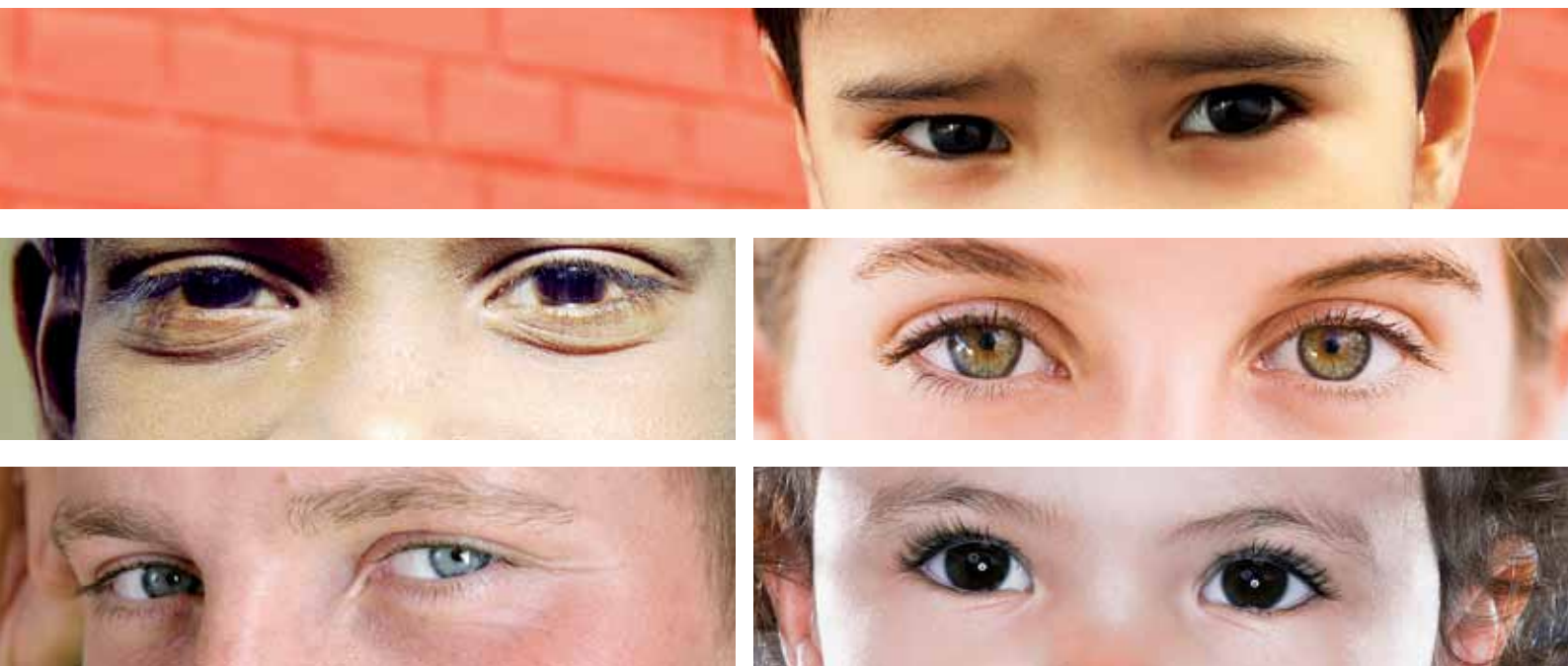


# Governance fit for Children

To what extent have the general measures of implementation of the UNCRC been realised in five European countries



Executive summary of a Comparative Study

WE ARE the world's leading independent organisation for children.

OUR VISION is a world in which every child attains the right to survival, protection, development and participation.

OUR MISSION is to inspire breakthroughs in the way the world treats children, and to achieve immediate and lasting change in their lives.

The report was written by an independent consultant, Sandy Ruxton, and was completed in March 2011.

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# Foreword

## [FROM THE UN COMMITTEE ON THE RIGHTS OF THE CHILD]

The Convention on the Rights of the Child (the CRC) has the ambition to face two challenges:

- ❖ to confirm the status of the child, who has to be considered as a person, not as an object of adults' benevolence, entitled with dignity and rights – from a historical point of view, a “new” child was born in 1989;
- ❖ to offer universal coverage of all rights to which the child is entitled, irrespective of the place, where the child is living.

This new status of the child, subject of rights, is well illustrated by two principles of the CRC: The primary consideration to be given to the best interests of the child (CRC, art. 3), which places the child at the centre of all decisions affecting him/her, and the child's right to be heard (CRC, art. 12), which considers the child as competent enough for influencing such decisions. These two articles complement each other and present a concept of the active and participating child, which now has to be made a reality.

But how to translate this new status of the child and all the provisions of the CRC, including social, economic and cultural rights (food, shelter, education, health...) and rights to protection (against violence, exploitation, neglect...) into the different realities of countries, regions, communities, ethnicities, cultures and juridical systems?

The legislators of the CRC have not proposed a universal mechanism, but have drafted the article 4 stating that “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention”, which leaves it to the State Parties find out which measures are helpful to achieve the shared objectives of the CRC. Additional articles give directions; Article 42 (make the CRC widely known), Article 44(6) (make reports widely available), Article 2 (respect the rights of all children) and Article 3(2) (ensure protection and care).

On this basis, the Committee has generated the concept of “General Measures of Implementation” that are to serve as general prerequisites for the implementation of children's rights in details. In the General Comment No. 5 on “General measures of implementation” (CRC/ GC/2003/5) the Committee has explained what all State Parties should consider to do: examine and amend laws, allocate resources, coordinate measures, raise the awareness, carefully monitor the implementation process and arrange for an independent assessment of progress made. These measures are the toolbox for promising efforts to make the substantive rights a reality for children.

The instruments of this toolbox look so far away from what children need and desire. The Committee knows that children are not living in Ministries or in Services, but in villages and cities, in large families or with one parent alone, in an apartment house or in the streets. Still, the very concrete actions, appropriate to context and cultural background, require a framework of general measures in order to secure their effectivity and sustainability.

The studies presented in this report series has investigated, in which ways five member states of the EU and EU institutions have used such general measures of implementation. The results will be seriously considered by the committee in order to make its recommendations to State Parties the most applicable and useful for the benefit of children and their universal rights.

### **Jean Zermatten**

Vice-Chair of the Committee on the Rights of the Child

### **Lothar Krappmann**

Member of the Committee on the Rights of the Child

## Key findings

The main findings of the study are that:

- Ratification of the CRC and its Optional Protocols has had a generally positive impact on the development of law and policy in the countries studied.
- A wide range of obstacles may impede progress, including: the lack of a child rights culture; continuing focus on the family as a whole rather than on children; and attention to the situation of some groups of children rather than all children.
- There is a general lack of adequate financial and human resources allocated for the implementation of all the GMIs in the countries studied.
- There is widespread recognition of the value of the CRC as a set of guiding principles and standards, and a common willingness to do more to ensure effective implementation through National Strategies and Action Plans. But in most of the countries studied, implementation plans may be very vague or limited; may lack verifiable objectives and fixed time-frames; are poorly resourced; and may be subject to weak coordination.
- Children have been – and continue to be - adversely affected by the economic crisis, and this is also affecting the implementation of children’s rights. In *Lithuania*, for example, the economic position of families has deteriorated, whilst the workload of service providers has increased. In *Romania* the Government adopted a positive National Strategy in 2008, but lack of resources and frequent institutional restructuring has given rise to real concerns about the chances of the Strategy being implemented.
- There is a lack of co-ordination mechanisms, both at state, regional and local level. In most of the countries studied there is no ‘vertical’ coordination mechanism, but there are some examples of ‘horizontal’. In *Sweden*, for example, the CRC Co-ordination Office has established a CRC Network bringing together Government Offices. There is also a ‘Child Rights Network’ set up by the Swedish Association of Local Authorities and Regions to spread effective methods for promoting children’s rights in the work of regional authorities.
- Although there has been significant progress in many states in monitoring implementation, various weaknesses remain to be addressed, for example the frequency of monitoring. Often, states believe they fulfil their obligation to undertake CRC monitoring by submitting periodic reports to the UN Committee, which is not enough.
- Few, if any governments, appear to have developed a set of specific national child rights indicators. The Scottish Government is currently drafting a set of indicators on children’s well-being, and it is hoped that with NGO input the outcome of this project will be a set of child rights indicators for *Scotland*.
- There are examples of Government initiatives to engage with children directly, but much remains to be done. Children themselves generally do not feel that they have been listened to, because their views have not been taken into account in the subsequent decision made and/or because the feedback is lacking.
- Of the countries studied, three have established independent National Human Rights Institutions (NHRI)<sup>1</sup> for Children. *Romania* and *Italy* have not done so, in spite of repeated recommendations by the UN Committee on the Rights of the Child. In *Italy*, however, there has been an increase over the past five years in the number of regions that have adopted laws to establish regional Children’s Ombudsmen.
- Although several states have made welcomed efforts, the level of awareness of the CRC is low among children in general. Not all professional groups that work with children receive adequate training in children’s rights.

<sup>1</sup> Although in England the role of the Children’s Commissioner is not to protect and promote children’s rights, see page 14–15.

# Introduction

## **Implementing the UN Convention on the Rights of the Child**

The 1989 UN Convention on the Rights of the Child (CRC) and its Optional Protocols (on the involvement of children in armed conflict [2000], and on the sale of children, child prostitution and child pornography [2000]) enshrine a clear set of principles and standards to realise a positive vision for child rights, where children are seen not only as passive recipients of protection, but also as active contributors to society. Encompassing civil, political, economic, social and cultural rights, the CRC provides a comprehensive framework against which to evaluate existing and proposed legislation, policy, and institutional structures.

The CRC has been ratified by almost all states. This reflects that there is a universal commitment to respect, protect and fulfil the rights of the child. However the act of ratification alone does not automatically ensure that the rights of the child are implemented. The CRC should be seen as a dynamic tool for the development of a comprehensive and coherent approach to implementing children's rights by all the key stakeholders – including central and local government, NGOs and other groups and individuals working with children, as well as children themselves. What is needed is the political will to translate the principles and standards of the Convention into practical action at community, national, regional and international levels.

To assist states in fulfilling their obligations, the UN Committee on the Rights of the Child (referred to below as the UN Committee), the monitoring body for the CRC, has elaborated General Comments that should help states in the interpretation and implementation of the provisions and principles of the CRC. This report focuses on the General Comment No.5 'general measures of implementation'<sup>2</sup> (GMI).

## **What are the general measures of implementation and why are they important?**

The general measures of implementation (GMI) are the key cross-cutting measures required to implement all the rights in the CRC and are based on article 4, 42 and 44 para 6 of the CRC. The GMI are intended to promote the full enjoyment of all rights in the Convention by all children, through legislation; the establishment of coordinating and monitoring bodies; comprehensive data collection; awareness-raising, training and the development and implementation of appropriate policies, services and programmes. According to General Comment No.5, the emergence of initiatives and mechanisms such as these '*indicates a change in the perception of the child's place in society, a willingness to give higher political priority to children and an increasing sensitivity to the impact of governance on children and their human rights*'. These initiatives and mechanisms are addressed in more detail below.

## **About this report**

This report brings together evidence from national studies carried out in *Italy, Lithuania, Romania, Sweden* and the *UK* by Save the Children organisations. A separate report has been written on the EU institutional context. By identifying trends and patterns between and within states, the report helps to shed light on the various ways in which the CRC is being understood and implemented at all levels. Highlighting good examples of progress from other countries will also contribute to the sharing of experiences between

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2 General Comment No. 5 (2003), UNCR/C/GC/2003/5, 27 November 2003.

countries, both EU and non EU Member States, and can be used as models for the work of EU institutions on the rights of the child.

The five national studies which this report is based on were conducted between March and October 2010 using a common methodology. The main components were: desk studies of documents and statistics, and web searches; semi-structured interviews with key stakeholders (e.g. civil servants, independent human rights monitors, 'technical' experts, NGOs) at national and local levels; visits to four municipal/local authorities in each country; interviews/focus groups with children and young people; and analysis of the information collected in the research, identifying examples of good progress and formulating conclusions and recommendations.

### **Intention of use**

We would like you, not only to use this document as a source of information, but rather as a base for discussions, for example, between NGOs and national and local Governments. How far have you come? What is left to do? What will be your next priority area to make progress on? How will it be done? Who will do it? What resources will you need? When the progress is achieved how will you sustain it?

### **Different attitudes and policy responses to children's rights**

There are considerable similarities, but also considerable differences, between European countries, and any transnational comparisons have to be set in appropriate context. All the countries in this study are EU Members and have ratified both the UN Convention on the Rights of the Child and its Optional Protocols. However attitudes to children's rights differ greatly both between and within states, affecting the ability of governments and other stakeholders to implement child rights policies and practices. Whereas in *Sweden*, for example, support for children's rights has traditionally been strong, in *Lithuania* many people believe that emphasizing children's rights restricts the ability of adults to educate, raise, and discipline children as they see fit. In relation to the *UK*, the UN Committee has raised concern about the general climate of intolerance and negative public attitudes towards children, especially adolescents, which it has suggested may be often the underlying cause of further infringements of their rights. In *Italy*, issues in relation to children are often considered primarily within the framework of family policy, and focus on the child as an independent subject is therefore lacking. In *Romania* children are understood not from the broad perspective of their rights, but from the child protection need, therefore child rights are mainly interpreted in terms of social work.

Although the emphasis of policy responses also varies considerably, many common obstacles remain to the development of effective child rights approaches. *Sweden's* approach reflects that in other Nordic countries, with a strong focus on gender equality, female labour market integration, and particular attention paid to children's rights. In the liberal/neo-liberal *UK*, there is a long-standing emphasis on individual responsibility, means-tested support, and market-orientated intervention, but more recently there has been a strong focus on tackling child poverty. *Italy* shares similarities with other Mediterranean countries in its emphasis on family rather than child rights policy and a significant degree of responsibility devolved to regional and/or local level. Whilst the post-socialist countries, including *Romania* and *Lithuania*, have followed a variety of paths, they have all tended to move towards greater emphasis on family responsibility and child welfare (rather than child rights), coupled with weak state intervention and funding. In *Romania*, for instance, the accession to the EU was a major driver of change, as child protection was a key issue on the negotiation agenda. As a result child protection systems were reformed, but insufficient funding and bureaucracy still hinders proper implementation of these systems.

# Good progress examples and obstacles to overcome

## National Law and the UN Convention on the Rights of the Child

The CRC has been ‘incorporated’ in national law in *Romania*, *Lithuania* and *Italy*. In other words, the provisions of the Convention can be directly invoked before the courts and applied by national authorities, and the Convention prevails where there is a conflict with domestic legislation or common practice. By contrast, in *Sweden* and the *UK*, treaties do not form part of national law unless they have been incorporated by an Act of Parliament – and this has not happened in either country. There is some support in *Sweden* for incorporation (e.g. from the Children’s Ombudsman, and from some political parties), however change is not envisaged in the near future.

There has been little progress on incorporation of the CRC at the UK level, however great progress has been made by the Welsh Assembly Government (WAG). In July 2009, the then Welsh First Minister made a statement on the intention to embed the CRC in legislation and make it a legal requirement for the CRC and its Optional Protocols to be taken into account as part of Ministerial decision-making and policy development.

Subsequently the legislative proposal, the Children and Young Persons (Wales) Measure, completed its passage through the National Assembly for Wales on January 18th 2011 with cross-party unanimous support. The legislation will come in two stages: first, from May 1st 2012, applying to the making of new laws or policies and review of existing policies and then from May 1st 2014 will apply to all of the Welsh Minister’s functions.

The national studies suggest that ratification has had a generally positive impact on the development of law and policy. In *Romania*, incorporation of the CRC in national law has prompted significant legal reform, but difficulties in implementing legislation, and various gaps, remain (e.g. a focus only on ‘vulnerable children’ rather than on all children; failure to address the core principles of the CRC; lack of resources). Although *Lithuania* has been quite successful in harmonising national law with the CRC, a comprehensive review of legislation and policy has not been carried out. There is often a gap between having the appropriate legislation in place and failure to implement the legislation in practice. In *Italy*, a considerable body of progressive legislation on children’s rights was developed during the first decade following CRC ratification. However other important reforms have still not been completed.

## Following this Save the Children recommend:

- Where they have not done so, national governments should incorporate the CRC into national law at the earliest opportunity. Devolved<sup>3</sup>, regional and local administrations and public authorities should also ensure effective CRC incorporation within their respective legislative frameworks.
- All governments should undertake regular reviews of legislation to ensure full compatibility with the CRC, and to identify and close any existing gaps in the legislative framework.
- Public authorities should pay particular attention to ensuring that the general principles of the Convention (i.e. non-discrimination [Article 2], the best interests of the child [Article 3], survival and development [Article 6], and child participation [Article 12]) are adequately reflected in legislation, policy and practice at all levels.

3 Devolution is the statutory granting of powers from the central government of a sovereign state to government at a subnational level, such as a regional, local, or state level. Devolution can be mainly financial, e.g. giving areas a budget which was formerly administered by central government. However, the power to make legislation relevant to the area may also be granted.

## Development of National Strategies and National Action Plans

There is a wide range of approaches adopted at national level to the development and contents of National Strategies and Action Plans for Children. In the *UK*, each of the four governments has published some form of CRC 'Action Plan'.<sup>4</sup>

*In Scotland*, the Government consulted extensively - with NGOs, children and young people - on the development of its 5-year Action Plan, which also highlights priorities areas for action. It is the only Action Plan in the UK that seeks to respond to all the recommendations of the 2008 Concluding Observations. Whilst the Action Plan can be improved, it represents significant progress.

In *Sweden*, a Children's Strategy was endorsed by Parliament in 1999, and has been revised several times since. It has led to the introduction of mechanisms such as child impact analyses and child-rights checklists, but overall impact has been limited, according to NGOs. In 2010 the current Government proposed a new strategy to strengthen children's rights, but it lacks fixed time-frames, measurable targets and indicators. Although it is not rooted in the CRC, *Lithuania* has a Strategy for State Policy on Child Welfare and an accompanying plan for its implementation (2005-2012). However it is not updated sufficiently frequently and there is a lack of cooperation and collaboration among the Ministries. There is also too little discussion about the Strategy, and too little information on its implementation provided for NGOs, those working with children, and wider society. In *Italy*, since 1997 there has been a legal requirement to develop a National Action Plan every two years, but only three Plans have been adopted since then (the last in 2003). Currently a new Strategy is in preparation, but even if it is approved, there are various potential obstacles to the implementation of the Plan (e.g. lack of resources). *Romania* has a National Strategy largely complying with the requirements of the General Comment no 5 and an accompanying National Action Plan (2008-2013), but resources for their implementation have not been allocated.

At local level, the evidence from the national studies suggests that very few public authorities have specific Action Plans for Children's Rights in place. In some authorities, there was widespread lack of awareness of the existence of any National Action Plan (where there was one). Many authorities appeared to lack the resources for effective implementation, and responsibilities were often poorly coordinated between local institutions. Child participation in the formation of local plans was also generally weak, or non-existent.

### Following this Save the Children recommend:

- All governments should ensure that National Strategies for Children's Rights, covering all the rights of the CRC, are in place, accompanied by concrete Action Plans for implementation. The Action Plans should include measurable objectives, designated institutional roles, specific timetables, allocated resources, and identified monitoring and evaluation mechanisms.
- Regional and local authorities should develop Strategies and Action Plans for children's rights, in line with National Action Plans that exist and the specific local circumstances faced by children. Sufficient financial and human resources need to be allocated.
- Children as well as child rights NGOs should be involved in drawing up the national, regional and local Strategies and Action Plans. The Strategies and Action Plans should be reviewed on a regular basis to ensure that they cover all areas relating to children and all aspects of the CRC and set out how the state will fully address the Concluding Observations of the UN Committee.

<sup>4</sup> The English Action Plan was published by the then Labour Government and at present it is unclear whether the Coalition Government will endorse it or develop its own Action Plan.



## Co-ordination of implementation

Co-ordination may include ‘horizontal’ measures across departments, agencies and civil society at a particular level, or ‘vertical’ measures to ensure effective links between different tiers - or a combination of both. It appears that there is no one form of co-ordination that is applicable to all countries, and national and local conditions must be taken into account in each case.

A wide range of mechanisms exist. In *Sweden*, *Lithuania*, and the *UK*, responsibility for coordinating implementation of the CRC is given to a particular Ministry, although other Ministries are also involved, but the mandate and powers vary. In the *UK*, for instance, co-ordination across the four jurisdictions remains weak. Usually there is also a lead Minister located in the same Ministry, sometimes, but not always, at Cabinet level. Often, there will be some form of CRC Co-ordination Unit (as in *Sweden*) or Children’s Rights Team (as in the *UK* and its devolved nations) to undertake the day-to-day work, however they frequently lack sufficient authority and resources to drive a children’s rights agenda across government.

*In Romania* there is considerable uncertainty as to which body is responsible for leading on co-ordination, following significant restructuring. At the end of June 2010 the Romanian Government dissolved the National Authority for Family and Child Rights Protection, whose existence was a prerequisite for the country’s accession to the EU. The lack of central co-ordination of child rights protection brings Romania back to the critical position in the past.

In order to facilitate more regular collaboration between civil servants, other structures than the above mentioned may operate. For example, in *Sweden* there is a ‘CRC Network’ consisting of representatives of various Ministries, and in *Lithuania* an ‘Interdepartmental Child Welfare Council’ brings together representatives of different Ministries, other national bodies and NGOs. In *Northern Ireland*, ‘children’s champions’ have been established to take forward action in different Ministries (and a similar arrangement is proposed in *Scotland*). Again, however, it appears there is often lack of clarity over the mandate and resources of such networks.

*Italy* has a rather different model, having set up the National Observatory for Childhood and Adolescence to ensure greater coordination between a wider range of stakeholders, including not only central but also local government, trade unions, and child welfare NGOs. But here again, the powers and impact of this body are relatively weak. It must also be noted that the overlapping of several Ministries in planning, implementation and monitoring activities aimed at the promotion and protection of children’s rights, have given rise to problems, delays and considerable bureaucracy as regards the adoption and implementation of policies in favor of children and adolescents. Nevertheless, there is at least a structure in place.

### Following this Save the Children recommend:

- Structures should be established at the heart of government, to ensure effective co-ordination of CRC implementation at national, regional and local level. Both horizontal and vertical coordination measures, that include all levels of the governing structures in the country, should be established. Whatever mechanism is used, it must have adequate authority and sufficient financial and human resources.
- Given the wide range of models that exist for coordinating CRC implementation, further research should be conducted to explore the effectiveness of different mechanisms in different national, regional and local contexts.

## Monitoring implementation

Although there has been significant progress in many states in monitoring implementation, various weaknesses remain to be addressed. Often, states believe they fulfil their obligation to undertake CRC monitoring by submitting periodic reports to the UN Committee; this appears to be the approach in *Italy* and *Romania*, for instance, where there is little or no data gathering on the impact of law and policy at any level. There are also issues about who undertakes monitoring; in *Lithuania*, primary responsibility lies with the Ombudsman (the NHRI for Children) and in *Sweden* the intention is to increase the role of the Ombudsman in monitoring, however there is a risk here that the state may downplay or avoid its obligations. In many countries, there can be a tendency to monitor only some of the rights in the CRC, rather than all of them, as the Convention demands. In part this may be a question of lack of resources; which may hamper efforts to establish the permanent and ongoing structures needed to assess progress.

‘Child impact assessments’ can be undertaken in different ways and there is as yet no consensus on the most effective way to carry them out. There is also some confusion at all decision making levels about what child impact analysis actually entails. Mechanisms to ensure that child rights impact assessments are carried out are lacking, although there are some positive steps towards putting them in place.

*Scotland’s Commissioner for Children and Young People, for example, has produced a comprehensive Children’s Rights Impact Assessment model which has been used by some government officials. The Scottish Government is considering a trial of children’s rights impact assessment to demonstrate how such a tool could help promote and develop consideration of children’s rights in the policy making process.*

### Following this Save the Children recommend:

- Governments should ensure that a unified and coherent system and supporting structure is in place to monitor the implementation of children’s rights, covering national, regional and local levels. Monitoring must include all of the CRC and be performed regularly, consistently and systematically. Adequate resources must be allocated.
- User-friendly child impact assessment tools must be developed for all levels of government and parliament to ensure that child rights impact assessments are carried out on existing and proposed legislation and policy affecting children, either directly or indirectly.
- Structures should be established and appropriate methodologies developed at national, regional and local levels to involve children effectively in monitoring CRC implementation.

## Data-collection and indicators

The development of effective legislation and policy in relation to child rights depends on a detailed understanding of children’s circumstances at all levels. This requires a regular flow of statistical information, in-depth research, and consistent monitoring and evaluation between the research community and those implementing policy and providing services.

The UN Committee has praised attempts to increase the amount of data available at national level.

For example, it has commended Lithuania's efforts to improve the collection of data on children and the development of a list of child indicators. In relation to Italy, the UN Committee has welcomed the establishment of the National Documentation and Analysis Centre for Childhood and Adolescence, although it has also registered concern at the lack of coherence between the various bodies in charge of data collection, and in the regions.

In *Sweden*, the government has instructed the Children's Ombudsman to develop a monitoring and review system to ensure more systematic follow-up of children's life conditions.

However, despite some positive developments, a number of weaknesses remain in data collection systems. There may be gaps; in *Lithuania* there is an absence of data on ethnic minorities, and victims of human trafficking, in *Sweden* on disabled children, and on children who have been subjected to sexual abuse. Data collection may also be adult focused and may therefore not reveal the specific situation of children, as in *Italy*. A related topic is the importance of disaggregating data to identify any discrimination and/or disparity in the realisation of rights between different groups of children (according to age, gender, disability, race, ethnicity etc.), alongside information about the circumstances of children as a whole. In for instance *Romania* and *Sweden* there tends to be a lack of disaggregated data at local level.

Generally, children are not systematically involved in the gathering of information and data about issues that concern them. The previous *UK* Government did though commission research with children, even if it did not always systematically do it as a way of monitoring CRC implementation.

#### **Following this Save the Children recommend:**

- Working with key stakeholders (e.g. statistical offices, research bodies, NGOs, children), all governments should develop a clear set of child rights indicators including all rights set out in the CRC. Consideration should be given to what has been done at European and international level. Data should be collected to assess the situation of children across the country, both at national, regional and at local level, to make monitoring of CRC implementation possible. Analysis of the collected data and the monitoring should be used when developing new legislation, policy and practice at all levels.
- Government departments (at national, regional and local level) and statistical offices should ensure that data on children is disaggregated appropriately to reveal the circumstances and perspectives of particular groups of vulnerable children, as well as for all children, in order to inform effective monitoring of CRC implementation.
- Data collection should also include the views of children as far as possible and efforts should be strengthened at national, regional and local levels to share good practice regarding child participation in data collection.
- All governments should publish an annual assessment of the state of children's rights in the country (including both quantitative and qualitative information). The data in the annual assessment should be disaggregated to local level. Governments should ensure that such a report is debated in Parliament and in regional and local assemblies, and disseminated widely.
- The allocation of resources to the development of child rights data collection and indicators requires strengthening at all levels.
- There is a need to improve coordination and collaboration between all agencies involved in data collection.
- Staff training initiatives must be developed to ensure a common methodological approach to the collection of data and information about children.

## **Making children visible in budgets**

Producing a children's budget provides a mechanism for governments to examine resource allocation with a view to ascertaining how well children's rights are being implemented. Children's participatory budgeting (i.e. involving children in the budgeting decision-making process) also increases government transparency and accountability.

Some states claim it is not possible to analyse national budgets to reveal the position of children. In the *Lithuanian* national study, for instance, civil servants stated that it was very difficult to separate out indirect and direct funding for children (although NGOs tended to disagree). Other states have, however, been able to undertake budgetary analysis of this kind.

In *Wales*, the Welsh Assembly Government (WAG) commissioned an analysis of financial provision for children within its budget for 2004-05 and has repeated this exercise since. Though the analysis was described by NGOs as "fairly rudimentary" they also acknowledged that this was the first time the Assembly Government - or indeed any government in the UK - had attempted to identify spending on children. WAG has recognised that it still has "*very much further to go to provide as accurate a picture as possible*" and has committed to "*improving the transparency of budgeting of children and young people at a national level*". WAG is also planning to carry out two projects to strengthen children's engagement in budgetary decision-making.

Very few states publish specific figures for the funding available to children through the national budget – and even when such information is available, government commitment to setting out an accompanying analysis or commentary is often extremely weak. The Swedish budget, for instance, does not contain a separate children's budget detailing what resources are being allocated each year to children and their needs. It does, however, contain a section called 'Child Rights Policy', which shows what resources are available to the CRC Co-ordination Office.

At local level, experience in tracking spending on children is also limited, although some examples exist in some of the countries studied. Generally speaking, there was a sense among respondents in the national studies that it would be useful to attempt to draw up children's budgets, but that it would be difficult, but not impossible to do in practice. In *Italy*, for instance, there is a widespread appreciation at local level of the need to formulate so called social budgets. These tend to place more emphasis than ordinary budgets on separate data relating to expenditure on children. Also in *Romania* most respondents in the study thought 'Children's Budgets' would support planning and interventions to respond to the needs of each child.

At the present time resources to undertake such work are scarce, and cuts to national budgets as a result of the economic crisis are having a significant impact on local budgets. However, due to the current climate it is more important than ever to highlight how much resources are allocated directly to children.

### **Following this Save the Children recommend:**

- All governments should strive to assess spending on children with an accompanying analysis at national, regional and local government levels with a view to ascertaining how effectively children's rights are being implemented. This is important for a proper monitoring of CRC implementation, quality decision making and to ensure non-discrimination.
- Opportunities should be developed for governments and other stakeholders to exchange experience around child budgeting, both within and between states. Tools for budgetary analysis (e.g. the guides

developed by Save the Children UK<sup>5</sup> and by the Swedish Children's Ombudsman) provide the basis for practical models for making children more visible in budgets, and should be used by states.

- Governments should explore ways to develop mechanisms to allow for participatory budgeting, so that the voices and perspectives of all key stakeholders (including children) can be heard, in particular at local level.

## **Co-operation with civil society**

The potential roles of NGOs in promoting and protecting children's rights are numerous, and include: information gathering; carrying out research; lobbying government and key decision-makers; organizing public information campaigns; providing services; being a referral body in the preparation of State Party reports and preparing alternative reports to the UN Committee. Having said this, the nature of the NGO sector and its activities differs significantly between states. In assessing the nature and extent of state cooperation with the NGO sector, it is essential to take these differences into account.

The national studies provide a range of examples of contact between governments and NGOs in relation to the development of policy and practice to implement the CRC, and the different forms this may take. It can range from the state contracting NGOs to provide social services for children (especially at local level where no other service provider might be available) to NGOs commenting upon legislative proposals.

**An example is in Romania where since 2004 legislation has been in place prohibiting any form of violence and humiliating treatment against children. This legislative proposal was initiated by Save the Children, which was able, through sustained advocacy, to attract the support of members of Parliament for adoption. Save the Children also developed a Pilot Centre in Bucharest and nine other Transit Centre for victims of human trafficking around the country (including staff training), transferring these services, a year later, to the governing county level .**

It is important to emphasize that the dialogue that takes place between NGOs and governments on all policy affecting children must have a focus on implementation of the CRC. In practice, the evidence suggests that this may be lacking in many cases.

In general the national studies suggest that in most cases relations between governments and NGOs appear to be constructive. Nevertheless, more structured mechanisms for consultation can be weak or remain insufficiently used. In *Sweden*, NGOs sometimes feel that the dialogue is a formality without any real content. Similarly, NGOs in *Lithuania* expressed a wish in the national study that their proposals were taken into account more, believing that some meetings and consultations are organised just in order to be able to indicate that NGOs have been consulted. In *England* there is no formal mechanism where child rights NGOs can meet regularly with the Government and its officials to discuss CRC implementation. In *Italy* the most continuous form of collaboration is the National Observatory on Childhood, which includes the participation of NGO representatives, however meetings have been infrequent recently.

Although some structures for consultation between the local authority, NGOs and other stakeholders do exist at local level, in the study countries, any focus on CRC implementation appears to be either weak or non-existent.

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5 See Save the Children UK (2009) Children's Budgeting at the Local Level

As children are part of civil society, but often are not included, child participation is an important issue to focus on. There are various examples of mechanisms for consultation with children (e.g. youth councils, school councils, and ministerial advisory groups), but children often feel that their voices have little impact in practice and frequently these activities do not take place with a view to taking forward implementation of the CRC.

The Office of the Children's Ombudsman in *Sweden*, for instance, has a broad spectrum of contacts with children and young people. As well as visiting schools and youth activities, the Ombudsman sends questionnaire surveys to what are called contact classes two or three times a year. The Children's Ombudsman also receives advice from a number of children's and young people's councils, and from an expert panel of children and young people who have been placed in care homes. As part of the process of preparing a response to the bill for a new School Education Act, the Children's Ombudsman arranged a meeting with school pupils with disabilities.

National Human Rights Institutions (see section below) have a clear role in facilitating the involvement of children in CRC implementation. However, this does not negate the need for governments to ensure that they themselves also engage regularly and systematically with children when monitoring and implementing the CRC.

#### **Following this Save the Children recommend:**

- Governments (at national and local level) and NGOs, including children's organizations, should work together to define the purpose of, and most appropriate forms for, dialogue and co-ordination in relation to implementation of the CRC. Mechanisms for ongoing collaboration with civil society, and community consultative structures, should be strengthened.
- Government bodies (at national and local level) should develop their capacity to consult with children on the implementation of the CRC and should better integrate child participation in their work. The experience of Children's Ombudsman/Commissioners for Children and NGOs may provide sources of knowledge and inspiration in relation to ways of developing child participation.
- Parliamentary bodies should foster the participation of children and young people in hearings, inquiries, and draft bills relating to issues that affect them.

### ***Independent human rights institutions***

In its General Comment No. 2<sup>6</sup>, the UN Committee has set out the need for every state to establish an independent National Human Rights Institution for Children (NHRI) – sometimes called an Ombudsman/Ombudsperson, or Commissioner - to monitor compliance and progress towards implementation of the CRC, together with detailed guidance on the establishment and operation of such bodies.

*Italy* has not set up an NHRI for Children and in *Romania* there is a general Ombudsman and not a separate Children's Ombudsman.

In practice, the mandates of NHRIs for Children vary. For example, the English Commissioner has a

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6 UN Committee on the Rights of the Child (2002) General Comment no. 2

weaker remit than the Commissioners in the other *UK* jurisdictions, and it only has the general function to “*promote awareness of the views and interests of children*” rather than an explicit rights focus. NHRIs for Children can investigate individual complaints in *Lithuania, Romania, Northern Ireland* and *Wales*, but not in *England, Scotland* or *Sweden*. The UN Committee has repeatedly expressed concern in relation to states where children cannot bring individual complaints. Among Commissioners themselves, there is also strong support for the view that individual casework is a very important part of their powers and duties.<sup>7</sup> Currently a third Optional Protocol to the CRC is being drafted, to provide an individual complaints procedure.

To function effectively, NHRIs must be free to set their own agenda and activities. These guidelines are not fully met in practice in all states. In *England*, for instance, Ministers have the power to direct the Commissioner to undertake an inquiry, and the Commissioner has to consult the Secretary of State before they can initiate their own inquiries. By contrast, in *Sweden*, although the Ministry can direct the Office to carry out specific instructions or activities, the Ombudsman increasingly defines its own work programme.

**In *Lithuania*, the independence of the Commissioner is enshrined in law. Appointment procedures must also be transparent. In some countries, different sections of civil society are consulted in the process of appointing the Ombudsperson. Particularly noteworthy in *Wales* and *Northern Ireland* is the direct involvement of children in this procedure; this also takes place in *England* and *Scotland*, but to a lesser extent.**

### **Following this Save the Children recommend:**

- All governments that have not yet established a National Human Rights Institution for Children should do so. All governments must ensure that such an institution is established by law and complies fully with the Paris Principles<sup>8</sup> and General Comment No. 2 to the CRC.
- All governments must ensure that the National Human Rights Institution (NHRI) for Children is independent, has the general function of protecting and promoting children’s rights and is responsible for all children in their jurisdiction. The NHRI for Children should have the competence to receive and investigate individual complaints from children. Sufficient human and financial resources should be accorded to the NHRI for Children so that it is able to carry out its functions effectively.
- In states where local Ombudsmen/Commissioners for children and young people have not been established, official inquiries should be undertaken to explore the potential role and mandate of such Offices, and their potential relationship to any National Human Rights Institution for Children.
- Children and young people should be given more concrete and clear information about the role and function of the National Human Rights Institution for Children.

### **Information and awareness-raising**

The UN Committee recommends that states develop comprehensive strategies for increasing knowledge and understanding of the Convention across the whole of society. Whilst welcoming the efforts that some states have made, it has also urged the governments of all the countries in this study to do more to ensure that all children are aware of the Convention, and to provide systematic, ongoing education and training in human rights, including children’s rights, to all those who work with or for children.

7 Thomas N., Gran B., Hanson K., ‘An independent voice for children’s rights in Europe? The role of independent national human rights institutions for children in the EU’, Special Issue of the International Journal of Children’s Rights, Spring 2011 (forthcoming)

8 Office of the United Nations High Commissioner for Human Rights Principles relating to the status of National Institutions (The Paris Principles) Adopted by General Assembly resolution 48/134 of 20 December 1993

The UN Committee welcomes in its Concluding Observations relevant initiatives in various State Parties, but these initiatives appear to be isolated examples. For instance in *Italy* at regional level the respondents interviewed for the national study said that they were not in a position to guarantee that the whole of the community could know and be aware of the CRCs content, as they had not carried out information and awareness-raising activities.

There are isolated examples of positive initiatives and good progress examples.

Although training on children's rights is not incorporated into the school curriculum in *Lithuania*, an important innovation has been the introduction of 'social pedagogues', who (among other things) disseminate information on children's rights and the CRC and organise educational activities for children. Another positive initiative in Lithuania is an annual selection of NGO projects to implement the provisions of Article 42 of the CRC, for which the selected projects receives funding. Currently it is the only such programme intended for the dissemination of specific information on children's rights and the CRC.

In *Sweden*, a current proposal for a new national curriculum says that every pupil, by the time they leave school, must be able to adopt and express consciously ethical standpoints based on an understanding of human rights. Human rights and the rights of the child are to be taught as part of the Civics syllabus.

In June 2010 the Government also decided to grant the Children's Ombudsman SEK 2 million (approximately 225 000 euro) to finance the production and distribution of information material for parents and parents-to-be on children's rights. In its instructions, the government says that the material is to focus especially on the relationship between children and their parents, and is also to cover children's right to protection from violence, including corporal punishment.

In *Romania*, the former National Authority for the Protection of Child Rights developed comprehensive training and information for those working with children, including various manuals for different professional groups (eg. teachers, medical personnel, social workers, judges and prosecutors, priests and police officers). With financial support from the EU, the National Authority for the Protection of the Rights of the Child launched a campaign "Children's rights are law!" (2005-2006) to inform the public, train professionals, and initiate media activities. Although positive, these activities have proven hard to sustain.

The *Welsh* Assembly Government is undertaking a wide-variety of activities to increase awareness of the CRC and has recently produced materials on the CRC in Braille, audio and British Sign Language. There will also be a direct duty on Welsh Ministries to "*take such steps as are appropriate to promote knowledge and understanding amongst the public (including children)*" of the CRC and its Optional Protocols following the adoption of the new Children and Young People's Rights (Wales) Measures (see page 7).



**Following this Save the Children recommend:**

- All governments, together with regions and local authorities, need to develop comprehensive CRC awareness raising strategies that are sustainable and include the whole of society. This should include the allocation of adequate resources and the identification of relevant bodies to take the lead at each level.
- Education about children's rights and the CRC should be a requirement of pre-school, elementary and secondary education programmes. New curricula and syllabuses on children's rights should be developed where necessary, together with appropriate teaching materials for different age groups. Braille, audio and sign language versions of the CRC should be developed for children with disabilities.
- All professionals working with and for children – including teachers, social workers, youth workers, child care staff, legal practitioners, the police, health care staff - must receive statutory, comprehensive on-going training on the CRC. Compulsory course modules on children's rights should be introduced in all vocationally oriented higher education programmes for occupations involving work with or for children.
- Governments should ensure that material on the CRC and methods for reaching out to a range of audiences, especially parents, are developed.
- All media should be encouraged to develop and promote positive attitudes towards children's rights and the CRC, through training and the provision of appropriate guidelines.<sup>9</sup>

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<sup>9</sup> The UN Committee devoted its 1996 Day of General Discussion to the issue of "The child and the media". The recommendations from that day can be found in the document CRC/C/15/Add.65

## For further information

Further information about this project and the other reports in this series are available at Save the Children's Resource Centre on Child Protection and Child Rights <http://resourcecentre.savethechildren.se/>

Please contact either Save the Children *Sweden* or the respective Save the Children organization in your country if you would like to discuss ideas and opportunities to further children's rights where you live and work, or if you have good examples of progress that you wish to share.

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# The Project Governance fit for Children

This report is part of an overarching project across five European countries and the EU institutions. Save the Children has received financial support from the European Commission's Fundamental Rights and Citizenship Programme to carry out the project Governance fit for Children to assess how far the general measures of implementation of the UN Convention on the Rights of the Child (CRC) have been realised at European, national and community level.



The general measures of implementation of the Convention on the Rights of the Child (articles 4, 42 and 44.6) concern the structures and mechanisms which need to be in place if the whole of the CRC is to be implemented holistically.

The project focuses on the EU institutions and five European countries: Italy, Lithuania, Romania, Sweden and the United Kingdom.