

**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”;<sup>1</sup>

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.

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

**Section I – Definitions**

For the purpose of the present recommendation:

- “children and young people” refers to any person under the age of 18 years;<sup>2</sup>
- “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.

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<sup>2</sup> 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;<sup>3</sup>
- allocate adequate financial resources and secure competent human resources to support children and young people's participation in both formal and informal settings.

#### **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;

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

- 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.