raise awareness among the general public, children, young people, parents and professionals, of children's right to participate, including the right to form or be part of children or young people's organisations.</p> <p>Government departments and those delivering key services to children are required to produce information on their right to participate including, for example, information on complaints mechanisms, legal processes, and opportunities to participate in their own organisations, as well as in decision-making or planning processes affecting them.</p> <p>Information should be made available in child-friendly formats, be accessible to children of different ages and abilities, and in appropriate formats for children with different communication needs. It should be made available in arenas accessible to children and young people, such as specialised websites or helplines.</p> <p>Education on children's rights, including the right to participate, is a mandatory component of school curricula.</p>
<p>Data source (indicative only)</p>	<p>national children's rights strategies; national educational curricula; government departments responsible for children and young people and communications; local authorities; children's rights NGOs; register of children and young people's associations and networks; qualitative research with children; forthcoming data from the European Commission on children's involvement in judicial proceedings and FRA qualitative research to examine practices and procedures of child participation in such proceedings.</p>
<p>Assessment criteria</p>	<p>States can measure progress towards the indicator using the following assessment criteria:</p> <p>0 = No child-friendly information is available about children and young people's right to participate.</p> <p>1 = Ad hoc public education/information programmes are in place to raise awareness of children and young people's right to participate and right to association.</p> <p>2 = Child-friendly information is sometimes made available for children of different ages and in different formats, including Braille, on, for example, children's associations, services, policies, rights, consultations and government guidelines.</p> <p>3 = Comprehensive and accessible information programmes on children's rights to participation and association, and a compulsory component in the primary and secondary school curriculum on children's rights are introduced.</p> <p><i>Suggested outcome indicator: percentage of children who are aware of their right to participate and how and where they can exercise it.</i></p>
<p>Disaggregation</p>	<p>Is information provided according to age and linguistic ability and are there special formats for children with different disabilities?</p> <p>Is information made available to children in, for example, institutions, prisons, hospitals and detention centres for asylum seekers? Is it available to children in more remote regions?</p> <p>Is any research data on access to information disaggregated according to age, sex, disability, ethnicity etc.?</p>

CREATING SPACES FOR PARTICIPATION

8

Children and young people are represented, including through their own organisations, in consultative governance bodies at local, regional and national level

Indicator type:	Structural/process and outcome
Definition	This indicator measures the extent to which children and young people participate in governance at local, regional and national levels (notably in child/youth councils, schools councils, children's/youth parliaments or children's/youth forums). Particular efforts should be made to explain the process by which children are elected to such bodies, which children are involved, how children take part in the decision-making processes (where appropriate), the regions in which they exist, and the decision-making powers afforded to such bodies.
Data source (indicative only)	DG EAC Eurobarometer; CIVED; local authorities; NGO and academic research; national youth councils.
Assessment criteria	States can measure progress towards the indicator using the following assessment criteria: 0 = No children are consulted in local or national governance bodies. 1 = A limited number of child/youth councils and children's parliaments exist, but with a limited attempt to involve a representative cross-section of members. 2 = A range of effective mechanisms have been developed for children's representation at local and national levels. These are spreading across the country but their effectiveness and the scope of their activities vary. 3 = Local and national governance bodies are mandated by law to consult with children and to create spaces to listen and to take into account their views through children's forums which have representation from girls and boys of different ages, abilities and backgrounds. <i>Suggested outcome indicator: percentage of children who consider their voices and perspectives are listened to by policy makers.</i>
Disaggregation	Is data on numbers of children engaged disaggregated according to age, ethnicity, nationality, gender, disability, region?



CREATING SPACES FOR PARTICIPATION

9

Child-targeted public service feedback mechanisms are in place

Indicator type:	Process and outcome
Definition	<p>All public services, including those concerned with alternative care, health care, early years services, education and schools, in play, recreation, sports and cultural services, in preventing violence and in services supporting immigrants and asylum seekers have mechanisms in place to receive feedback from children and young people. Such mechanisms might include evaluation forms, surveys or complaints procedures that are easily accessible to and adapted to children and young people of different ages and backgrounds. Particular efforts should be made to assess the extent to which such services respond to the feedback they receive from children and young people. For example, do they have a mechanism for informing children and young people of the changes that have been made in response to the feedback they have received?</p> <p>Ideally, efforts should be made to involve children and young people in the design, implementation and evaluation of public service feedback mechanisms.</p>
Data source (indicative only)	<p>legislation;</p> <p>local authorities;</p> <p>local child care providers;</p> <p>qualitative academic/ NGO research including with children.</p>
Assessment criteria	<p>States can measure progress towards the indicator using the following assessment criteria:</p> <p>0 = Children and young people do not have opportunities to offer feedback on public services and public services are not required to offer such opportunities.</p> <p>1 = At least 2 of the public services specified have systems in place for children and young people to provide feedback on the services provided.</p> <p>2 = At least 4 of the public services specified are required to have feedback systems in place including evaluation forms, surveys and complaints mechanisms.</p> <p>3 = All public services are required to have feedback systems in place and have established effective systems to both obtain and respond to feedback from children and young people.</p> <p><i>Suggested outcome criteria: percentage of public services per annum which publish feedback to children in response to their concerns.</i></p>
Disaggregation	<p>Are such mechanisms available to all children regardless of age, disability, nationality (language limitations), etc.?</p>



CREATING SPACES FOR PARTICIPATION

10

Children and young people are supported to participate in the monitoring of the UNCRC and Committee on the Rights of the Child (CRC) shadow reporting, and relevant Council of Europe instruments and conventions (hereafter children's rights instruments)

Indicator type:	Process
Definition	Children and young people and their representative organisations are supported with financial and human resources to participate in the monitoring of the implementation of children's rights instruments. This should include opportunities for children and young people to participate in shadow-reporting.
Data source (indicative only)	Monitoring reports produced by or with children and young people Concluding observations of the CRC Conclusions of relevant Council of Europe monitoring bodies such as the European Committee of Social Rights, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Commission against Racism and Intolerance, the Group of Experts on Action against Trafficking in Human Beings, the Lanzarote Committee, etc.
Assessment criteria	States can measure progress towards the indicator using the following assessment criteria: 0 = No arrangements are in place to support children and young people's participation in monitoring the implementation of children's rights instruments. 1 = Selected children are invited and supported to participate in the monitoring of children's rights instruments. 2 = The views of a wide range of children and young people from different backgrounds and circumstances are gathered on the implementation of children's rights instruments. 3 = Organisations directed by children and young people receive sufficient support and resources to systematically monitor the implementation of children's rights instruments. <i>Suggested outcome criteria: percentage of children taking part in monitoring who felt their voices were respected.</i>
Disaggregation	Is there adequate representation of children of all ages; from minority ethnic backgrounds; disabled children; both male and female; non-nationals, etc.?



Appendix

RECOMMENDATION CM/REC(2012)2 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE PARTICIPATION OF CHILDREN AND YOUNG PEOPLE UNDER THE AGE OF 18

(Adopted by the Committee of Ministers on 28 March 2012
at the 1138th meeting of the Ministers' Deputies)

■ The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

■ Considering the aim of the Council of Europe is to achieve greater unity between its members, in particular by promoting the adoption of common rules;

■ Considering the necessity of ensuring the effective implementation of existing binding European and international instruments protecting children's rights, and in particular:

- ▶ the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5);
- ▶ the European Convention on the Exercise of Children's Rights (ETS No. 160);
- ▶ the revised European Social Charter (ETS No. 163);
- ▶ the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201);
- ▶ the European Convention on the Adoption of Children (revised) (CETS No. 202);
- ▶ the United Nations Convention on the Rights of the Child (UNCRC);
- ▶ the United Nations Convention on the Rights of Persons with Disabilities;

■ Having regard to:

- ▶ the objectives of the Council of Europe in the fields of children's rights and youth policy;
- ▶ the Third Summit of Heads of State and Government of the Council of Europe (Warsaw, 2005) and the commitment therein to fully comply with the obligations of the UNCRC;
- ▶ Resolution CM/Res(2008)23 of the Committee of Ministers to member States on the youth policy of the Council of Europe;
- ▶ the relevant conclusions of the eight Council of Europe Conferences of Ministers responsible for Youth held between 1985 and 2008;
- ▶ the Council of Europe Programme "Building a Europe for and with Children" and the strategic emphasis on promoting child participation;

■ Recalling the recommendations relating to the participation of children and young people, adopted by the Committee of Ministers, Parliamentary Assembly and Congress of Local and Regional Authorities of the Council of Europe, and in particular:

- ▶ Recommendation Rec(2005)5 on the rights of children living in residential institutions;
- ▶ Recommendation Rec(2006)14 on citizenship and participation of young people in public life;
- ▶ Recommendation Rec(2006)19 on policy to support positive parenting;
- ▶ Recommendation CM/Rec(2009)10 on integrated national strategies for the protection of children from violence;
- ▶ Recommendation CM/Rec(2010)7 on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education;
- ▶ Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice (2010);
- ▶ Parliamentary Assembly Recommendation 1864 (2009) on "Promoting the participation by children in decisions affecting them";
- ▶ Recommendation 128 (2003) of the Congress of Local and Regional Authorities of the Council of Europe on the revised European Charter on "The Participation of Young People in Local and Regional Life";

■ **Recalling the UNCRC and in particular Article 12 which states:**

- “1. States Parties shall assure to the child who is capable of forming her or his own views the 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.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law”;¹

■ **Noting that Article 12 as a general principle of the UNCRC is connected to all other articles of the convention and in particular to Article 2 (the right to non-discrimination), Article 3 (primary consideration of the best interests of the child), Article 5 (guidance by parents and evolving capacities of the child), Article 6 (the right to life, survival and development), Article 13 (the right to freedom of expression), Article 15 (the right to freedom of association) and Article 17 (the right to information);**

■ **Convinced that:**

- ▶ the right to be heard and taken seriously is fundamental to the human dignity and healthy development of every child and young person;
- ▶ listening to children and young people and giving due weight to their views in accordance with their age and maturity is necessary for the effective implementation of their right to have their best interests be a primary consideration in all matters affecting them and to be protected from violence, abuse, neglect and maltreatment;
- ▶ the capacities children and young people have, and the contributions they can make, are a unique resource for strengthening human rights, democracy and social cohesion in European societies,

■ **Recommends that the governments of the member States:**

1. ensure that all children and young people can exercise their right to be heard, to be taken seriously and to participate in decision making in all matters affecting them, their views being given due weight in accordance with their age and maturity;
2. encourage the exchange of knowledge and of good practice on the implementation of this recommendation at local, regional, national and European levels and with civil society;
3. take into consideration in their legislation, policies and practices the principles and measures contained in the appendix to this recommendation;
4. ensure that this recommendation, including its appendix, is translated and disseminated as widely as possible, including to children and young people, using child- and youth-friendly means of communication;

■ **Instructs the Secretary General to encourage the participation of children and young people in the Organisation's standard-setting, co-operation and evaluation activities and to transmit the present recommendation to relevant Council of Europe steering committees, advisory and consultative bodies, as well as conventional and monitoring mechanisms, inviting them to take this recommendation into account in their respective work;**

■ **Instructs the Secretary General to transmit the present recommendation to all States Parties to the European Cultural Convention (ETS No. 18) which are not members of the Council of Europe.**

1. See also UN Committee on the Rights of the Child (2009), General Comment No. 12 on the right of the child to be heard.

APPENDIX TO RECOMMENDATION CM/REC(2012)2

► Section I – Definitions

■ For the purpose of the present recommendation:

- ▶ “children and young people” refers to any person under the age of 18 years;²
- ▶ “participation” is about individuals and groups of individuals having the right, the means, the space, the opportunity and, where necessary, the support to freely express their views, to be heard and to contribute to decision making on matters affecting them, their views being given due weight in accordance with their age and maturity.

► Section II – Principles

■ There is no age limit on the right of the child or young person to express her or his views freely. All children and young people, including those of pre-school age, school age and those who have left full-time education, have a right to be heard in all matters affecting them, their views being given due weight in accordance with their age and maturity.

■ The right of children and young people to participate applies without discrimination on any grounds such as race, ethnicity, colour, sex, language, religion, political or other opinion, national or social origin, property, disability, birth, sexual orientation or other status.

■ Consideration needs to be given to the notion of the evolving capacities of children and young people. As children and young people acquire more capacities, adults should encourage them to enjoy, to an increasing degree, their right to influence matters affecting them.

■ Particular efforts should be made to enable participation of children and young people with fewer opportunities, including those who are vulnerable or affected by discrimination, including multiple discrimination.

■ Parents and carers have the primary responsibility for the upbringing and the development of the child and, as such, play a fundamental role in affirming and nurturing the child’s right to participate, from birth onwards.

■ In order to be able to participate meaningfully and genuinely, children and young people should be provided with all relevant information and offered adequate support for self-advocacy appropriate to their age and circumstances.

■ If participation is to be effective, meaningful and sustainable, it needs to be understood as a process and not a one-off event and requires ongoing commitment in terms of time and resources.

■ Children and young people who exercise their right to freely express their views must be protected from harm including intimidation, reprisals, victimisation and violation of their right to privacy.

■ Children and young people should always be fully informed of the scope of their participation, including the limitations on their involvement, the expected and actual outcomes of their participation and how their views were ultimately considered.

2. 18 years is the usual age of majority in Council of Europe member States. While the UNCRC defines people under 18 as children, in daily discourse the term “young people” is often used to describe people older than 12 or 13 years. Also, people who are 13 to 17 years old commonly identify themselves as “young people” rather than as “children” and often prefer to be addressed as such. For statistical purposes, the UN defines persons between the ages of 15 and 24 as youth. This definition is without prejudice to the legal definition of the child provided in the UNCRC and other relevant international treaties.

■ In line with the General Comment on Article 12 of the UNCRC, all processes in which children and young people are heard should be transparent and informative, voluntary, respectful, relevant to children’s lives, in child-friendly environments, inclusive (non-discriminatory), supported by training, safe and sensitive to risk, and accountable. Member States should integrate these requirements into all legislative and other measures for the implementation of this recommendation.

► Section III – Measures

Protecting the right to participate

- In order to protect the child or young person’s right to participate, member States should:
- provide the greatest possible legal protection for children and young people’s right to participate, including in constitutions, legislation and regulations;
 - undertake periodic reviews of the extent to which children and young people’s opinions are heard and taken seriously in existing legislation, policies and practices and ensure that in these reviews, children and young people’s own assessments are given due weight;
 - provide children and young people with effective redress and remedies through child-friendly means of making complaints and judicial and administrative procedures including access to assistance and support in using them, ensuring that these mechanisms are available to children and young people;
 - ensure safeguards are in place for children and young people who are especially vulnerable to rights violations, including those separated from their parents, from minority groups, with disabilities and those living in health-care and custodial institutions or community homes;
 - review and seek to remove restrictions in law or in practice which limit children or young people’s right to be heard in all matters affecting them;
 - take a co-ordinated approach to strengthening children and young people’s participation and ensure that participation is mainstreamed in decision- and policy-making structures;
 - establish, if it does not yet exist, an appropriate and independent human rights institution such as an ombudsperson/commissioner for children’s rights, in line with the Paris Principles;³
 - allocate adequate financial resources and secure competent human resources to support children and young people’s participation in both formal and informal settings.

3. UN General Assembly Resolution 48/134 of 20 December 1993.

Promoting and informing about participation

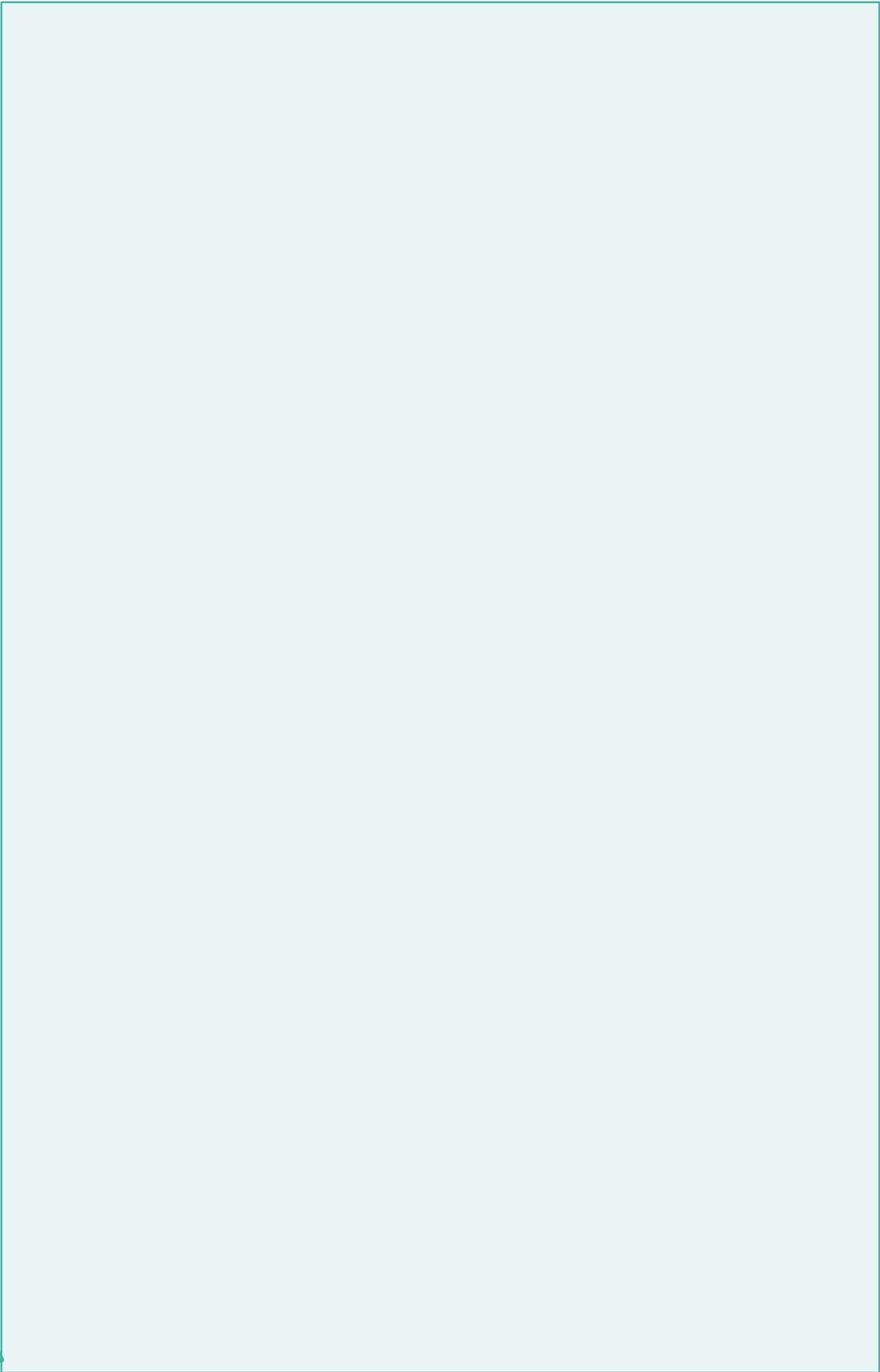
■ In order to spread information and increase knowledge about children and young people's participation, member States should:

- ▶ undertake public information and education programmes to raise awareness among the general public, children, young people, parents and professionals, of children and young people's right to participate;
- ▶ enhance professional capacity concerning children and young people's participation among teachers, lawyers, judges, police, social workers, community workers, psychologists, caregivers, officials of community homes and prisons, health-care professionals, civil servants, immigration officials, religious leaders and members of the media as well as for leaders of children's and youth organisations. Where possible, children and young people themselves should be involved in this capacity building as trainers and experts;
- ▶ provide children and young people with information appropriate to their age and circumstances, including in non-written forms and through social networking and other media, on their rights, and in particular their right to participate, the opportunities available to them to do so and where they can get support to take advantage of these opportunities;
- ▶ make the rights of children and young people under the age of 18, including the right to participate, a component of school curricula;
- ▶ suggest instruction on the rights of children and young people under the age of 18 in the academic curricula of all professions involving work with children and young people;
- ▶ stimulate research on, with and by children and young people, with a view to enabling better understanding of the views and experiences of children and young people, identifying obstacles to their participation and ways of overcoming them;
- ▶ promote peer support and information networks among children and young people with a view to building their capacity to exercise their right to participate.

Creating spaces for participation

■ In order to maximise opportunities for all children and young people to participate in all matters affecting them, member States should:

- ▶ encourage parents and carers through legislation and parent-training programmes to respect the child's or young person's human dignity and her or his rights, feelings and opinions;
- ▶ create opportunities for intergenerational dialogue in order to encourage mutual respect and co-operation;
- ▶ establish the active participation by children and young people in all aspects of school life, notably through formal and non-formal methods of influencing teaching and learning practices and the school environment, and through integrating school pupil councils in the governance of the school community;
- ▶ provide education in a way that respects the human dignity of the child or young person and enables free expression of her or his views and participation in school life, for example through using interactive teaching methods and the recognition of non-formal education and informal learning;
- ▶ support the involvement of children and young people in associative and community life, intercultural learning, sport, leisure and the arts and work with children and young people to design easily accessible and informal methods of participation;
- ▶ invest in non-governmental organisations directed by children and young people, as favourable spaces for learning about, and exercising, democracy and citizenship;
- ▶ establish consultative bodies for children and young people at local, regional or national levels, such as children and youth councils, parliaments or forums;
- ▶ ensure that providers of services to families and children support children and young people to participate in service development, delivery and evaluation;
- ▶ enhance opportunities for children and young people to express themselves freely through the media and to participate safely through information and communication technologies (ICTs) as a complementary tool to face-to-face participation, and integrate understanding of the principles of participation into the media and ICTs;
- ▶ increase the opportunities children and young people have to participate in public life and democratic bodies, including as representatives;
- ▶ support children and young people and their organisations to participate in the monitoring of the implementation of Article 12 and other relevant articles of the UNCRC, as well as of the implementation of the relevant Council of Europe instruments and other international standards on children's rights.



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The European Court of Human Rights oversees the implementation of the Convention in the member states.