



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 4.7.2006  
SEC(2006) 889

**COMMISSION STAFF WORKING DOCUMENT**

**Accompanying the**

**COMMUNICATION FROM THE COMMISSION**

**Towards an EU Strategy on the Rights of the Child**

**PRELIMINARY INVENTORY OF EU ACTIONS AFFECTING CHILDREN'S  
RIGHTS**

{COM(2006) 367 final}

## TABLE OF CONTENTS

|       |   |    |
|-------|---|----|
| 1.    | Within the EU .....   | 3  |
| 1.1.  | Asylum, immigration and external borders.....                               | 4  |
| 1.2.  | Child health, safety and welfare.....                                       | 7  |
| 1.3.  | Child poverty and social exclusion .....                                    | 9  |
| 1.4.  | Child labour.....   | 10 |
| 1.5.  | Children's participation.....   | 11 |
| 1.6.  | Civil Justice and family matters .....                                      | 11 |
| 1.7.  | Education .....   | 13 |
| 1.8.  | Environment.....  | 14 |
| 1.9.  | Media and Internet .....  | 15 |
| 1.10. | Non-discrimination .....  | 18 |
| 1.11. | Violence against children.....  | 19 |
| 2.    | In acceding, candidate, potential candidate and neighbouring countries..... | 21 |
| 3.    | In the wider world .....  | 22 |
| 3.1.  | Political dialogue.....   | 22 |
| 3.2.  | Trade negotiations.....   | 23 |
| 3.3.  | Development assistance .....  | 23 |
| 3.4.  | Humanitarian assistance.....  | 24 |
| 3.5.  | Future instruments in the Community's external policies .....               | 25 |

The European Union has developed various concrete policies and programmes on children’s rights using different existing legal bases, covering both internal and external aspects of the European Union across a broad range of issues.

While the rights of the child are universal, different means may be used to promote them. Within the EU, legislation and funding programmes are commonly used. In countries which aim to join the EU, children’s rights are promoted through the pre-accession strategy to help these countries meet the political criteria for membership particularly through pre-accession financial assistance. In the wider world, the EU also has a clear political mandate to promote children’s rights in its external relations, which it does through political dialogue and assistance in development cooperation and humanitarian aid.

**1. WITHIN THE EU**

Over the past few years, the European Union institutions, working with the Member States, have made significant progress in the area of children’s rights under existing legal bases.

The Amsterdam Treaty provided the first significant impetus for the development of a European Union children’s strategy, with many articles that may affect children’s rights (see table below).

The Charter of Fundamental Rights shows that the European Union recognises children as independent citizens with their own interests and needs. In contrast to the existing Treaties, the Charter of Fundamental Rights, adopted on 7 December 2000, provides a more coherent statement of children’s basic rights<sup>1</sup>. It represents a notable advance towards seeing children not just as in need of protection, but also as independent and autonomous rights holders. Furthermore, it suggests that children’s interests should be considered across all policy areas relevant to children. If fully implemented, this represents a significant step towards ‘child-proofing’ European Union legislation and policy.

The Charter of Fundamental Rights, independently of its legal status, may be seen as a particularly authentic expression of fundamental rights guaranteed as general principles of law. In addition, various particular competencies under the Treaties do allow taking specific positive action to safeguard and promote children's rights (see table below). In fact, the European Union took action and developed various policies and programmes, covering a broad range of issues.

|       | Legal bases from European Treaties   | Rights as from                   |  |
|-------|--|----------------------------------|--|
| Areas | <ul style="list-style-type: none"> <li>- Treaty on the European Union (TEU)</li> <li>- Treaty establishing the European</li> </ul> | EU Charter on Fundamental Rights | UN Convention on the Rights of the Child |

<sup>1</sup> Out of the 50 or so Articles overall, 19 are relevant for children and young people. However Articles 20 (equality before the law) and 21 (prohibition of discrimination) suggest that all Charter rights should be interpreted to include children, and not just those specifically targeted at them.

|  | Community (TEC)               |                           |  |
|--|-------------------------------|---------------------------|--|
| Asylum and migration <sup>2</sup>      | 63 TEC                        | 10, 18, 19, 21, 22        | 8, 9, 10, 22, 37, 39                             |
| Child health, safety and welfare       | 152 TEC                       | 2, 3, 35                  | 6, 23, 24, 25, 27, 31 and 33                     |
| Child poverty and social exclusion     | 136, 137, 140 TEC             | 5, 20, 21, 34             | 2, 6, 24, 26, 27, 28, 30, 31                     |
| Child labour                           | 149, 150 TEC                  | 5, 26, 32                 | 28, 31, 32                                       |
| Children's participation               |                               | 11, 24                    | 12, 13   |
| Civil Justice and Family matters       | 65 TEC                        | 7, 24                     | 2, 5, 9, 10, 11, 18, 35                          |
| Education                              | 149 TEC                       | 10, 14                    | 2, 3, 27, 28, 29, 30, 31                         |
| Environment                            | 174 TEC                       | 37, 38                    | 6, 24, 27, 29.1, 31                              |
| Media and Internet                     | 47(2), 55, 95, 153, 157 TEC   | 8, 11, 38                 | 13, 14, 16, 17, 19, 31, 34, 36                   |
| Non-Discrimination                     | 13 TEC                        | 10, 20, 21, 22, 26        | 2  |
| Violence against children <sup>3</sup> | 152, 153 TEC;<br>29 to 32 TEU | 2, 3, 4, 5, 6, 19, 24, 32 | 3, 6, 17, 19, 24, 28, 31, 32, 34, 35, 36, 37, 39 |

## 1.1. Asylum, immigration and external borders

### Asylum policy

The Directives on temporary protection<sup>4</sup>, on reception conditions<sup>5</sup>, on qualification as a refugee<sup>6</sup> and on asylum procedures<sup>7</sup>, together with the Regulation determining the State responsible for

<sup>2</sup> The list of articles in the EU Charter on Fundamental Rights and the UN Convention on the Rights of the Child included under the heading "immigration and asylum" does not cover all the rights of "third-country" children, as many articles under the other headings of this table apply to children irrespective of their nationality.

<sup>3</sup> Including trafficking in children, child sex tourism and pedopornography.

<sup>4</sup> Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12).

<sup>5</sup> Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (OJ L 31, 6.2.2003, p. 18).

examining an asylum application<sup>8</sup>, all contain specific provisions on children and in particular unaccompanied minors.

These Directives point to the right to schooling and provide for access to **education** for all children, including asylum seekers and refugees. Asylum-seeking children must be granted access to the education system on similar – but not necessarily the same - terms as those applicable to nationals (e.g. education may be provided in accommodation centres, rather than schools).

All asylum instruments except that on procedures, insist on respect for the **family unit**.

The Directives on temporary protection and on reception conditions require that Member States provide for the necessary **medical care** for persons with special needs, such as unaccompanied minors and for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered in armed conflicts.

All asylum Directives oblige the Member States to take measures to ensure the necessary **representation** of unaccompanied minors, by legal guardianship, or, where necessary, by an organisation which is responsible for the care and well-being of minors or by any other appropriate representation. The Directives on temporary protection, on reception conditions and on qualification as a refugee also have provisions on the **placement** of unaccompanied minors and require that in this context the **views of the child** be taken into account. Unaccompanied minors must normally be placed with adult relatives, with a foster family or in reception centres with special provisions for minors. In accordance with the Directive on reception conditions, however, asylum-seeking unaccompanied minors aged 16 or over may be placed in accommodation centres for adult asylum seekers.

The Directives on reception conditions and the Directive on qualification as a Refugee and on asylum procedures state that persons working with minor asylum seekers or refugees must have had or receive appropriate **training**.

The Directive on asylum procedures and the Directive on the qualification as a refugee both have a separate chapter with specific guarantees for unaccompanied minors.

### Integration policy

The Communication on *a Common Agenda for Integration*<sup>9</sup> – based on the Common Basic Principles for integration adopted by the JHA Council of 19 November 2004, the thrust of which was supported by the Council in its conclusions adopted in December 2005 – puts forward a framework for the integration of third-country nationals in the EU. It was stressed that specific attention must be paid to the situation of migrant youths and children when implementing the

---

<sup>6</sup> Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

<sup>7</sup> Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting or withdrawing refugee status (OJ L 326, 13.12.2005, p. 13).

<sup>8</sup> Council Regulation (EC) No 343/2003 establishing the criteria and the mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national.

<sup>9</sup> COM(2005) 389, 1.9.2005.

relevant actions suggested in the Communication, for example in order to ensure that migrant youth and children are integrated in and fully benefit from the education system.

### Immigration policy

The Directive on family reunification<sup>10</sup> – which also applies to refugees – lays down the conditions for exercising the right to family reunification for the spouse and the minor children of the sponsor and/or of the spouse, included minor adopted children. It also sets out the rights of the family members (including access to education and training), and specific provisions in cases where the sponsor is an un-accompanied minor recognised as a refugee (admission of the parents or of the legal guardian). The directive had to be implemented by 3 October 2005.

There are no restrictions on minors acquiring long-term resident status under the Directive on long-term residents<sup>11</sup>, provided that they fulfil the relevant conditions. Once the Member State of residence has granted long-term resident status, there are a number of provisions recognising equal treatment with nationals that are of particular relevance to children, especially as regards education and vocational training, including study grants, in accordance with national law. The directive had to be implemented by 23 January 2006.

The Commission proposal for a Directive on common standards and procedures in Member States for returning illegally staying third-country nationals<sup>12</sup> includes many provisions to protect children, all based on the general principle that the “best interests of the child” should be a primary consideration of Member States when implementing this Directive.

### External border control

In the Community Code on the rules governing the movement of persons across borders (the Schengen Borders Code)<sup>13</sup>, there is a specific point relating to checks to be carried out on minors, stating that border guards "shall pay particular attention to minors, whether travelling accompanied or unaccompanied" and, in the case of unaccompanied minors, "shall ensure [...] that minors do not leave the territory against the wishes of the person(s) having parental care of them". Furthermore, it provides that border guards must carry out further investigation regarding accompanied minors where “there are serious grounds for suspecting that they may have been unlawfully removed from the custody of the person(s) legally exercising parental care over them”. In addition, the Schengen Information System (SIS) contains alerts on missing persons with specific reference to minors.

### Programmes set up to financially support these policies

The **European Refugee Fund**<sup>14</sup> co-finances action on the reception conditions of asylum seekers and asylum procedures, integration of refugees and voluntary returns, including action to address the specific situation of vulnerable persons such as minors and isolated parents accompanied by minor children. It amounts to roughly €312.2 million for the period 2000-2006. The **INTI programme**<sup>15</sup> funds preparatory action to promote the integration of third-country

---

<sup>10</sup> Council Directive 2003/86 of 22.9.2003.

<sup>11</sup> Council Directive 2003/109 of 25.10.2003.

<sup>12</sup> COM(2005) 391, 1.9.2005.

<sup>13</sup> Regulation (EC) No 562/2006 of 15.3.2006.

<sup>14</sup> [http://ec.europa.eu/justice\\_home/funding/refugee/funding\\_refugee\\_en.htm](http://ec.europa.eu/justice_home/funding/refugee/funding_refugee_en.htm)

<sup>15</sup> [http://ec.europa.eu/justice\\_home/funding/inti/funding\\_inti\\_en.htm](http://ec.europa.eu/justice_home/funding/inti/funding_inti_en.htm)

nationals, including children, in the EU Member States. Its aim is also to promote dialogue with civil society, develop integration models, seek out and exchange best practices in integration and set up networks at European level. It amounted to €5 million for the 25 Member States for 2005. The **ARGO programme**<sup>16</sup> (2002-2006) supports administrative cooperation between Member States on asylum, external borders, visas and immigration matters. Lastly, the **AENEAS programme**<sup>17</sup> (2004-2008) finances cooperation projects with third countries in the field of asylum and immigration. Even though this programme is not specifically focused on children, it considers them (together with other vulnerable categories) a priority for action.

## 1.2. Child health, safety and welfare

### Public health

On 23 September 2002, the European Parliament and the Council adopted a Decision establishing a programme of Community action in the field of public health (2003-2008)<sup>18</sup>. The Programme has three key strands: health information, health threats, and health determinants. The programme includes an important component on the health of children and young people which has involved support for a wide range of initiatives including the European Network of Health-Promoting Schools in partnership with the World Health Organization and the Council of Europe. In addition,

- The Council recommendation of 2 December 2002 clearly recommends that Member States take all possible legislative and administrative measures to prevent **tobacco** sales to children and adolescents.
- The ongoing review of **consumer protection** regulation covers eight directives<sup>19</sup> and will lead to a public consultation with a Green Paper. The possible gaps in the protection of vulnerable consumers (e.g. children) are among the issues requiring input.

The Commission Green Paper "Promoting healthy diets and physical activity: a European dimension for the prevention of overweight, obesity and chronic diseases"<sup>20</sup> calls for concrete suggestions and ideas for action that can be taken in all sectors and at every level of society to address this serious problem and to encourage Europeans to adopt healthier lifestyles. The Green Paper has a specific section entitled "A focus on children and young people".

### Medicinal products

More than 50% of the medicines used to treat children have not been tested on or authorised for use on children. This means that a doctor writing a prescription for a child for a product not

---

<sup>16</sup> [http://ec.europa.eu/justice\\_home/funding/argo/funding\\_argo\\_en.htm](http://ec.europa.eu/justice_home/funding/argo/funding_argo_en.htm)

<sup>17</sup> [http://ec.europa.eu/comm/external\\_relations/migration/coop\\_third\\_countries/index.htm#AENEAS](http://ec.europa.eu/comm/external_relations/migration/coop_third_countries/index.htm#AENEAS)

<sup>18</sup> Decision No 1786/2002/EC of the European Parliament and of the Council of 23 September 2002 adopting a programme of Community action in the field of public health (2003-2008) (OJ L 271, 9.10.2002).

<sup>19</sup> The Doorstep Selling Directive (85/577/EEC), Distance Selling Directive (97/7/EC), Unfair Contract Terms Directive (93/13/EEC), Consumer Sales Directive (99/44/EC), Timeshare Directive (94/47/EC), Package Travel Directive (90/314/EEC), Injunction Directive (98/27/EC) and Price Indication Directive (98/6/EC).

<sup>20</sup> COM(2005) 637, 8.12.2005, available at

[http://ec.europa.eu/comm/health/ph\\_determinants/life\\_style/nutrition/documents/nutrition\\_gp\\_en.pdf](http://ec.europa.eu/comm/health/ph_determinants/life_style/nutrition/documents/nutrition_gp_en.pdf)

specifically tested or authorised for paediatric use, does so in the absence of evidence that the medicine will be effective, what dose is appropriate, or what the side effects may be<sup>21</sup>.

The Commission therefore presented a proposal for a Regulation on medicinal products for paediatric use<sup>22</sup>, whose objectives are to increase the availability of medicines specifically adapted and licensed for use with children; to increase the information available to patients/carers and prescribers about the use of medicines with children; and to increase high quality research into medicines for children. Key measures include a new expert 'Paediatric Committee' within the European Medicines Agency to assess and agree companies' testing plans; marketing authorisation requirements so that the results of all studies performed are presented at the time of applications; a system of waivers from this requirement for medicines likely to be unsuitable for children, and of deferrals to ensure medicines are tested on children only when it is safe to do so; and an EU-wide study programme.

## Drugs

The EU Drugs Action Plan for 2005-2008<sup>23</sup> sets out a range of measures, including policy coordination, prevention programmes (e.g. in schools, and specific target groups), improved access to treatment programmes, and international cooperation.

## Alcohol

Young people's drinking, in particular that of under-age children, has become a major concern in Europe. Cross-national research in Europe shows that more than 9 in 10 students aged 15 to 16 have tried alcohol. The average age for first trying alcohol is 12.5 years. Children's binge drinking has increased across much of Europe in the last 10 years. Overall, 13% of 15 to 16 year-old students in the EU report being drunk more than 20 times in their life, and 18% have drunk more than five drinks on a single occasion (binge drinking) three times or more in the previous month. As a consequence:

- In 2001 the Union adopted a Recommendation on the drinking of alcohol by young people, in particular children and adolescents, which urges Member States to develop public health promotion efforts directed at young people and encourages Member States, in cooperation with the producers and retailers of alcoholic beverages and relevant non-governmental organisations, to establish effective mechanisms in the field of promotion, marketing and retailing.
- The Commission is preparing a Community strategy to reduce alcohol-related harm, with a special focus on young people, which will be presented before the end of 2006.

## Mental health

---

<sup>21</sup> Commission proposal COM(2005) 577 for a regulation on medicinal products for paediatric use and amending Regulation (EEC) No 1768/92, Directive 2001/20/EC, Directive 2001/83/EC and Regulation (EC) No 726/2004 - <http://pharmacos.eudra.org/F2/Paediatrics/index.htm>

<sup>22</sup> European Commission, Proposal for a Regulation of the European Parliament and the Council on medicinal products for paediatric use, Brussels - COM(2004) 599, 29.9.2004.

<sup>23</sup> Communication from the Commission to the European Parliament and the Council on an EU Drugs Action Plan (2005-2008) - COM(2005) 45, 14.2.2005.

The Green paper “Improving the mental health of the population. Towards a strategy on mental health for the EU”<sup>24</sup> proposes the development of a comprehensive strategy on mental health at EU level. It prominently addressed child mental health aspects. It argued that mental health promotion in children and adolescents is an investment in the future.

## Safety

Concerning the protection of children’s health, it is worth mentioning here the existence of a Directive concerning the approximation of the laws of the Member States on the safety of toys<sup>25,26,27</sup>. Subsequently, in 2001, another Directive<sup>28</sup> concerning the safety of general products clearly states that the safety of products should be assessed, taking into account all the relevant aspects, in particular the categories of consumers which can be particularly vulnerable to the risks posed by the products under consideration, in particular children and the elderly.

## Future action

In April 2005, the European Commission proposed a new Programme of Community action in the field of health and consumer protection for the period 2007-2013<sup>29</sup>. The aims are: to protect citizens from risks and threats that are beyond the control of individuals; to enable citizens to take better decisions about their health and consumer interests; to mainstream health and consumer policy objectives; to protect citizens against health threats; to promote policies that lead to a healthier way of life; to contribute to reducing the incidence of major diseases; and to improve efficiency and effectiveness in health systems. This proposal reinforces the growing EU commitment to children’s health as a cross-cutting issue, arguing that *‘health inequalities, ageing, and children’s health are...underlying themes of all health activities under the current programme’*.

### 1.3. Child poverty and social exclusion

Based on Articles 136 and 137 of the 1997 Amsterdam Treaty, EU action to combat poverty and social exclusion has developed substantially in recent years. At the Lisbon European Council in March 2000, the EU set itself the goal of becoming *‘the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion’*. An ‘Open Method of Coordination’ (OMC) was also agreed; children’s rights are a central concern of this Open Method of Coordination.

As part of the Community Action Programme to combat Social Exclusion, which supports the OMC, the Commission has so far funded a number of transnational projects aiming to help prevent and combat child poverty and the social exclusion of children, a peer review on children

---

<sup>24</sup> Communication from the Commission “Green paper: Improving the mental health of the population. Towards a strategy on mental health for the European Union” - COM(2005) 484, 14.10.2005; [http://ec.europa.eu/health-eu/health\\_problems/mental\\_health/index\\_en.htm](http://ec.europa.eu/health-eu/health_problems/mental_health/index_en.htm)

<sup>25</sup> OJ C 203, 29.7.1983, p. 14.

<sup>26</sup> OJ C 282, 8.11.1986, p. 4.

<sup>27</sup> OJ L 220, 30.8.1993, p. 1.

<sup>28</sup> OJ L 11, 15.1.2002, p. 4.

<sup>29</sup> Communication from the European Commission, Healthier, safer, more confident citizens: a health and consumer protection strategy, Proposal for a Decision of the European Parliament and of the Council establishing a programme of Community action in the field of health and consumer protection, 2007-2013 - COM(2005) 115, 6.4.2005.

and families in difficulties, a transnational study on policies to prevent and reduce child poverty and, last but not least, financial support for the Eurochild network of NGOs.

#### 1.4. Child labour

Child labour can be found in a wide range of environments, including agriculture, fishing, manufacturing, tourism, domestic work, construction, and the urban informal economy. Some of its worst forms are child trafficking, prostitution, pornography and criminal activities such as the drugs trade.

There is a range of reasons why child labour exists. Poverty is inextricably linked to child labour but it is not the sole explanation. Poverty also interacts with other causative factors, such as lack of access to good quality education, and inadequate social protection. Discrimination (e.g. on the grounds of ethnicity, disability or gender) also plays a part; for example, girls in some cultures are expected to be domestic workers, so their schooling is de-prioritised at a young age.

In Central and Eastern Europe, an ILO review<sup>30</sup> indicated four main trends:

- working street children (e.g. vending food and small consumer goods, shining shoes, washing windshields, scavenging, loading and unloading goods),
- working children in agriculture (e.g. mixing, loading, and applying toxic pesticides, fertilisers, or herbicides) – in Romania, for example, over 70% of children working in agriculture are between the ages of 6 and 14,
- working Roma children (e.g. begging or scavenging for scrap metal, or other objects to sell),
- child trafficking.

The Commission signed in July 2004 a **Strategic Partnership with the ILO** in the field of development where one of the priorities is the prevention of child labour. In this context, the Commission is discussing with **ACP** partners an action programme to fight child labour together with the ILO IPEC (International Programme for the Elimination of Child Labour). The action will focus on Capacity building, targeted interventions and legal framework to enhance children being freed up from child labour into primary education. The overall budget is in the order of € 15 million.

Directive 94/33/EC<sup>31</sup> on the **protection of young people at work** was adopted with the purpose of ensuring that young people are protected against economic exploitation and against any work likely to harm their safety and health or development or to jeopardise their education. The Directive applies to persons below 18 years of age who have an employment contract or employment relationship as defined by national law. The Directive requires the Member States, under the conditions which it lays down, to prohibit work by children who either have not yet attained the age of 15 or who are still subject to compulsory full-time schooling, to ensure that employers guarantee that young workers have working conditions which suit their age and to

---

<sup>30</sup> Martin J.W. (2003), *Child Labour in Europe and Central Asia: Problem and Response*, International Programme on the Elimination of Child Labour, Geneva: International Labour Organisation.

<sup>31</sup> Council Directive 94/33/EC of 22.6.1994 on the protection of young people at work (OJ L 216, 20.8.1994, p. 12).

ensure that young workers are protected at work and that the work is regulated, including specific rules on matters relating to working time (night work, rest periods etc.).

Member States are required to report every five years on the practical application of the Directive, indicating the viewpoints of the two sides of industry. Partly on the basis of the first round of national reports, the Commission adopted its own report in 2004<sup>32</sup>.

## 1.5 Children's participation

One concrete example is the new Brussels II Regulation<sup>33</sup> on parental responsibility. Hearing the child is an important part of the application of that Regulation, although it does not amend national procedures in this area. The Regulation provides that a court must ensure that a child is given the opportunity to be heard during proceedings following parental child abduction unless this would be inappropriate to the child's age and maturity. The child must also be heard in proceedings concerning visiting rights, e.g. where the parents live in different Member States.

It is interesting to note that, next to the strategy for protecting children's rights developed in the present communication, the Commission is promoting and coordinating the development of youth policies in Europe which aim at fostering young people's<sup>34</sup> active citizenship and their full integration in society. To this end, it published a White Paper for youth<sup>35</sup> advocating a specific and coherent approach to youth issues. This White Paper led to the adoption in 2002 of a framework of European cooperation in youth matters<sup>36</sup> in which Member States agreed, on the one hand, to mainstream youth in certain key policies for young people's social inclusion and professional integration and, on the other hand, to develop their active and responsible citizenship by focussing on four youth specific priorities to which they would apply an Open Method of Coordination (OMC), namely participation, information, voluntary activities and a greater knowledge and understanding of youth. Common objectives were subsequently adopted by Member States for participation and information<sup>37</sup> in 2003 followed by voluntary activities<sup>38</sup> and a greater knowledge of youth<sup>39</sup> in 2004. By adopting common objectives for participation, EU Member States have committed to increase the participation by young people in the civic life of their community and in the system of representative democracy. This framework of cooperation in the youth field is complemented by the "Youth in Action" programme 2007-2013<sup>40</sup>.

## 1.6. Civil Justice and family matters

Within the EU:

The goal of the European Union is to create a secure legal environment for children and ensure their right to maintain contact with both parents by ensuring the free circulation of judgments on

---

<sup>32</sup> COM(2004) 105.

<sup>33</sup> Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.

<sup>34</sup> For the purpose of European cooperation in the field of youth, the "young people" age bracket is 13 to 30.  
<sup>35</sup> 14441/01 – COM(2001) 681.

<sup>36</sup> OJ C 168, 13.7.2002, p. 2.

<sup>37</sup> OJ C 295, 5.12.2003, p. 6.

<sup>38</sup> Council document 13996/04, 15.11.2004, not published.

<sup>39</sup> Council document 13997/04, 15.11.2004, not published.

<sup>40</sup> <http://europa.eu/scadplus/leg/en/cha/c11603.htm>

parental responsibility within the EU. As citizens increasingly move from one Member State to another, there is an increasing number of cases where family members are not of the same nationality and/or do not live in the same Member State. This social reality creates a need to lay down uniform rules on jurisdiction and recognition and enforcement of judgments on parental responsibility.

**Parental responsibility:** In response to this new social reality, the Council of Ministers adopted Council Regulation No 2201/2003 of 27 November 2003<sup>41</sup> ("the new Brussels II Regulation") which applies in all Member States except Denmark from 1 March 2005. It lays down the general rule that the courts in the Member State where the child is habitually resident are competent to rule on matters of parental responsibility. In addition, the Regulation ensures that a judgment on parental responsibility issued in a Member State can be recognised and enforced in another Member State through a uniform, simple procedure. It reinforces the right of the child to maintain contact with both parents by ensuring that decisions on access rights are automatically recognised and enforceable in another Member State without any intermediate procedure. Moreover, it dissuades parental child abduction and reinforces the obligation of the courts to order the return of the child in cases of child abduction within the Community. It ensures that the courts of the Member State of the child's residence before abduction have the final say in deciding where the child will stay. Moreover, the Regulation complements and reinforces the 1980 Hague Convention on international child abduction by imposing stricter obligations to assure the prompt return of a child in cases of child abduction between Member States. The child and the parent left behind must be given an opportunity to be heard during the procedure. Central authorities will have an obligation to assist parents who are victims of an abduction, promote mediation and support communication between courts. The Commission has published a Practice Guide, available in all Community languages, on the application of the Regulation.

**Family mediation:** The Commission has taken several initiatives to encourage mediation in matters of parental responsibility. Giving the parents the possibility of settling out of court is likely to increase the chances of a peaceful settlement of a dispute over parental responsibility. The new Brussels II Regulation contains specific rules on family mediation. In addition, the Commission presented on 22 October 2004 a draft Directive on mediation which encourages the use of mediation in civil matters, including family mediation. The Commission has also participated in drafting a Code of Good Conduct for mediators. Finally, the new Brussels II Regulation seeks to encourage mediation in matters of parental responsibility.

The question of **maintenance obligations** touches the everyday lives of citizens and guaranteeing effective recovery of claims is essential for the welfare of many children in Europe. In December 2005, the Commission presented a proposal for a Regulation on jurisdiction, the applicable law, recognition and enforcement of decisions and cooperation on maintenance obligations.<sup>42</sup> The main objective of the proposal is to accelerate and simplify the enforcement of decisions, in order to guarantee effective recovery of maintenance. The proposal aims to allow a decision on maintenance given in one Member State to be recognised and enforceable in any other Member State without any further procedure being required.

---

<sup>41</sup> Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ L 338, 23.12.2003, p. 1).

<sup>42</sup> Proposal for a Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations - COM(2005) 649, 15.12.2005.

**Cooperation in EUROMED:** The Commission is open to bilateral dialogue with non-Member States to find solutions to cross-border family law issues. The EU-Mediterranean Partnership, referred to as “EUROMED” or “the Barcelona Process” is of particular interest in this respect. This partnership brings together the EU Member States and 12 Mediterranean States with the intention of creating a common Euro-Mediterranean area of peace and stability. The issue of parental responsibility, with particular reference to child abduction, has been raised in this context. Family law and child abduction have emerged as priorities in the Barcelona process. Indeed, a main objective of the five-year Action Plan that was launched at the Euromed Ministerial Meeting in November 2005 was to help provide practical solutions to family conflicts between mixed couples. The future Euromed/JLS Regional Programme (2007-2010) will launch projects in this field and give financial and technical assistance to the EUROMED partners.

As regards bilateral relations, the Commission is actively promoting bilateral cooperation in the field of family law as part of the European Neighbourhood Policy (ENP). This cooperation seeks in particular to help provide practical solutions to family disputes over issues of parental responsibility, to allow the child to maintain regular contact with both parents after a separation. In this context, the Community supports, for example, the promotion of amicable solutions through mediation and emphasises the need to facilitate cross-border visiting rights. Consequently, the ENP Action Plans concluded with Jordan, Morocco and Tunisia underline the need to encourage practical solutions to prevent, manage and settle parental responsibility disputes, including the question of children of separated mixed couples.

## 1.7. Education

All Member States guarantee children the right to primary and secondary education. At European level, Member States, cooperating through the Open Method of Coordination, participate in the Education and Training 2010 work programme which seeks to achieve the education side of the Lisbon goals. This programme’s broad objectives are to support the quality and efficiency of the education and training systems, their access to all and openness to the wider world. The guiding principle of this policy framework is the implementation of lifelong learning policies – applying from early childhood to post-retirement – at the European and national levels. Within that framework, Member States have also agreed upon specific quantitative goals (EU benchmarks) to be met by 2010. Three of these benchmarks have special relevance to the education of children : reducing early school leaving; developing key competencies and raising attainment levels. The European benchmark for early school leavers aims to achieve an EU average ratio of no more than 10% early school leavers by 2010. In key competencies, the aim is to reduce by 20% the number of low-achieving 15-year old children in reading literacy. In addition, 85% of 22-year old people in the EU should have completed upper-secondary education. Developing the foundation for further learning at the earliest possible age and in particular at pre-primary level, is considered to be crucial.

Community funding programmes on education include ‘**Comenius**’ (school partnerships, projects for the training of school education staff, and school education networks), ‘**Erasmus**’ (student and staff mobility and cooperation between universities), ‘**Grundtvig**’ (adult education), and ‘**Leonardo**’ (vocational education and training mobility and cooperation).

In 2004, the Commission proposed an Integrated Action Programme in the field of lifelong learning<sup>43</sup>. This brings together the four existing programmes in one programme incorporating four key cross-cutting activities (policy development, language learning, information and communication technology, and dissemination of results) and a ‘**Jean Monnet**’ programme (action related to European integration and European education and training institutions and associations). The overall programme will entail a substantial budget increase, from €3,935 million for the current period 2000-2006 to €13,620 million for the new period 2007-2013.

Under the free movement provisions of Regulation No 1612/68<sup>44</sup>, children of EU migrant workers must be granted access to the educational system of the host state under the same conditions as nationals. The European Court of Justice has adopted progressive interpretations of the law, enhancing the independent status of the children of migrant workers. For example, in the landmark ‘Baumbast’ case, the rights of migrant children to continuing education in a host state were upheld, even though their working parent had left the EU. This principle is now incorporated in the 2004 Free Movement directive<sup>45</sup>.

The Council Directive 2004/114 of 13 December 2004<sup>46</sup> on admission of third-country students contains specific provisions on school pupil exchange programmes and on persons participating in voluntary service schemes. The directive must be implemented by 12 January 2007.

Access to education for disabled children was also tackled by the Union, with the 2003 Resolution on Equal Opportunities for Pupils and Students with Disabilities in Education and Training<sup>47</sup>.

## 1.8. Environment

The Child Friendly Cities Initiative (CFCI)<sup>48</sup> was launched in 1996, following the declaration at the second UN Conference on Human Settlements (Habitat II) that cities should be liveable places for all, and that the well-being of children is the ultimate indicator of a healthy habitat, a democratic society and of good governance. This emphasis was reinforced by the follow-up document of the UN Special Session on Children in 2002<sup>49</sup> (‘A World Fit for Children’), which explicitly commits member states to develop child-friendly communities and cities, and to involve mayors and municipal authorities as primary partners in achieving the new goals set for children.

Mirroring this international development, in 2001, a European network of ‘child-friendly’ cities (ECFCN) was established under Belgian law as a non-profit association, based on a proposal by

---

<sup>43</sup> Proposal for a Decision of the European Parliament and the Council establishing an integrated action programme in the field of lifelong learning - COM(2006) 236, 24.5.2006.

<sup>44</sup> Article 12 of Regulation (EC) No 1612/68 of the Council of 15 October 1968 on Freedom of Movement for Workers within the Community

<sup>45</sup> Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States - (OJ L 229, 29.6.2004, p. 35).

<sup>46</sup> Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ L 375, 23.12.2004, p. 12).

<sup>47</sup> OJ C 134, 7.6.2003, p. 6.

<sup>48</sup> See [www.childfriendlycities.org/about/index.html](http://www.childfriendlycities.org/about/index.html) for further details. Since 2000, the Secretariat of the CFCI has been based at UNICEF’s Innocenti Research Centre in Florence.

<sup>49</sup> UN General Assembly, A World Fit for Children, Twenty-seventh Special session, 11 October 2002.

the European Economic and Social Committee (ECOSOC)<sup>50</sup>. ECFCN's 'Declaration of London' (22 October 2004) states that children and young people have democratic rights as citizens to participate in governmental processes, but lack adequate opportunities to influence the processes and circumstances that impact upon their lives. Although there are variations between countries, they also have declining access to space for play and for socialising, their independent mobility is declining as car use has grown and roads have become increasingly dangerous, and the living environments they face are increasingly unsafe. Finally, the Declaration suggests this can lead to social, mental and physical problems in later life.

## 1.9. Media and Internet

While access to media may have a number of beneficial effects for children, it may also expose them to harmful or illegal images depicting violence, pornography, or racism. Illegal internet content may be produced in one country, stored in a second and accessed in a third, complicating law enforcement<sup>51</sup>. Moreover, children need protection from the harmful effects of certain types of advertising that can reinforce brand loyalty, convey misleading information or suspect values, or encourage them to put pressure on their parents to purchase certain products.

Also, children are seen as most vulnerable to media influence and most in need of protection against it. In the growing crossfire of media messages both at and outside school, children and young people need to improve their degree of media literacy<sup>52</sup> in order to be able to understand, use and appreciate media content.

The Commission is working with the advertisers and media through the Ad hoc Roundtable on Advertising in order to ensure that industry's preferred route for achieving such protection – voluntary self-regulation – is functionally effective across the Member States<sup>53</sup>.

In addition, the Commission has taken a number of measures to protect children from the adverse effects of the media and commercial practices:

- Since November 2000, in the framework of the Lisbon Agenda, the Commission has organised three workshops on **media literacy** and provided €3.5 million in financial support to some 30 projects<sup>54</sup>. These initiatives have proved to be very effective in helping media literacy organisations and practitioners from different European Countries to establish contact and create networks which are a first step to a steady and profitable exchange of knowledge and experiences. Also, a "Media Literacy Expert Group" has been set up with the aim of analysing and defining media literacy objectives and trends, highlighting and promoting good practice at European level and proposing actions in the field.

---

<sup>50</sup> Opinion of the Economic and Social Committee on the Exploitation of children and sex tourism, Brussels, 2 July 1998, CES 976/98 E/O.

<sup>51</sup> Safer Internet Plus, 'Making the Internet a Safer Place, Factsheet 18, April 2005.

<sup>52</sup> Media Literacy may be defined as the ability to access, analyse and evaluate the power of images, sounds and messages with which we are confronted on a daily basis, and which are an important part of our contemporary culture, and also to communicate competently in media available on a personal basis.

<sup>53</sup> This will ensure an appropriate balance between freedom of expression for the media – to which a healthy advertising market makes an important contribution – and children's rights.

<sup>54</sup> For 2002 projects, see: [http://europa.eu.int/comm/education/programmes/elearning/projects/022\\_en.html](http://europa.eu.int/comm/education/programmes/elearning/projects/022_en.html). For 2003 projects, see: [http://europa.eu.int/comm/education/programmes/elearning/projects/031\\_en.html](http://europa.eu.int/comm/education/programmes/elearning/projects/031_en.html).

- The Directive on **misleading advertising**<sup>55</sup> sets out the general principles applicable to advertising.
- The Directive on **unfair commercial practices**<sup>56</sup> was adopted in 2005 and its provisions must be applicable in the Member States by 12 December 2007. The Directive aims at clarifying consumers' rights and boosting cross-border trading by harmonising EU rules on business-to-consumer commercial practices. The new legislation lists "sharp practices" which will be prohibited throughout the EU, such as pressure selling, misleading marketing and unfair advertising. Certain rules on advertising to children are also set out. Where a commercial practice is aimed at children, its impact will be assessed from the perspective of that group. The Directive bans direct exhortations to children to buy advertised products or persuade their parents or other adults to buy advertised products for them ('pester power')<sup>57</sup>.
- The **Television Without Frontiers Directive**<sup>58,59</sup> sets out specific rules in relation to television broadcasting in general and TV advertising in particular. This Directive is intended to facilitate the free movement of TV broadcasting within the EU whilst protecting minors from programmes that might seriously impair or that are likely to impair the physical, mental or moral development. It contains specific rules preventing children's programmes of less than 30 minutes duration being interrupted by advertising. It also prevents advertising and teleshopping for alcohol being aimed at minors, or depicting them consuming alcohol. Advertising must not '*cause moral or physical detriment to minors*', and must not: exhort minors to buy a product or a service by exploiting their inexperience or credulity; encourage children to persuade their parents or others to purchase the goods and services being advertised; exploit the special trust children place in parents, teachers or others; or unreasonably show minors in dangerous situations.
- An EU study in 2001 on the impact of advertising on children<sup>60</sup> found a remarkable number of differences at Member State level, ranging from the age limits in definitions to specific provisions in certain sectors (e.g. regarding alcohol). It also noted clear differences between the regulation of television and other media, with the former much more heavily regulated than the latter (where there are not always specific rules concerning children). It concluded that the number of complaints is extremely low, and that the directive provided an '*adequate and flexible framework*', with extensive use of self-regulation.

---

<sup>55</sup> Council Directive 84/450/EEC (OJ L 250, 19.9.1984, p. 17) concerning misleading and comparative advertising, as amended by Directive 97/55/EC of European Parliament and the Council (OJ L 290, 23.10.1997, p. 18).

<sup>56</sup> Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (OJ L 149, 11.6.2005, p. 22).

<sup>57</sup> This provision is without prejudice to Article 16 of Directive 89/552/EEC on television broadcasting.

<sup>58</sup> Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.

<sup>59</sup> Directive 97/36/EC (Television Without Frontiers Directive) (OJ L 202, 30.7.1997, p. 60).

<sup>60</sup> INRA (2001) Study on the Impact of Advertising and Teleshopping on Minors, 99/S 139-102855.

Concerning **violent imagery**, a recent Eurobarometer survey<sup>61</sup> of parental attitudes in the 25 Member States indicated that a significant proportion of children face no parental limits on their use of television, the internet, mobile phones, or game consoles. This is the case for 22% of 7-11 year-olds, 27% of 12-15 year-olds, and 40% of 15-16 year-olds. As a consequence, the Union complemented the Television Without Frontiers Directive with:

- The Council Recommendation on the **protection of minors and human dignity**<sup>62,63,64</sup> covers all audiovisual and information services (including online services). It offers guidelines for the development of national self-regulation regarding the protection of minors and human dignity.

Concerning **pornographic images of children**, the Commission takes the view that international cooperation is essential to tackle the risks children face; child pornography on the internet is a transnational crime and therefore requires a transnational response.

About half of all European children use the **internet**<sup>65</sup>. The internet can provide children with easy access to an enormous range of educational materials and cultural opportunities, and is a powerful tool that can help to meet children's rights under the CRC (e.g. to participation, information, and freedom of expression). However, it simultaneously provides a forum where children can come into contact with illegal or harmful images. The internet is also increasingly used by a growing number of abusers to exchange materials involving children, or to organise child prostitution, child trafficking or child sex tourism, with a significant degree of anonymity.

To complement several important international instruments<sup>66,67</sup>, in 2000 the Council adopted a Decision on combating **child pornography on the internet**<sup>68</sup> intended to prevent the production,

---

<sup>61</sup> Eurobarometer, Illegal and Harmful Content on the Internet, EB60.2 – CC-EB 2004.1, European Commission.

<sup>62</sup> Council Recommendation 98/560/EC of 24 September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity (OJ L 270, 7.10.1998, p. 48).

<sup>63</sup> Proposal for a Recommendation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry - COM(2004) 341 – C6-0029/2004 – 2004/0117(COD). The proposal seeks to update Council Recommendation of September 1998 on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity, 8440/98 DG J.

<sup>64</sup> Amended proposal for a Recommendation of the European Parliament and of the Council on the protection of minors and human dignity and the right of reply in relation to the competitiveness of the European audiovisual and information services industry (presented by the Commission pursuant to Article 250(2) of the EC-Treaty) - COM(2006) 31 - COD 2004/0117.

<sup>65</sup> Eurobarometer, Illegal and Harmful Content on the Internet, EB60.2 – CC-EB 2004.1, European Commission.

<sup>66</sup> Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000, entered into force on 18 January 2002.

<sup>67</sup> Council of Europe Convention on Cybercrime, which specifically requires parties to criminalise child pornography exploiting computer systems. It has an exhaustive definition of child pornography and establishes as criminal offences numerous acts in relation to child pornography.

<sup>68</sup> Council of Ministers decision of 29th May 2000 on combating child pornography on the internet (2000/375/JHA).

treatment, possession and distribution of material containing child pornography and to promote effective investigation and prosecution of criminal offences in this area.

The Commission, meanwhile, is tackling the potential hazards to children of other new technologies such as mobile phone services. In June 2006, it published a consultation document on **child safety and mobile phone services**<sup>69</sup> on its website to gather feedback on this issue and determine whether new action is necessary at EU level.

Concerning funding, the Commission set up a €45 million programme (Safer Internet Plus 2005-2008<sup>70</sup>) which builds on an earlier Safer Internet programme<sup>71</sup> (1999-2004). It brings together the different actors – from mobile phone operators to child welfare NGOs - whose cooperation is essential but who might not come together without the appropriate structures in place.

Finally, with regard to **child telephone help lines and emergency lines**, the Commission is currently proposing a

- Communication on reserving the number range beginning with ‘116’ for harmonised European services including, as one of the services, child helplines and hotlines for missing and sexually exploited children. It is anticipated that the use of these ‘116’ numbers could start in 2007.

#### 1.10. Non-discrimination

Alongside a Community action programme to combat discrimination<sup>72</sup>:

- Directive 2000/43/EC<sup>73</sup> protects all people, including children, from discrimination on grounds of racial or ethnic origin in a wide range of fields, including education, health care, social protection, access to goods and services including housing, and training. This Directive is particularly relevant to Roma children.
- Directive 2000/78/EC<sup>74</sup> protects people from discrimination on grounds of age (along with disability, religion and sexual orientation) in employment and vocational training. The protection against age discrimination applies to both the young and the old, and the European Court of Justice has held that non-discrimination on grounds of age is a general principle of Community law<sup>75</sup>.

---

<sup>69</sup> Commission services working document “Child safety and mobile phone services”, [http://europa.eu.int/information\\_society/activities/sip/si\\_forum/mobile\\_2005/index\\_en.htm](http://europa.eu.int/information_society/activities/sip/si_forum/mobile_2005/index_en.htm).

<sup>70</sup> Decision No 854/2005/EC of 11 May 2005 of the European Parliament and of the Council adopting a multiannual Community Programme on promoting safer use of the Internet and new online technologies (OJ L 149, 11.6.2005, p. 1).

<sup>71</sup> The original €38.3m Safer Internet programme financed over 80 projects to: create a safer environment via a European network of hot-lines to report illegal content; encourage self-regulation and codes of conduct; develop filtering and rating systems; and encourage awareness actions.

<sup>72</sup> Council decision 2000/750/EC of 27 November 2000 establishing a Community action programme to combat discrimination (2001-2006) (OJ L 303, 2.12.2000).

<sup>73</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22).

<sup>74</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p.16).

<sup>75</sup> Case C-144/04 Mangold V Helm, para 75.

The year 2007 will be the European Year of Equal Opportunities for All<sup>76</sup>, supported with €13.6 million of funding and addressing four key themes: rights, representation, recognition, and respect and tolerance. Alongside the draft Decision to set up the European Year, a framework strategy on non-discrimination and equal opportunities for all aims to ensure that EU anti-discrimination legislation is fully implemented and enforced by the Member States.

### 1.11 Violence against children

A number of policy initiatives from European institutions cover violence against and exploitation of children<sup>77</sup>. The Commission's five-year 'Hague Programme', adopted in 2005, highlights the fight against trafficking in human beings, in particular women and children, among its priorities. Within that context, the following action has been taken:

- On 19 July 2002, the Council adopted a Framework Decision on combating **trafficking in human beings**<sup>78</sup> on the basis of a proposal from the Commission. The Decision seeks to foster a comprehensive EU approach to trafficking by establishing uniform definitions and common standards of penalties, liability and jurisdiction. On 2 May 2006, the Commission issued its report on the implementation of the Framework Decision by the Member States<sup>79</sup>.
- On 22 December 2003, the Council adopted a Framework Decision on **combating the sexual exploitation of children and child pornography**<sup>80</sup> on the basis of a proposal from the Commission. The act seeks to harmonise state laws combating the offences concerned. Member States had to implement the Framework Decision by 20 January 2006. The Commission is currently evaluating its implementation.
- The above Framework Decisions refer to the Council Framework Decision of 15 March 2001 on the **standing of victims in criminal proceedings**<sup>81</sup> with a view to providing appropriate protection and assistance for child victims and their families.
- The Directive on the **residence permit issued to third-country nationals who are victims of trafficking**<sup>82</sup> grants such people a period of reflection in which to decide whether they wish to testify against the offenders; if so, they may obtain a residence permit and specific

---

<sup>76</sup> More information on

[http://ec.europa.eu/comm/employment\\_social/news/2005/jun/antidiscrimination\\_fr.html](http://ec.europa.eu/comm/employment_social/news/2005/jun/antidiscrimination_fr.html)

<sup>77</sup> E.g. the Comprehensive Plan to combat illegal immigration and trafficking of human beings in the European Union, adopted February 2002, 6621/1/02 and the Council Resolution on unaccompanied minors who are nationals of third countries, 26 June 1997, 97/C 221/03; the European Parliament Resolution on child trafficking and child soldiers, 3 July 2003, B5-0320/2003; the Brussels Declaration of September 2002 gives a set of recommendations, standards and best practice relating to the fight against trafficking, and recognises the 'special vulnerability and needs of child trafficked victims'.

<sup>78</sup> Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings (OJ L 203, 1.8.2002, p. 1).

<sup>79</sup> Report from the Commission to the Council and the European Parliament based on Article 10 of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings - COM(2006) 187, 2.5.2006.

<sup>80</sup> Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography (OJ L 13, 20.1.2004, p. 44).

<sup>81</sup> Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings (OJ L 82, 22.3.2001, p. 1).

<sup>82</sup> Directive 2004/81 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, of 29 April 2004.

rights for the duration of the criminal proceedings. Member States may also decide to apply this Directive to minors who are or have been victims of offences related to trafficking in human beings, including unaccompanied minors. In that case, specific provisions apply. It must be implemented by 6 August 2006.

- In 2003, the Commission also set up an **Experts Group on Trafficking in Human Beings**, a consultative group of 20 people appointed by Member States as independent experts;
- On 18 October 2005, the Commission adopted the Communication “Fighting trafficking in human beings: an integrated approach and proposals for an action plan”<sup>83</sup>. The Communication took into account the 2004 report and the recommendations of the **Experts Group on Trafficking in Human Beings** (see above). Both the report and the communication pay particular attention to child trafficking.
- Further to this Communication the Council adopted an **EU action plan against trafficking in human beings**<sup>84</sup> on 1 December 2005. On 27 April 2006, the Council adopted conclusions concerning the implementation of the action plan and trafficking in human beings related to major international events, including sports events<sup>85</sup>.
- On 25 January 2005, the Commission presented a White Paper on exchanges of information on convictions and the effect of such convictions in the European Union. The aim of this initiative, the creation of a **European index of convicted persons**, would permit competent authorities to identify immediately the Member States where a person has criminal convictions, and to obtain the relevant information through a secure system. The information would obviously also include offences against children. On 17 March 2005, the White Paper was followed by a Commission proposal for a Council Framework Decision on taking account of convictions in the Member States of the European Union in new criminal proceedings.<sup>86</sup> Finally, in 2006 the Commission issued a Communication on Disqualifications arising from criminal convictions in the European Union<sup>87</sup>.
- The Commission funded a feasibility study on an “**International Child Exploitation Database**”, one of whose recommendations was that a sophisticated networked international child sexual exploitation image database be urgently established, building on the fledgling system at Interpol. The actual setting up of such an international database depends on the will of the EU Member States and other countries involved.
- Since 1996, the EU has been particularly active in the fight against **child sex tourism**. The Commission published two Communications on this issue<sup>88</sup>. In this framework the Commission financially supported several projects<sup>89</sup> aiming to increase awareness of the problem, reduce demand, in conjunction with the tourism industry and relevant NGOs, and address the sources of supply in destination countries.

---

<sup>83</sup> COM(2005) 514.

<sup>84</sup> EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings (OJ C 311, 9.12.2005).

<sup>85</sup> Council Document 8402/06 (Presse 106).

<sup>86</sup> COM(2005) 91, 17.3.2005.

<sup>87</sup> COM(2006) 73, 21.2.2006.

<sup>88</sup> COM(1996) 547, COM(1999) 262.

<sup>89</sup> See list on <http://europa.eu.int/comm/enterprise/services/tourism/policy-areas/child.htm>.

As regards funding:

- The **Daphne II Programme** aims at supporting organisations that develop measures and actions to prevent or to combat all types of violence against children, young people and women and to protect victims and groups at risk. The budget for the DAPHNE II Programme is €50 million for the period 2004-2008. According to a comprehensive evaluation of around 300 projects funded by the DAPHNE programme between 1997 and 2003<sup>90</sup>, 48% were dedicated to children and young people, with Community funding of €15 million. These projects yielded around 350 outputs of all kinds and involved about 750 organisations in the 25 Member States. The main issues tackled were: family violence (34% of the projects), sexual violence (27%), trafficking in human beings (18%), commercial sexual exploitation (11%), violence at school (8%), and abuse of the internet/pornographic images of children (7%). It was also estimated that 12% of the projects had a specific impact on legislation and/or on public authorities, moving DAPHNE beyond direct help to victims and those at risk to a longer-term contribution through input into discussions and policy-making.
- The **AGIS Programme** addresses police and judicial cooperation in criminal matters, with a budget of €65 million for 2003–2007. AGIS is complementary to the Daphne Programme as it supports judicial and police authorities in better cooperating in the area of trafficking in human beings including child trafficking and the sexual exploitation of children, while the DAPHNE programme focuses on helping victims.

For the near future, the following actions will take place :

- In 2006, the Commission will declare a European Anti-Trafficking Day.
- The DAPHNE III Programme should be launched in 2007 and run until 2013, with a budget of around €115 million for the whole period.

## 2. IN ACCEDING, CANDIDATE, POTENTIAL CANDIDATE AND NEIGHBOURING COUNTRIES

Children's rights form part of the human rights that candidate countries must respect as an integral element of the common European principles referred to in Articles 6 and 49 of the EU Treaty and under the UNCRC, which is considered indispensable to the realisation of the objectives of the Treaty on European Union and the Treaty of Amsterdam.

Efforts to change the of child protection situation in the Eastern European countries started immediately after 1989, albeit with varying degrees of speed and success. Over the years, the Commission has played a key role in encouraging reform and in funding the childcare sector in Romania, where the progress achieved has been widely acknowledged, and has supported the reform of childcare in Bulgaria. As regards pre-accession assistance, the Commission has always attached great importance to projects aimed at improving the situation and rights of children in candidate countries, particularly as regards childcare, education and specific assistance to disadvantaged groups. The Commission has, for example, constantly emphasised the need to

---

<sup>90</sup> 'Commission's actions in favour of children and young people', MEMO/05/171, 25 May 2005; "The Daphne experience. Europe against violence against children, young people and women", 2005, available on [http://europa.eu.int/comm/justice\\_home/funding/daphne/funding\\_daphne\\_en.htm](http://europa.eu.int/comm/justice_home/funding/daphne/funding_daphne_en.htm) and detailed description of projects and results on <http://www.daphne-toolkit.org/>.

combat discrimination against Roma children and urged governments to address the problem of their overrepresentation in special schools through appropriate policies and adequate resources. It should be noted that the European Union remains the largest donor as regards the Roma. The Commission has also provided financial assistance to tackle child labour in Turkey and to encourage the involvement of youth in civil society in Bosnia and Herzegovina, Serbia and Kosovo.

As regards social inclusion, the acceding countries Bulgaria and Romania have signed so-called Joint Memoranda on Social Inclusion with the Commission which cover all vulnerable social groups, including children at high risk and children with special needs.

The Action Plans devised by the Commission and neighbouring countries incorporate specific references to children's rights issues pursuant to the Convention on the Rights of the Child; for example, specific actions are planned in Jordan, Morocco, Moldova, Tunisia and Ukraine.

### **3. IN THE WIDER WORLD**

The EU's joint development policy statement, the European Consensus on Development, covers children's needs and rights by reference to the main international frameworks on the *Millennium Development Goals* and human rights. The guidelines for implementing this policy include human and social development, referring to children, and specifically the worst forms of child labour, child trafficking and children in armed conflicts, as priority policy areas. Policies on regional strategies will also pay due attention to children's rights and needs<sup>91</sup>. Social sector policies also target children as a priority area<sup>92</sup>.

The European Community meets the challenge of promoting children rights globally through political dialogue and through development cooperation and humanitarian aid.

#### **3.1. Political dialogue**

- At global level, the Commission is contributing to the preparation of an EU resolution on the rights of the child in the UN Commission on Human Rights and the UN General Assembly Third Committee.
- In its relations with other countries, the Commission addresses issues of concern on children's rights and undertakes demarches, for instance with countries where parties to armed conflict are recruiting/using children in armed conflict<sup>93</sup>. Guidance Notes for EC Delegations on Children's Rights<sup>94</sup> aim at increasing awareness and capacity in this field.

---

<sup>91</sup> The EU Strategy for Africa also stresses the priority children deserve and specifies the priority areas with regard to their rights: child labour, education, health and basic services and special attention for orphaned, disabled children and those affected by conflicts.

<sup>92</sup> The policy framework for social and human development clearly addresses children: the Communication "Education and training in the context of poverty reduction in developing countries" (March 2002) and the subsequent Council Resolution on "Education and poverty" (May 2002), the EC Communication on "Health and Poverty" (May 2002), the EC Communication on poverty diseases, and the new Programme for Action (April 2005) all have a focus on children, including an endorsement of the Framework for the protection of orphans and vulnerable children.

<sup>93</sup> EU Guidelines on Children and Armed Conflict, General Affairs and External Relations Council, December 2003. The Guidelines aim at using the tools at the EU's disposal to address the short, medium

### 3.2. Trade negotiations

- The EC has been working closely with the International Labour Organisation (ILO) on examining the link between international trade / trade agreements and decent work / core labour standards, including the abolition of child labour<sup>95</sup> to help manage social adjustment to further trade liberalisation, and on analysing legal and practical aspects of child labour labelling schemes<sup>96</sup>.

### 3.3. Development assistance

- Country strategies for developing countries: in addition to the policy on mainstreaming children rights, children greatly benefit from funding for governance/institutional development, democracy/human rights, education<sup>97</sup>, health<sup>98</sup> (with special attention to poverty-related diseases<sup>99</sup> and immunisation<sup>100</sup>) and food security/rural development. EC

---

and long term impact of armed conflict on children: monitoring and reporting by EU Heads of Mission, EU Military Commanders and Special Representatives, demarches, political dialogue, multilateral cooperation and crisis management operations. Priority countries: Burundi, Colombia, Côte d'Ivoire, DRC, Liberia, Rwanda, Sierra Leone, Sri Lanka, Sudan and Uganda.

[http://ec.europa.eu/comm/external\\_relations/human\\_rights/child/caafguidelines.pdf](http://ec.europa.eu/comm/external_relations/human_rights/child/caafguidelines.pdf)

<sup>94</sup> The Guidance Notes seek to provide a concise overview of relevant international instruments and mechanisms and EU policy provisions, in order to facilitate Delegation dialogue and cooperation with third countries on the issue.

<sup>95</sup> For example, an EC-ILO pilot project has been developing methodologies for examining the link between trade and decent work indicators, including child labour, in developing countries. This programme can be used in future aid programmes to developing countries.

<sup>96</sup> In response to a request by the European Parliament ("Exploitation and child labour in developing countries", Mavrommatis Report, July 2005, A6-0185/2005), the Commission is currently investigating child labour labelling schemes, including the legal and practical aspects, and the feasibility of such schemes with respect to WTO trade rules.

<sup>97</sup> The EC education policy in development cooperation is outlined in the European Commission's Communication "Education and training in the context of poverty reduction in developing countries" (March 2002) and the subsequent Council Resolution on "Education and poverty" (May 2002) and European Parliament Resolution on education (May 2003). It relates to the Millennium Development Goals (MDGs) and the Education for All (EFA) goals and focuses on basic education and gender equality. Country ownership, i.e. basing cooperation on the country's own plans and priorities in education, is a leading principle in the EC approach. Overall, the EC is allocating an average of €260 million a year. The vast majority of these funds target basic education for children.

<sup>98</sup> In March 2002 the Commission adopted a Communication on "[Health and Poverty](#)" which establishes an EC policy framework to guide investment in health, AIDS and population for attainment of the health MDGs. One of its four strands relates to the protection of the most vulnerable – including children – from poverty, through support for equitable and fair health financing mechanisms. The [Council Resolution on 'Health and Poverty'](#) was subsequently adopted on 30 May 2002 and refers to increasing the volume and improving the delivery of aid. The average annual EC support to health in over 100 developing countries over the last eight years (reference period 1994-2001) was €600 million. Most of this support to the health sector has gradually taken the form of a sector-wide approach in which child health is a priority.

<sup>99</sup> With regard to children and poverty-related diseases (HIV/AIDS, malaria and tuberculosis), one in ten child deaths in the world and one in five in Africa are due to malaria. HIV/AIDS is already the major cause of orphanhood in developing countries, followed by tuberculosis. The EC is tackling these three diseases by allocating an average of €260 million a year (2003-2006) and has contributed to major price reductions in ARVs. The Commission adopted a Communication entitled "A Coherent European Policy Framework for External Action to Confront HIV/AIDS, Malaria and Tuberculosis." (October 2004) and a Programme for Action (April 2005, endorsed by the EU Member States in May 2005), and proposes collective EU action to scale up interventions in developing countries during the period 2007-2011.

<sup>100</sup> Children and immunisation: channelled through general budget support and sector-wide approaches linked to monitoring indicators on immunisation coverage, regional programmes (ARIVA, €15m) and specific

development assistance is also linked to political dialogue on pro-poor policies, including children's rights. An important entry point is budget support for poverty reduction: the indicators that may trigger national policy decisions and budget allocations are mainly related to the coverage of basic health and education services for children<sup>101</sup>.

- Regional initiatives and strategic partnerships: some priority areas such as child labour and child trafficking merit a regional approach. The European Community works with the ILO<sup>102</sup> to prevent child labour in ACP countries<sup>103</sup>. The European Community also fights child trafficking in West Africa<sup>104</sup>. A similar initiative is being programmed in Southern Africa.
- Thematic budget lines addressing children's rights and needs: Many of the 15 thematic budget lines for EC development cooperation target children's rights and needs: the European Initiative for Democracy and Human Rights (EIDHR) provides specific funding for children's rights projects, while others, such as the budget lines for food security and reproductive health and poverty-related diseases, also target children's basic needs; the NGO co-financing budget line also addresses children's needs while strengthening community networking.

### 3.4. Humanitarian assistance

The Directorate-General for Humanitarian Aid, ECHO, pays particular attention to the specific needs of children and thereby contributes to securing their rights. A document on children in emergencies is being drafted.

Children are disproportionately affected by emergency situations, be they natural disasters or complex emergencies. Today 90% of the victims of armed conflicts are civilians (5% a century ago), half of them children. In such environments, children are very vulnerable to all kind of abuses: violence, exploitation, trafficking, recruitment by armed groups, etc. The demobilisation and reintegration of children associated with armed groups is also a major concern in a conflict

---

country programmes (e.g. the PRIME programme in Nigeria, €38m), in key areas such as support for the Global Polio Eradication initiative (over €100m allocated in 2002-06) or immunisation services in the context of complex emergencies (e.g. emergency programmes in Sudan and Somalia). The Commission is also supporting the Global Alliance for Vaccines and Immunisation (allocating €34 m in 2003-6) as a key partner in helping developing countries to improve immunisation services and coverage.

<sup>101</sup> The European Community has allocated an average of €500m a year (almost a third of resources) for general budget support in the 9th EDF. This is linked to policy dialogue and specific incentives linked to the release of variable tranches, to increased allocation to social sectors and improved health and education outcomes. The indicators used to trigger the release of the variable tranches relate to basic children rights to education (e.g. enrolment and completion of primary education) and health (e.g. immunisation coverage), paying attention to gender (sex-disaggregated data).

<sup>102</sup> The ILO's 1998 Declaration on basic labour rights identified the abolition of child labour as a fundamental principle (ILO Conventions 138 and 182). The EC-ILO Turin Conference in May 2005 examined options for strengthening the EC-ILO partnership for example in assessing the social and labour impacts of trade policy, and promoting core labour standards through capacity building and enforcement in developing countries.

<sup>103</sup> The 9th EDF Intra-ACP programme works with the ILO's International Programme for the Elimination of Child Labour (IPEC), comprising capacity building, targeted interventions and a legal framework to enable children to be freed from child labour to receive primary education. The budget is €15 million.

<sup>104</sup> This programme led to the declaration of Libreville, signed on 7 February 2003 by ministers from seven French-speaking countries in west and central Africa (Benin, Burkina Faso, Cameroon, Côte d'Ivoire, Gabon, Mali and Togo), and commits participants to capacity building and harmonisation of legislation against trafficking of children., supported by the Initiative on Democracy and Human Rights and in collaboration with the ILO and NGOs.

situation. ECHO tries to prevent the recruitment of children and exploitation in general in its operations. Family separation is another major risk in humanitarian crises which requires specific action. All this can lead to profound psycho-social distress, a dimension which is reflected in humanitarian work.

ECHO is also supporting UNICEF through capacity building programmes to improve the agency's rapid response capacity in order to better assist affected women and children and to strengthen its capacity for child protection in emergencies.

### **3.5. Future instruments in the Community's external policies**

In the Financial Perspectives 2007–2013, under the heading 'The EU as a Global Player', the Community is scheduled to replace the existing range of geographical and thematic instruments with six instruments: three horizontal to respond to particular needs (humanitarian aid, stability, macro-financial assistance) and three to implement particular policies and cover particular geographical areas (pre-accession assistance (IPA), the European neighbourhood and partnership instrument (ENPI) and the development cooperation and economic cooperation instrument (DCECI)).

Seven thematic programmes will draw from the different external instruments and complement them. They cover democracy and human rights, human and social development, environment and sustainable management of natural resources including energy, non-state actors in development, food security, cooperation with industrialised countries and immigration and asylum. Children's rights and needs are relevant in all these areas.

A special partnership with over 70 African, Caribbean and Pacific (ACP) countries, the Cotonou Agreement (2000-2020) introduced ambitious objectives for a number of areas of EU-ACP cooperation, focusing on the fight against poverty. In 2005, the agreement was revised and provision made for more systematic and formal dialogue on human rights, democratic principles and the rule of law, all relevant to children's rights and needs. It also includes a reference to the MDGs, most of them focused on children's rights and needs. The 10th EDF will support ACP countries with a budget of €22.8 billion for 2008-2013 through country, regional and inter-regional strategies.