

Text concerning implementation of the Convention on the Rights of the Child and vision on the perspectives to guarantee the respect for the Rights of the Child



Maud de Boer-Buquicchio
Deputy Secretary General
of the Council of Europe

20 years ago, the United Nations offered a wonderful gift to children throughout the world: the UN Convention on the Rights of the Child (CRC). This gift came with a promise from 193 countries to respect, protect and empower children. Unfortunately, the state of the world for children shows that we still have many promises to keep.

47 of the signatories of the Convention are the 47 member states of the Council of Europe. We share with the rest of the world a strong commitment to the well-being and the best interests of children and the protection of their fundamental rights. The starting point for our work is in recognising that children are not mini-persons with mini-human rights - in fact they need more protection, not less.

The protection and promotion of children's rights have gained momentum in recent years. With the launching of its programme "Building a Europe for and with children" in 2006, the Council of Europe has managed to put children's best interests at the heart of its action. The Council of Europe is a regional organisation, but our messages and tools can be applied worldwide in order to achieve optimal effectiveness. We combine our tools of standard-setting, monitoring, policy development, assistance programmes, awareness-raising, training and capacity building. Our target groups and partners are governments, parliaments, local authorities, NGOs and professional networks. Although there is still a regrettable gap between standards and their implementation, policies, laws and practices in Europe are taking children's rights, needs and views more and more into account.

I would highlight two different issues: the topics addressed by international action, on the one hand, and the need to invest in the monitoring of existing standards on the other.

The international agenda is filled with very important actions aiming to protect children from different forms of violence (such as sexual exploitation, trafficking, armed conflicts or child labour). Children's right to health, education and food are also addressed through impressive mobilisation of resources and political action. We all agree that there is still much progress to be made, but at least there is consensus on the need to take these issues seriously.

Unfortunately, some other forms of violence (such as domestic violence, internet-related dangers or violence at school) and other important rights (such as the right to justice, the right to participate, the right not to be discriminated against, the right to be protected from all forms of violence) are far from being properly addressed. This is why

the Council of Europe started campaigning against corporal punishment of children and has identified child-friendly justice, child participation and the fight against all forms of violence (including sexual abuse) as its priorities for the years 2009-2011.

The Council of Europe considers as being successful the development over the years of various international and European standards promoting and protecting the rights of children on the basis of the Convention on the Rights of the Child. This phenomenon can be observed in many areas, notably in the criminal law field, where their situation has been addressed not only as victims and witnesses of crime, but also as juvenile offenders.

The Convention on the Rights of the Child constitutes the foundation upon which many standards are built, with a view to bringing children's rights further. Thus it is systematically referred to in Council of Europe's standards concerning children, of which the CRC core principles are often the guiding thread. This is the case, for instance, of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and of the European Rules for juvenile offenders subject to sanctions and measures. In the civil law field, the Council of Europe's Convention on the Exercise of Children's Rights, which grants children procedural rights meant to facilitate the respect of their substantial rights in family law proceedings, can also be regarded as a notable positive extension of the CRC.

Setting standards is one thing. States' compliance with them, on the other hand, is of course critical to actually changing the lives of children and adults. Monitoring compliance with human rights standards is of the highest importance. The Council of Europe has several monitoring systems, ranging from parliamentary monitoring and peer reviews to independent experts monitoring based on reports. The Commissioner for Human Rights, also an intrinsic part of the Council of Europe, is a high profile commentator who monitors a number of human rights areas, including those meant to protect children. We also have procedures which enable people to complain as individuals or in groups - most famously to the European Court of Human Rights.

Many cases concerning children's rights have been brought before the European Court of Human Rights in Strasbourg. These cases have raised issues such as the prohibition of degrading and humiliating treatment, the right of children to a fair trial and the right to the respect for private and family life. Cases concerning corporal punishment of children provide us with a good illustration of how the Strasbourg Court increasingly applies the standards of the UN Convention in judgments related to children.

Many Court cases have greatly contributed to developing national laws and policies in the areas of private and public family law, giving children better legal protection from violence and developing juvenile justice standards. Soon after the entry into force of the UN Convention, the Strasbourg Court started referring to it when interpreting the European Convention provisions. In this way, a link is established between a right enshrined in both conventions and an individual case.

The European Social Charter contains explicit and far-reaching provisions on the rights of the child. The Charter was revised in 1996 and the UN Convention on the Rights of the Child inspired the drafters who strengthened provisions concerning children.

A collective complaints mechanism which entered into force in 1998 allows, *inter alia*, certain NGOs and groups to lodge complaints on behalf of children against States Parties alleging a breach of the European Social Charter. Many complaints to date have concerned children's rights, child labour, the right of children with disabilities to education, the right of children to protection against violence (notably corporal punishment), and access to health care for children of irregular migrants.

The European Committee of Social Rights, responsible for monitoring countries' compliance with the Charter, has developed substantial case law under the children-related provisions and seeks its inspiration not only from the UN Convention provisions, but also from the observations and conclusions of the UN Committee on the Rights of the Child.

The outstanding work of the UN Committee on the Rights of the Child needs to be supported, its results better disseminated and used. It is essential that the international community keeps investing in monitoring the implementation of children's rights and in promoting children's access to international justice, including through the promotion of child-friendly information and services.

The international community needs to stand ready to evolve with society and, to a certain extent, to drive that evolution. The Council of Europe recently revised its Convention on adoption of children to better take into account children's rights. We are also intensively working on children's rights in the new information society, a field where governmental influence is limited.

The Council of Europe has noted on several occasions that a major difficulty experienced by states when applying the CRC is to clearly define, determine the scope of and effectively implement core CRC concepts such as the "best interests of the child", "evolving capacity" and the "meaningful participation" of children in decisions which affect them.

For this reason, a Group of Specialists is preparing Council of Europe guidelines on child-friendly justice, which is intended to be a practical guide to the implementation of internationally-agreed standards. The Guidelines will assist member states and concerned professionals in a concrete manner to ensure an appropriate place and voice of children in all spheres (civil, administrative and criminal) of the justice system, not only on the basis of existing international and European standards – such as the CRC and the European Convention on Human Rights (ECHR) – but also on the basis of concrete cases of the European Court of Human Rights as well as examples of good practice. As a member of the Interagency Panel on Juvenile Justice (IPJJ) – which has observer status with the Group – and as a leading NGO in the field, the OIJJ was thus invited to contribute to the drafting of this text.

Another important difficulty is the lack of a comprehensive children's rights strategy at national and local levels. The lack of co-ordination and co-operation between the various stakeholders (relevant ministries, independent institutions, NGOs, professional networks, business sectors, etc) results in scattered action, wasted resources, loss of impact and absence of sustainability.

To promote a strategic approach to the fight against violence, the Council of Europe has drafted the European guidelines on national integrated strategies for the protection of children from violence.

I already mentioned that the best way to promote children's rights is through the establishment of an integrated strategy which becomes a project for the whole society and aims at the development of a real "children's rights culture". As many good practices across the world show, investing in child participation, developing human rights education, training professionals in contact with children and mobilising the media and families can bring about a real change in attitudes and behaviours. Focus on prevention, in particular in the context of families at risk, is a must. Children being the first victims of any economic or social crisis, we have to be particularly vigilant concerning the impact of measures taken which tend to result in repression and further marginalisation.

I have witnessed too often in my career both at the European Commission and the Court of Human Rights, and as Deputy Secretary General of the Council of Europe, adults talking about children's rights, but really meaning their own rights over children. My greatest satisfaction is having put children's rights at the heart of the Council of Europe agenda, thus contributing to a change in paradigms. The fact that Council of Europe standards, policies and working methods are now shown as an example to follow in other regions of the world is encouraging. However, with the greater attention to children's rights comes an increased awareness on children's rights violations. The personal and social tragedies of the children I have met in certain prisons, orphanages and Roma settlements have become part of me now. They remind me that it is not time for celebrations yet, but for vision and courageous action.

The Council of Europe celebrates this year its 60th anniversary, whilst the UN Convention on the Rights of the Child becomes 20. We are keen to remain a wise, reliable and supporting grandparent to the CRC, and we will nourish and encourage its influence in all our actions, everywhere.

Información procedente de la Campaña internacional: 'Dos décadas de justicia juvenil: avances desde la adopción de la Convención sobre los Derechos del Niño' del OIJJ.

<http://www.oijj.org/crc20>