

Children's Rights and EU Treaty Reform

Briefing for MPs and Lords from Save the Children and the NSPCC, May 2007

Supported by The Children's Society and the National Children's Bureau

The NSPCC and Save the Children call on MPs and Lords to actively encourage the Government to support the continued inclusion of children's rights in the objectives of the European Union, during the forthcoming EU Treaty revision.

Introduction

At the European Council meeting of 21-22 June 2007, Member States are due to agree a process for dealing with Treaty reform following the shelving of the Constitutional Treaty in 2005. Including children's rights as an explicit objective of the EU is crucial to help redress the Union's failure to systematically take into account children's rights and interests in all policy areas within its responsibility which affect children - for example health and consumer protection, international development or combating trafficking. It would also be a clear signal that Member States are committed to using the opportunities presented by the EU to improve the lives of children and realise their rights, within Europe and beyond.

The EU and children's rights

The draft Constitutional Treaty (2005) included children's rights in the internal and external objectives of the Union: "*The Union...shall promote...the protection of the rights of child.*" (Article I-3). This reflected a recognition that the EU, which acts in a wide range of fields, has a responsibility to ensure that its legislation, policies and programmes are in line with the 1989 United Nations Convention on the Rights of the Child (UNCRC). The UNCRC has been ratified by all 27 of the EU's Member States, including by the UK in 1991, meaning that governments are already under an obligation to respect the rights of the child in policy and practice.

The draft Treaty also integrated the EU's Charter of Fundamental Rights (2000), Article 24 of which focuses on children's rights. This would confer a duty on the EU to ensure that all of its activities respect fundamental rights as set out in the Charter, as would the Member States when implementing EU law. Setting the Charter of Fundamental Rights on a firmer footing is a necessary step forward for the EU in bringing its work into line with internationally-recognised human rights norms, including children's rights.

Save the Children and the NSPCC have been active at European Union level for many years. It is our experience that to date, while the EU has sometimes deliberately acted to help protect children, attention has only been paid to children's needs and rights on an ad hoc basis. The predominant focus within the EU Treaties on the 'citizen-as-worker' has meant that children's interests are excluded from consideration across a majority of policy areas. Although the EU is in a prime position to help tackle the increasing number of risks to children which transcend national boundaries, such as threats associated with the internet or cross-border movement of sex offenders, attempts to enhance much-needed cooperation to

protect children and implement their rights are frustrated by the EU's equivocal position in relation to children.

Considering the best interests of children – not new powers for the EU

The primary responsibility for safeguarding children's rights lies with national governments. NSPCC and Save the Children are not arguing for competence for children's policy to move to the European level. However, the Treaty should provide a clear, simple legal basis which enables European legislators to ensure that the best interests of the child are taken into account in areas of policy and law *which are already* dealt with at European level. Many issues affecting children are neither uniquely national nor transnational. Legislation affects children differently from adults and it is important that all EU policy and legislative proposals takes their needs and rights into consideration. This would not take away powers and responsibilities of national governments in the area of children's rights.

There are examples of where the EU has started to integrated children's rights into its activities and there is increasing awareness of the importance of this – such as the gradual recognition of the importance of protecting children who are victims of trafficking, as well as combating this crime. However, there are also many occasions where proposals or agreed legislation have disregarded the impact on children and continue to do so, or do not place children's rights at the heart of policies. In our view attempts to take children's interests into account will remain ad hoc without the legal weight of a Treaty reference.

NSPCC and Save the Children are convinced that explicit recognition of children's rights in the EU Treaty is crucial in order to help address these gaps and take advantage of the role the EU can play in protecting children's rights. Equally, the EU institutions currently struggle to find a way to include children's own voices in policy making processes which affect them. There is a need for the EU's approach to dealing with children to be updated to address and involve children as individuals with their own rights and needs.

Act now to protect children's rights

A reference to children's rights in a revised Treaty would make a significant difference to attempts to improve the situation of children within and outside the European Union, and to help tackle the growing number of challenges shared across the EU.

There is now a window of opportunity to act. Whichever path of reform is chosen, governments can choose to maintain children's rights within the EU's objectives, based on the text agreed in 2005.

We urge you to actively support the inclusion of children's rights in the EU Treaty, as well as integrating the Charter of Fundamental Rights, for example by writing to the Government or raising it in Parliament by tabling a Parliamentary Question.

For further information, including on other parts of the draft Constitutional Treaty which we would like to be maintained, please contact Kathleen Spencer Chapman (NSPCC European Adviser) on 020 7825 2758 or kspencer@nspcc.org.uk, or Louise King (Save the Children Policy Adviser) on 020 7812 6762 l.king@savethechildren.org.uk

Alternatively you can find relevant documents on the European Children's Network website at www.europeanchildrensnetwork.eu