

Defence for Children International (DCI) – Belgium targeted recommendations for the future European Commission Strategy on the Rights of the Child



DCI welcomes the public consultation conducted within the framework of the elaboration of the European Commission's next Strategy on the Rights of the Child (2021 - 2024) and, as a civil society organisation whose mission is to promote and defend the rights of the child as enshrined in the International Convention on the Rights of the Child, would like to bring to the attention of the European Commission some key recommendations to feed into the strategy, drawing from our organisation's experience and expertise.

We ask the European Commission to;

Commit to the respect and implementation of all children's rights: and to ratify the Convention on the rights of the Child

192 States throughout the world, including all the Member States of the European Union, have ratified the International Convention on the Rights of the Child (CRC). **The Union should also sign and ratify the CRC to guarantee its commitment to the rights of the child and respect for them in all the legislation and policies it adopts¹.**

Defend the rights of the child regarding deprivation of liberty: capitalise on the United Nation Global Study on Children Deprived of Liberty

The Global Study on Children Deprived of Liberty gathered first-time qualitative and quantitative data on children deprived of liberty around the world. The study also developed targeted recommendations for the greater respect of the rights of children deprived of their liberty throughout the world. Today, these recommendations need to

¹ The EU has already ratified such a human rights treaty: the UN Convention on the Rights of Persons with Disabilities, on 5 January 2011. More information in the Commission press release: https://ec.europa.eu/commission/presscorner/detail/en/IP_11_4

be integrated, prioritised according to the situation and implemented. This must be done at different levels (international, regional, national and local).²

To this end, the strategy should:

- Support the implementation of the recommendations of the UN Global Study and support the establishment of a follow up mechanism at the European level to measure progress by Member States;
- Support the implementation of a follow up mechanism at the global level;
- Support projects and initiatives across Europe aiming the implementation of the recommendations of the study.

Act for the rights of children affected by armed conflict

The future strategy of the European Commission must champion for the fundamental rights of the thousands of children affected by armed conflicts.

To this end, it should in particular:

- Specify that all European institutions and Member States must ensure that the rights of children affected by armed conflict are respected in their international and cooperation policies. It is particularly important to ensure that their public and private partnerships never support violations of the rights of these children.
- Set as an absolute priority the repatriation of European children and their families from areas of armed conflict in Iraq and Syria. Member States must be encouraged to repatriate all these children and their families as soon as possible and the European institutions must, thanks to their resources and competences, facilitate and speed up these repatriations.

Address and fight violence against children in all its forms

It is essential that preventing and combating violence against children remains a priority focus of the strategy.

In this area, the strategy should in particular:

- Promote among Member States the fight against all forms of violence against children, including so-called *ordinary educational violence*. Where there remains

² The presentation of the results of the study to the General Assembly of the United Nations can be consulted online: <https://undocs.org/fr/A/74/136> ; the final and full report of the study is also available online <https://omnibook.com/view/e0623280-5656-42f8-9edf-5872f8f08562>

gaps the adoption of legislation prohibiting such violence should be encouraged.

- Support initiatives and projects aimed at combating violence against children, and in particular the fight against corporal punishment and for the promotion of positive parenting
- Ensure that children victims of violence have access to protection means and effective remedies
- Encourage and support all organisations and institutions working for or with children to adopt and implement child protection policies (including sports and leisure organisations and institutions for migrant children).
- Address the specific issue of online violence against children.
- Promote the collection of data on violence against children, in order to better understand it, know its prevalence and monitor its evolution.

Ensuring access to fundamental rights for children affected by migration

Every year, across the EU hundreds of thousands of children experiencing migration face violations of their fundamental rights. The EU has important competences in this area and the EC strategy should therefore set the protection of the rights of these children as a priority.

The strategy should:

- Clearly state that children affected by migration are first and foremost children. Thus, the EU must act to ensure that they access all rights as embedded in the UN CRC, including access to physical and psychological health, education and leisure.
- Aim that all European legislation that rules or indirectly impacts on migration-related proceedings comply with the Council of Europe guidelines on child-friendly justice. In order to promote their real and concrete application, implementation tools must be developed and the necessary means allocated.
- Aim to ensure that family reunification procedures in particular should comply with the child friendly justice principles, they should be easier and quicker.
- Demand the end of immigration detention of children: completely ban all forms of deprivations of liberty of children for migration related reasons. Deprivation of liberty for migration related reason is never in the best interest of the child and is always a grave violation of their fundamental rights.
- Address violence against children in migration including:

- The development of procedures for detecting and caring for victims of violence (such procedures should obligatorily be developed in reception centres). This must go along with the strengthening of initial and continuous training of reception centres' staff on the issues of detection and management of violence.
 - Ensure that all children in migration enjoy reception conditions appropriate to their particular situation; ensure that reception is organised in such a way as to always safeguard and protect these children from violence.
- Support and promote relocations of children across the EU, these relocations must be child-centred.

Protect the rights of children in conflict with the law

Regarding the rights of children in conflict with the law, the strategy should:

- Aim to sustain efforts to ensure the effectiveness of fundamental rights for minors suspected, accused or convicted of an offence, as outlined in the relevant EU Directives, in particular Directive 2016/800.
- Champion the implementation of the child friendly justice guidelines and pay particular attention to the rights to information and participation of children in all procedures.

Children in contact with the justice system

More generally, the strategy should promote enhanced respect for the rights of children facing justice, be it criminal, civil or administrative.

- The Council of Europe Guidelines on Child Friendly Justice must therefore be a reference and must be implemented in all situations and areas in which a child comes into contact with the justice system
- The European Union should support initiatives and projects promoting the respect of children's rights for children in need of protection and care; in particular the implementation of child-friendly justice principles in these procedures.

Feedback collected from consultations with seven young persons aged 17 to 22 as part of the [Youth Lab](#) project.

« They should explain much more " - Right to information art 17 of the CRC

When young people are asked to make recommendations to better take children's needs into account in legal proceedings, the first idea that emerges is the need to access clear, complete and properly explained information:

« They should give us all the information, even if it's a training course or a seminar, it's important not to fall into disinformation, it's not normal not to know anything. » C., 17

« Explanations need to be improved. » M., 17

This observation applies to all stages of the procedure, from the arrest by the police to the placement of the minor. Indeed, several of the young people complained about not receiving sufficient explanations as to the reasons for the arrest:

"The police should have explained it to me, but they did not" 22

Similarly, several young people consulted report gaps in understanding the court decisions and their implications. Some say that they thought they understood the judgements concerning them when they were pronounced, but did not realise the concrete implications until later.

"Once I get out of there, what are the consequences?" M., 17

The moment of the hearing is highlighted as a moment of psychological distress / vulnerability that hinders their understanding of the consequences of judicial decisions:

"In court we are not very open, so we are not really listening. We stress and we don't pay attention, we react to everything. »

"Everything is falling apart around me, I'm not going home" H., 17

This feeling reported by youth indicates that it would be necessary to ensure that every minor understands the reasons for judicial decisions and their concrete implications, while taking into account the state of psychological fragility in which they can be at the time of the hearing and the difficulties of understanding that may result from it.

Stephanie Rap (2016) points out that *« adolescents are not able fully to participate in a youth court hearing without the assistance and support of adults, because they have a limited understanding of the meaning of the process and of the attitude that is expected from them in court. »*. In fact, in order to overcome these misunderstandings, some of the young people explicitly request better support:

"They have to try to help young people understand decisions, because you can't understand them alone in that moment. Neither the judge nor the lawyer explained the judgments". V., 22

"I've been here for four, five, six months and I still don't understand why. In the end, it's better to accept, otherwise you maintain a hope that isn't real, and it becomes traumatic. They should have supported me because I didn't have time to understand what was going on, and it still upsets me to this day. "C., 17

This lack of understanding is likely to deprive them of the resources they need to accept the decisions that affect them. In this sense, two of the young people point out the difficulties in terms of reintegration when the decision is not fully accepted:

"Even if the person doesn't understand, it will work its way through, young people want to understand why a decision is made about them, it makes it easier to accept the placement without seeing it as a defeat. That's where you can see it as an opportunity to refocus on yourself and others." M, 17

"It's important to make sure that young people understand that the judicial decisions are not a punishment but a second chance, if time can be used for reflection." H., 17

Young people report a feeling of exclusion from the legal proceedings that are initiated and resolved between adults; their perception of their own participation becomes minimal:

"Even if they let me speak... I feel like I am speaking for nothing, they just tell me "speak!" but they are not respecting my choice. » C., 17 years old.

In this sense, some of the young people interviewed questioned the usefulness of their own intervention during legal proceedings, believing that the judges had already made a decision before hearing them. This feeling also seems to be reinforced by the fact that the judge often hears first the social workers and lawyer(s) in charge of the minor.

The rights of the child and Covid 19

Covid 19 and the crisis surrounding it has had and will continue to have a very negative impact on children's fundamental rights.

The strategy should mention:

- The necessity of involving children in the recovery process;
- Special attention must be paid to online sexual abuse against children which has increased during Covid
- Child poverty has already increased and is likely to increase further. The fight against child poverty must be a top priority of the strategy. Support to and adequate funding of the Child Guarantee should be part of the strategy.

Authors

DEFENCE FOR CHILDREN INTERNATIONAL (DCI) – BELGIUM is a local and independent association founded in 1991. Since 1992 it is member of the DCI worldwide movement.

Although the DCI movement aims at defending and promoting all the rights of the child, DCI-Belgium mainly focuses its actions and attention on violence against children, deprivation of liberty, children justice, children in situations of migration and participation of children.

DCI-Belgium conducts action research (involving desk and field research), trains professionals, develop permanent education tools and activities, supports strategic litigation cases and conducts advocacy activities.

We remain available for further consultations.

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**DEFENCE FOR CHILDREN
INTERNATIONAL
BELGIUM**

THE WORLDWIDE MOVEMENT FOR CHILDREN'S RIGHTS

