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EPP Group Position Paper on the

# RIGHTS OF THE CHILD

10 March 2021

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## I. Introduction: UN Convention, children's rights as human rights, EPP Group commitment

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*"(...) the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child (...)"*

Article 3 of the Treaty on European Union

Children's rights are human rights: rights that the EU and EU countries must respect, protect and fulfil. It has been 30 years since the United Nations Convention on the Rights of the Child (hereafter the Convention) was signed in New York in 1989 and entered into force in 1990. Although the Convention on the Rights of the Child has been ratified by 194 states, including all Member States of the European Union, many aspirations remain unfulfilled. We adhere to the principle prominently stipulated in the above-mentioned Convention that the **child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.**<sup>1</sup>

Children's rights continue to be violated or disregarded in many parts of the world, including in EU Member States. Children remain victims of violence, abuse, poverty and social exclusion. Children still face discrimination based on religion, disability, gender, sexual orientation, ethnicity, cross-border separation or legal and welfare status. The EPP Group is proud of being a champion and guardian of children's rights and therefore continually strives to improve the protection and participation of children. Based on a joint motion for a resolution in 2014 after an EPP-led initiative, the European Parliament asked the European Commission to present a Child Rights Strategy, inclusive of a concrete Action Plan. This time has finally arrived.

The future EU Strategy on the Rights of the Child<sup>2</sup> will provide the framework for EU action to better promote and protect children's rights. It will contain a set of measures for the EU to implement, addressing among others: **the rights of the most vulnerable children, children's**

**rights in the digital age, the prevention of and fight against violence and the promotion of child-friendly justice.** It will also include recommendations for action by other EU Institutions, EU countries and stakeholders. The EPP Group welcomes the future EU Strategy on the Rights of the Child, yet underlines the importance of the following policy areas and the need for innovative tools to protect children and their rights by acting not only on their behalf, but with them. Additionally, we call on all Member States to specifically task a public authority with measuring the effects of national and regional legislation on children, as well as generally promoting children's rights in public policy.

## II. Protection of children's rights through EU legislation - safeguarding the best interests of the child

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### 1. Child-friendly EU legislation

Before the European Commission proposes a new initiative or a review of the existing ones, it assesses the need for EU action and the potential economic, social and environmental impact of alternative policy options using impact assessment tools.

**We believe that a 'Children's Rights Test' would be a great asset to EU legislation, just like the so-called SME test.** This test could be an instrument in the framework of the impact assessments, which aims to streamline and strengthen support measures for children's rights. Just like the SME test that was developed to "rigorously assess the impact of forthcoming legislative and administrative initiatives on SMEs and take relevant results into account when designing proposals," the Children's Rights Test could comprise of several steps:

- > consultation of stakeholders, including child participation mechanism;
- > identification of affected areas;
- > measurement of the impact on children;
- > assessment of alternative mechanisms.

As all EU legislation can influence directly and indirectly the lives and wellbeing of

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<sup>1</sup> Preamble of the United Nations Convention on the Rights of the Child

<sup>2</sup> <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12454-Delivering-for-children-an-EU-strategy-on-the-rights-of-the-child>

our youngest citizens, such a test within the impact assessment would give the opportunity to identify and provide measures that will help promote and protect the rights of the child. Using recent, comparable and high-quality gender and age disaggregated data, it could be ensured that future EU legislation would respect the commitments of the UN Convention. Moreover a revision and update of the EU indicator framework could help to include child-focused indicators.

## 2. Towards a child-friendly justice system

A child's best interests should always come first in cases regarding the well-being and welfare of the child, be it a custody case, familial breakdown, residency disputes - including where these concern third country national children - children born to LGBTI+ families or other child welfare issues. Although family law remains the competence of EU countries, the EU can legislate if there are cross-border implications with a special legislative procedure in place. This is particularly true when it comes to post-Brexit, and ensuring the continuity of the best interests of children in custody and maintenance, particularly where one parent is living in the EU and one in a third country.

Every family dispute is stressful and emotional but cross-border cases are additionally more sensitive and legally challenging. That is why greater public awareness is needed of these complex issues, including cross-border custodial cases, cross-border enforcement of access rights and maintenance obligations or procedures on cross-border parental child abduction, including **clarity on parental rights and obligations and children's rights in each country**. National service improvements could better protect the best interests of the child, in close cooperation with the EU.

Mediation in such cases could help to prevent adversarial tension in protracted court cases. Specialised court chambers within national family court systems with the help of mediation bodies could help swifter processing of such multinational, cross-border family cases.

Cross-border cases are also legally challenging because of the differences in minimum age requirements across Member States, which may result in a child being treated differently depending on diverging age criteria. Different national terminology often makes it very difficult to classify cross-border offences. The EPP Group therefore

calls on the European Commission to identify the problems related to the different terminology.

The right to be heard (also as a realisation of child participation rights) is a principle right as defined by the Convention. According to Article 12 of the Convention, children have the right to express **their views in all matters affecting them and their views have to be given due weight in accordance with the age and maturity of the child**. This right applies equally to children's participation in social and political matters, as well as in judicial and administrative proceedings. As a general principle, the child's right to be heard reflects the concept of children's 'agency,' viewing children not only as vulnerable persons in need of special protection, but also as informed decision-makers, rights-holders and active members of society. As such, the voice of the child should be heard in all situations wherever possible. We should speak for, about and with children.

The outbreak of the COVID-19 pandemic has introduced challenges to parties' access to justice, which call for a proactive response from the relevant authorities. Ensuring that the procedural requirements prescribed are met entails removing barriers to due process and access to justice.

In 2016, in its Resolution on safeguarding the best interests of the child across the EU<sup>3</sup>, the European Parliament recalled that the large number of petitions received on child-related cases indicates that there is a major problem with the implementation of the Brussels IIa Regulation. The EP also considered that all child protection systems should have transnational and cross-border mechanisms in place which take into account the specificities of cross-border conflicts. It is incumbent upon the European Parliament to ensure that its legislative and non-legislative work is informed to respect, promote and safeguard the rights of the child and to advance children's lives both within the EU and in its relations with the outside world.

The EPP Group is calling on the Member States to commit themselves to create a child-friendly justice system that takes utmost consideration of the specific situation and needs of a child (being a victim, witness or offender) in the course of proceedings. Age appropriate hearings conducted by specialised staff, where efficient psychological supports are made

<sup>3</sup> [https://www.europarl.europa.eu/doceo/document/TA-8-2016-0142\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2016-0142_EN.html)

easily-available, are especially important for the children who became victims of crime to counteract any potential stress and trauma. Any decision on a child's situation must be clearly explained, including what this means directly for the child. The EPP Group is calling on Member States to foresee practical guidelines, adequate training for all professionals in contact with children, e.g. teachers, educators in nurseries, legal and medical professions, and a mandatory training for juvenile prosecutors and family court judges. The EPP Group is also calling on the Commission to continue to facilitate training for legal practitioners on EU cross-border family law, especially in view of the new rules on cross-border custody and parental child abduction cases under the Brussels IIa Regulation, which will come into force in mid-2022. We would also encourage translation services to be made available to ensure that all children can express themselves in a more comfortable manner. It is crucial to be proactive in displaying a child-friendly justice system to young members of the public. The EPP Group calls upon all Member States to ensure that their young citizens have access to this information in a child-friendly manner, taking into account any disabilities that might impair access.

### **3. Fight against violence - physical integrity and right to be raised in a healthy environment**

With the purpose of reinforcing the protection of children's rights and their well-being we must **take into account the issue of children's right to physical integrity** when preparing and adopting a new strategy for the rights of the child. In particular this must involve the fight against all forms of violence against children including, physical, sexual, economic and psychological violence with due attention given to the gender perspective<sup>4</sup>. Children are impacted both directly or indirectly by domestic violence, which has been exacerbated during the COVID-19 pandemic. In the context of isolation at home, practicing teleworking, closing schools, and financial insecurity, it has been observed that family relationships tend to become increasingly strained, accentuating the vulnerability of children and women. The EPP Group advocates for the use of quality contact centres where necessary, such as in situations of domestic abuse, allowing families to meet in a controlled environment in the presence of a social worker.

Children continue to suffer from maltreatment, neglect and experience

bullying, including cyber-bullying. Child sexual abuse, including the distribution of child pornography and child prostitution material leads to further victimisation, particularly amongst girls and young women. There is a need for adolescents to recognise their rights in this area, particularly in relation to consent. The EPP Group welcomes the communication of the Commission on an EU Strategy for a More Effective Fight Against Child Sexual Abuse, but is convinced that the new strategy must carefully examine all forms of violence against children and ensure mainstreaming of children's rights through the existing and future legislative and non-legislative measures. It must also allow for close cooperation between EU Member States and third countries and a coordinated response in police and judicial cooperation through Europol and Eurojust. In order to tackle the obstacles when it comes to trafficking of children, more data is needed. Therefore, the EPP Group calls for closer cooperation of state authorities with civil society, local authorities, church-related entities and other such actors. Furthermore, a coordinated and transnational response in police and judicial cooperation is crucial. With more knowledge and a coordinated response it is possible to identify victims at an early stage in order to provide them with legal assistance securing their legal rights. Early identification is imperative to end the dependency between predator and victim. The EPP Group has zero tolerance for any form of violence against children and promotes child participation in decisions concerning them. We are determined to act not only on children's behalf, but with their input and perspective to ensure their full protection.

### **4. Children in the online environment**

In May 2012 the European Commission set out the European Strategy for a Better Internet for Children to give children the digital skills and tools they need to fully benefit from online access, whilst ensuring their safety. It also aims to unlock the potential of the market for interactive, creative and educational online content. However, in the fast developing online environment, eight years is a lifetime and it's high time for a new strategy, which will take into consideration the latest technological developments. The new EU Strategy on the Rights of the Child should, therefore, propose a series of actions and

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<sup>4</sup> <https://www.eppgroup.eu/newsroom/publications/epp-group-position-paper-on-gender-equality>

take into account the lessons learned due to the rise of online learning during the COVID-19 pandemic. These past months have accelerated the already existing trend of shifting our children's activities to an online reality. Digital literacy for all children is key in order to navigate the Internet as safely as possible.

The key findings of the UNICEF report in 2017 on Children in a Digital World<sup>5</sup> shows that a growing body of evidence indicates that children are accessing the Internet at increasingly younger ages. In some countries, children under 15 are as likely to use the Internet as adults over 25. Although connectivity can be a game changer for some of the world's most marginalised children, helping them fulfil their potential and break intergenerational cycles of poverty, digital technology can also make children more susceptible to harm both online and off. Vulnerable children may already be at greater risk of harm from particular online issues, including the loss of privacy. The EPP Group calls upon the Commission to propose stronger safeguards to clamp down on social media misuse, particularly in the case of children accessing platforms unsupervised. The EPP Group calls upon the Commission to propose a stronger consumer protection framework for children, especially with regards to micro-purchases, in-game purchases and related advertising, and particularly within the context of the ongoing pandemic and the longer periods of time spent online.

The fight against child sexual abuse is a priority for the EPP Group. The European Parliament and the Council have both called for further concrete actions, developed in collaboration with tech platforms and the ICT sector. The EPP Group further calls on tech companies to ensure a culture of safeguarding for their end users. The EU Strategy for a More Effective Fight Against Child Sexual Abuse<sup>6</sup> sets out a comprehensive response to the growing threat of child sexual abuse both offline and online, by improving prevention, investigation, children-friendly and age appropriate reporting and assistance to victims. The EPP Group calls upon Member States that have not yet done so to criminalise online grooming, cyberstalking, luring children online and the sharing of intimate and explicit images without consent.

The EPP Group is convinced that the strategy is only the beginning and concrete proposals for legislation are necessary to efficiently tackle child sexual abuse,

such as, for example, a proposal requiring relevant online services providers to detect known child sexual abuse material and require them to report that material to public authorities. The legislative gaps have to be identified and closed, so that data protection does not become protection of the offenders.

The EPP Group welcomes the Commission's commitment to ensure complete the implementation of and full compliance with the Child Sexual Abuse Directive (2011/93/EU) across the EU.

To ensure that child sexual abuse online can be effectively investigated and prosecuted, the EPP Group deems it important that law enforcement can lawfully access child sexual abuse material that has been encrypted. The EPP Group supports the possible creation of a European centre to prevent and counter child sexual abuse, which would provide holistic support to Member States. The COVID-19 pandemic has resulted in the majority of learning and socialising taking place online. Increased use of the Internet, and social media platforms in particular, has amplified the risk of cyberbullying. We must ensure that children can fully benefit from the opportunities that an online environment offers, free from the threat of harassment. The strategy needs to include provision for targeting the root cause of online bullying, as well as equipping young people with the knowledge and tools to effectively respond if they experience cyberbullying.

The existing deficiencies and the insufficient transformation of digital education were exposed fully during the Coronavirus lockdown, which forced millions of children, pupils and students to stay at home. The COVID-19 pandemic further highlighted the inequalities which exist across Europe. Vulnerable groups of children, including those with disabilities, from ethnic and minority groups<sup>7</sup>, with socio-economically disadvantaged backgrounds, such as children in rural and hard-to-reach areas, had limited to no access to remote or online schooling. According to Article 29 of the Convention the education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential.

<sup>5</sup> [https://www.unicef.org/publications/files/SOWC\\_2017\\_ENG\\_WEB.pdf](https://www.unicef.org/publications/files/SOWC_2017_ENG_WEB.pdf)

<sup>6</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20200724\\_com-2020-607-commission-communication\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20200724_com-2020-607-commission-communication_en.pdf)

This digital poverty makes it almost impossible for many children across the EU to participate and benefit from the equal right to education. This cannot be allowed to perpetuate, nor to become an accepted part of the 'new normal' post-COVID-19.

For the EPP Group, it is an important goal to provide high-quality and inclusive education for all children in Europe. Digital literacy has become an essential factor, especially during the COVID-19 pandemic. This includes ensuring equal access to the digital tools of remote learning. No child should be left behind.

Children prosper when parents thrive, providing nurture and education through families. To facilitate this, modern work-life balance policies, with flexible working arrangements and provision of childcare services, including high-quality early childhood education, must be at the heart of our work on children's rights. Early investments are crucial for human capital formation. The most efficient policy initiatives are almost invariably focused on the pre-school and school period; therefore education is a centrepiece for an ambitious and efficient social children strategy. The EPP Group also draws attention to the importance of dedicating 10% of the Recovery Fund to education, as voted by the European Parliament in October 2020.

## **5. Empowering all children to succeed - protection of vulnerable children**

Children are our future, thus it is in the EU's interest to empower all children to succeed. Ensuring that children have a sense of belonging and inclusion in their communities is key to their well-being, allowing them to thrive and prosper. Therefore, the EPP Group believes that the new EU Strategy on the Rights of the Child should consider a holistic view of children's needs mainstreamed through the existing and future legislative and non-legislative measures, and pay particular attention to the specific needs of vulnerable children, including children with disabilities, migrant children and children exposed to poverty, for instance Roma children. Indeed, the heaviest burden of poverty is usually borne by Roma children, as the most fragile members of the community. Roma children living in extreme poverty are often caught in a cycle of transgenerational poverty, according to the recent survey carried in eleven EU Member States by the EU Fundamental Rights Agency (FRA)<sup>8</sup>.

Despite recent positive developments, child poverty and cycles of intergenerational poverty and disadvantage remain a problem in the EU, with the COVID-19 pandemic aggravating the situation. The European Union is considered a leader in fighting child poverty. A milestone was the Council Recommendation on Investing in Children adopted in 2013. Prompted by the European Parliament, the Commission plans to go further: A proposal for a Council Recommendation on a Child Guarantee is planned for 2021. Such a guarantee shall ensure access to quality and free early childhood care and education, adequate nutrition, healthcare services and housing, implying a coordinated approach at European, national, regional and/or local level. The EPP Group is committed to further discussions and work on the Child Guarantee instrument and to taking a pragmatic approach with the ultimate aim being effective implementation in Member States and building on lessons learned from the Youth Guarantee. There is significant evidence suggesting that first introducing support for young people from disadvantaged socio-economic backgrounds during the transition from school to work comes far too late. There is an absolute need to equip them with the social and cognitive skills necessary for long-term development and successful professional lives at an earlier stage. Consequently, earmarking 5% of the ESF+ programme for particularly disadvantaged children could compliment the Council Recommendation on the Child Guarantee.

Education<sup>9</sup> and training systems should be reformed in such a way that vulnerable children benefit from the same educational opportunities as their peers. It is of utmost importance to recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely and equally as their peers in cultural life and the arts.

From the earliest age, belonging and legal certainty is essential to a child's potential to grow and succeed in life. A stateless child will have difficulties accessing their rights and state services, and will be more vulnerable to exploitation, impeding their ability to

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<sup>7</sup> <https://www.eppgroup.eu/newsroom/publications/epp-group-position-paper-on-the-eu-roma-inclusion-process>

<sup>8</sup> Roma survey - Data in focus: Poverty and employment: the situation of Roma in 11 EU Member States, EU Fundamental Rights Agency, 2014

succeed. The EPP Group urges the European Commission and the Member States to work together to ensure that every child can access a birth certificate and nationality, and can have access to identity documents.

For every child to be able to grow and develop towards its full potential we need to guarantee access to clean environment and healthcare. The EPP Group commits itself to fighting for a healthier and cleaner natural environment for the youngest Europeans. Therefore, the EPP Group is determined to address the issue of air pollution and natural environment preservation in order to urgently halt the climate change emergency. This is the most important investment we can commit to for our children.

As the COVID-19 pandemic affected healthcare systems across the EU, putting them under unprecedented pressure, we need to fight to uphold each child's right to have full access to child-friendly healthcare services, including high-level care in the field of mental and psychological support. This is crucial as, following the current pandemic, the EU will be faced with a mental health crisis that will have an extremely detrimental impact on our children. A lack of action and investment into mental health facilities and supports in the coming years will have a devastating long-term impact on children and adolescents. No child should be left behind and neglected while struggling from any form of physical or mental illness. The EPP Group supports the establishment of a uniformed and coherent European calendar for vaccinations for children and equal access to the newest therapies and medicines in the field of paediatric treatment, especially for rare diseases and childhood cancer. The EPP Group believes that adequate investment during childhood and in children can contribute to long-lasting gains for individuals and for societies and economies, as the economic and social benefits of such investments significantly outweigh the financing costs.

### III. Future EU Strategy on the Rights of the child

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How adults and society treats children and sees their role changed a long time ago. Despite considerable progress in Europe, basic challenges, such as violence against children, child poverty, bullying and access to child-friendly justice, remain. The future strategy should be comprehensive; all relevant existing strategies should be

included and should be cohesive so that the EU does not multiply and duplicate efforts and funding. Children are the future of Europe; therefore we need to address their rights and needs. It is impossible to discuss the future of Europe if we do not take into account the views and needs of its young citizens. Our duty is to empower all children to succeed so that they are prepared to face future challenges without fear, and to have a fulfilling life.

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<sup>9</sup> <https://www.eppgroup.eu/newsroom/publications/epp-group-position-paper-on-education-in-the-era-of-digitalisation>