

The rights of the child to be heard

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A rights based approach

Guiding principles of the UN Convention on the Rights of the Child

- Right to life and development
- Right to non-discrimination
- Right to protection from all forms of harm and violence
- Right that the best interest of the child is a primary consideration
- Right to participation

A rights based approach

Article 2 on right to non-discrimination

Article 3 right to primary consideration of the best interest

Article 5 guidance by parents and evolving capacities

Article 12 on the right to be listened to and opinion taken into consideration

Article 13 right to the freedom of expression

Article 15 right to freedom of association

Article 17 right to information

General Comment 12 on the “Rights of the Child to be Heard”

Why implementing rights?

- Newborns can already express themselves well and communicate their needs
- Sensitive response to the needs are the foundations of a rights based approach
- If children are aware and exercise their rights, they are respected, listened to and taken seriously, they are learning respecting others and listening to them
- In case children learn how to express their needs, opinion, they learn to become active participants of the family and community
- Genuine participation and not tokenism

Why taking participation seriously?

- Participation contributes to personal development
- Participation leads to better decision-making and outcome
- Participation serves the protection of children
- Participation contributes to preparation for social and civil development of tolerance, understanding and respect
- Participation develops responsibility and strengthens accountability

How can we ensure the rights to be heard?

- Legal framework: health, education family matters, community/institutional matters, welfare, protection, custody, criminal justice (offenders, victims, witnesses), any civil and administrative proceedings, identity, beliefs, etc.
- Parents, professionals, institutions need information, skills, learn/create child friendly, culturally sensitive language, atmosphere, trust, acceptance, partnership – providing feedback
- Use of child friendly techniques: mediation, restorative justice, FGC, child lead organisations, special procedures
- Children with special needs should have the same rights by provided with adequate format (e.g. sign language)
- Public awareness, campaigns, use of media for and by children as well

How to ensure the participation of children?

- Children should be consulted and informed in accordance to their evolving capacities.
- Entry points may vary, depending on the evolving capacities of the child.
- Selection of children should be democratic and representative as much as possible
- The ultimate goal of participation should be child initiated and directed, but in partnership with adults.
- Children should be ensured to express their views in their own language, their own way (e.g drawing, movement)

Special procedures

- Complaint mechanism for children to be heard
- Ombudsman for children – individual complaint, investigation, special groups of children targeted etc.
- OPIC – new 3rd Optional Protocol on complaint mechanism – adopted by the GA in 2011, coming into force in April 2014 – direct complaints submitted to the UNCRC Committee – so far few complaints arrived
- Aim: encouraging the local, regional, national mechanisms, ensuring access and respond for every child

The working methods of the UNCRC Committee

- Country reports submitted by State Parties
- NGO – alternative - reports
- International NGOs (e.g. UNICEF), experts, additional information gathered
- Other Treaty Body (CEDAW, CRPD etc.) and UPR Concluding Observations
- Consultation with civil society members, including children
- List of issues – additional questions
- Dialogue with the State party government led by the rapporteurs and questions from all Committee members
- The Committee has to come to a consensus when finalising the Concluding Observations

Concluding observations for Finland

- The Committee urges the State party to take all necessary measures to address the recommendations contained in the concluding observations on the third periodic report that have not been sufficiently implemented, including those related to discrimination against children from ethnic minorities and immigrant children, respect for the views of the child, the rights of asylum seeking children, de-institutionalisation of children and adolescent health.
- The Committee recommends that the State party increase its efforts to strengthen the knowledge of the general public, including children, parents and professionals working with children, of the Convention and of national laws based on the Convention and other relevant international instruments. The Committee also recommends the reinforcement of adequate and systematic training of all professional groups working for and with children, in particular, law enforcement officials, teachers, health workers, social workers and personnel working in all forms of alternative care.

Concluding observations for Finland

- The Committee urges the State party to strengthen its efforts to ensure that the principle of the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings as well as in all policies, programs and projects relevant to and with an impact on children. The legal reasoning of all judicial and administrative judgments and decisions should also be based on this principle.
- The Committee recommends that the State party abolish the age limitations established under the domestic laws and ensure that all children under the age of 18 are duly heard in judicial and administrative proceedings affecting them, including in cases of custody in accordance with the maturity of the child. Children should be heard in a child-friendly manner, taking into account the principle of the best interests of the child. The views of the children, including children with disabilities, should be given due weight in accordance with the age and maturity of the child. This may include, inter alia, hearing a child under conditions of confidentiality and not in an open court room, and using video/audio devices. In this regard, the Committee draws the State party's attention to its general comment No. 12 (CRC/C/GC/12) on the right of the child to be heard.

Concluding observations for Finland

The Committee recommends that the State party:

- a) Increase resources and strengthen social services providing family counselling and parent education, and train all professionals working with children, including social workers and health care professionals;
- b) Strengthen preventive services and early support and intervention measures , particularly with respect to families with problems related to substance abuse; and
- c) Enhance family mediation services for parents contemplating divorce, and ensure that disputes over the custody of children are resolved within an appropriate time taking into account the best interests of the child.

Concluding observations for Finland

- Take necessary measures to ensure the provision of effective, well-known, independent and impartial complaints mechanisms for children without parental care;
- Pay more attention to children's well-being in schools, including their right to have their opinions taken into account and conduct a research on the cause of their dissatisfaction at schools
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Good examples

- Council of Europe: Building Europe for and with Children – 2006
- Council of Europe's Strategy on the rights of the child 2012-2015
 - Promoting child friendly services and systems
 - Eliminating all forms of violence against children
 - Guaranteeing the rights of children in vulnerable situations
 - Promoting child participation
- Child Friendly Justice – adopted by the EU as well

Good examples

- Involving children in reporting and meeting the UNCRC Committee – Child Rights Connect and NGOs
- Speak up! – Eurochild led project in 6 countries on the awareness on child rights among specific groups of children and “control groups” in the EU
- CATS – Children as Actors of Transformation – provides a space where children, young people and adults live, learn and work together as equal partners in transforming society
- EU Child Rights Agenda - child friendly language

Thank you for your attention!

