

The Participation of all Children in the Standard-Setting and Monitoring Work of International Organizations

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The United Nations Convention on the Rights of the Child declares that every child who is capable of forming his or her own views has the right to express those views freely in all matters affecting them, whereas the views of the child should be given due weight in accordance with the age and maturity of the child. The standard-setting and monitoring procedures of international organizations are not exempted: a simple interpretation of Article 12 on the right to be heard explicitly demonstrates that this includes the international level as a setting where children should participate in decision-making. This paper discusses that the right, the opportunity, the space, the means and the support to participate should be provided for all children in decision-making procedures of international organizations.

Keywords: child participation, right to be heard, vulnerable children, international organization, United Nations, Council of Europe, European Union

1. Introduction

The protection and promotion of children's rights had been on the agenda of international organizations well before it was articulated in an international treaty, namely the United Nations Convention on the Rights of the Child. This instrument is ground-breaking since it recognizes children as rights-holders, a position that has been subsequently confirmed in the practice of the United Nations Committee on the Rights of the Child. This approach served as a basis to open public participation for children and involve them in decision-making procedures affecting their lives directly with the following guarantees: children's view should be given due weight during the decision-making process and they should be provided with follow-up on how their views were considered and how they affected the outcomes of the decision-making procedure.

Despite the roots in international human rights treaties and the rich literature on child participation in policy-making procedures, the involvement of children in disadvantaged or vulnerable situations is a less researched topic. The aim of this paper is to focus specifically on how the participation of all children can be ensured in the standard-setting and monitoring work of international organizations. Although more and more international organizations involve children in their work, I am going to refer only to the framework and practice of the United Nations, the Council of Europe and the European Union. The model used to discuss the requirements for the participation of children in disadvantaged or vulnerable situations is developed based on the approach of the Council of Europe: the right, the opportunity, the space, the means and the support to participate should be provided for all children. This model also makes it possible to look at child participation from the perspective of an international organization, which can be considered as an audience, an identifi-

¹ The author paid a short study visit to Geneva, Switzerland, hosted by Child Rights Connect and supported by the Campus Mundi Scholarship.

able body with the responsibility to listen, according to the Lundy's model on child participation.²

1.1. Theoretical Framework: Child Participation and the Principle of Equal Treatment

According to *Lansdown*, despite the fact that child participation is a widely used term, there is “considerable lack of clarity about what is actually meant by participation in the context of children’s rights”.³ In relation to the activities and work of international organizations, child participation should be understood in accordance with their own standards and interpretation, therefore the relevant instruments and policies of the United Nations, Council of Europe and the European Union are referred below.

The term ‘child participation’ is not explicitly mentioned by the UN Convention on the Rights of the Child but it is firmly based on Article 12, the right to be heard. This provision requires state parties to assure that every child, who is capable of forming his or her own views, has the right to express those views freely in all matters affecting them, including in judicial and administrative proceedings and that the views of the child be given due weight in accordance with their age and maturity. The UN Committee on the Rights of the Child adopted a General Comment interpreting Article 12, they recognized that particular groups of children, including children belonging to marginalized and disadvantaged groups, still face barriers in the realization of their right to be heard.⁴ Furthermore, the UN Convention on the Rights of People with Disabilities established that children with disabilities also have the “right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right”.⁵

The Recommendation of the Committee of Ministers of the Council of Europe defines child participation as a process where children and young people under the age of 18 “have the right, the means, the space, the opportunity and, where necessary, the support to freely express their views, to be heard and to contribute to decision making on matters affecting them, their views being given due weight in accordance with their age and maturity”.⁶ The current Council of Europe Strategy for the Rights of the Child - covering the period between 2016 and 2021 - sets as one of the five priorities the participation of all children.⁷

The Treaty on the European Union stipulates that the organization is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, therefore it should promote the protection of children as well.⁸ The Charter of Fundamental Rights of the European Union, that concerns EU institutions and Member State authorities applying EU law, declares that children can express their views freely on matters which concern them and that their views shall be taken into consideration in accordance with their age and maturity.⁹ Currently there is no over-arching EU strategy for children in force, however, the EU Youth Strategy is seen to be applied to young people aged 15 to 30.¹⁰

² Lundy, Laura: *‘Voice’ Is Not Enough: Conceptualising Article 12 of the United Nations Convention on the Rights of the Child*, British Educational Research Journal, Vol. 33., 2007, pp. 937.

³ Lansdown, Gerison: *The realisation of children’s participation rights – Critical reflections*. In: A Handbook of Children and Young People’s Participation (editors: Barry Percy-Smith, Nigel Thomas), Routledge, London 2011. p.11.

⁴ 1989 UN Committee on the Rights of the Child, General Comment No.12. CRC/GC/2003/5. 2003. para. 12.

⁵ 2006 UN Convention on the Rights of People with Disabilities Article 7(3).

⁶ Recommendation of the Committee of Ministers of the Council of Europe on the participation of children and young people under the age of 18, Section 2.

⁷ Council of Europe Strategy for the Rights of the Child, para. 37-40.

⁸ Treaty on the European Union, Article 2 and 3(3).

⁹ Charter of Fundamental Rights Article 24(1).

¹⁰ Exploring what the EU can do to promote and support the participation of children in decision-making. Supporting document to the Bucharest EU Children’s Declaration, Eurochild, 2019. pp. 3. available at https://www.eurochild.org/fileadmin/public/01_Communications/Press_Release/Experts_supporting_document_on_Child_Participation.pdf?utm_source=email&utm_campaign=First_ever_EU_Childrens_Summit_paves_way_for_future_of_Europe_debate&utm_medium=email (12 October 2019).

In order to involve all children, the principle of equal treatment should be applied in child participation by connecting two general principles of the UN Convention on the Rights of the Child: the right to be heard (Article 12) and the prohibition of discrimination (Article 2). The Convention requires states to respect and ensure the rights of children within their jurisdiction without any kind of discrimination and to take appropriate measures to protect them from discrimination. This positive obligation was re-affirmed by the UN Committee on the Rights of the Child in its General Comment No. 5.

“This non-discrimination obligation requires States actively to identify individual children and groups of children the recognition and realization of whose rights may demand special measures. [...] Addressing discrimination may require changes in legislation, administration and resource allocation, as well as educational measures to change attitudes. It should be emphasized that the application of the non-discrimination principle of equal access to rights does not mean identical treatment.”¹¹

The Recommendation of the Council of Europe Committee of Ministers also sets down the principle of non-discrimination, furthermore, it emphasizes that “particular efforts should be made to enable participation of children and young people with fewer opportunities, including those who are vulnerable or affected by discrimination, including multiple discrimination.”¹² Within the framework of the European Union, Article 21 of the Charter of Fundamental Rights establishes the prohibition of discrimination on any ground that should apply to child participation, too.

1.2. Definition of Children in Vulnerable Situations

The Preambles of the UN Convention on the Rights of the Child recognizes that children live in difficult conditions in every country and they need special consideration. The anti-discrimination clause of the Convention is open-ended but particularly mentions as prohibited grounds the child’s, and his or her parent’s or legal guardian’s: race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability and birth.¹³ Specific provisions are dedicated to the protection of children deprived of his or her family environment (Article 20), refugee or asylum seeking children (Article 22), children with disabilities (Article 23), children belonging to a minority group (Article 30), child victims (Article 39) and children in conflict with law (Article 40). In addition, the Committee on the Rights of the Child adopted several General Comments on the rights of a particular group of children under the Convention such as children in the context of migration (No. 22) and unaccompanied and separated children (No. 6), children in street situations (No. 21), indigenous children (No. 11), children in conflict with law (No.10.), children with disabilities (No.9.), children in early childhood (No. 7) and children affected by the HIV/AIDS epidemic (No. 3).

The current Council of Europe Strategy for the Rights of the Child sets as a priority to provide equal opportunities for all children and combat discrimination.¹⁴ The Strategy addresses the situation of children in vulnerable situations such as children with disabilities, children in all forms of alternative care, children on the move or otherwise affected by migration, children from minorities, Roma children, LGBT and intersex children. The Council of Europe has adopted several recommendations in relation to the situation and rights of children in vulnerable situations.¹⁵

¹¹ 1989 UN Committee on the Rights of the Child, General Comment No.5. CRC/GC/2003/5. 2003. para. 12.

¹² Recommendation of the Committee of Ministers of the Council of Europe on the participation of children and young people under the age of 18, Section 2.

¹³ 1989 UN Convention on the Rights of the Child Article 2(1).

¹⁴ Council of Europe Strategy for the Rights of the Child, Para. 26-36.

¹⁵ E.g. Committee of Ministers Recommendation on the rights of children living in residential institutions (CM/Rec(2005)5), Committee of Ministers Recommendation on deinstitutionalisation and community living of children with disabilities (CM/Rec(2010)2), Committee of Ministers Recommendation on children’s rights and social services friendly to children and families (CM/Rec (2011)12), Committee of Ministers Recommendations on the access of young people from disadvantaged neighbourhoods to social rights (CM/Rec(2015)3), Council of Europe Guidelines on child-friendly justice, Council of Europe Guidelines on child-friendly healthcare, Council of

The European Commission proposed a common European framework to tackle child poverty and social inclusion in its Recommendation on “Investing in children: breaking the cycle of disadvantage”.¹⁶ While underpinning the importance to fight against discrimination faced by children and their families on all grounds particularly those related to sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, the Commission requested the Member States to “focus on children who face an increased risk due to multiple disadvantage such as Roma children, some migrant or ethnic minority children, children with special needs or disabilities, children in alternative care and street children, children of imprisoned parents, as well as children within households at particular risk of poverty, such as single parent or large families”.¹⁷

The study on the “Evaluation of legislation, policy and practice on child participation in the European Union” addressed the situation of children who are considered vulnerable European-wide or due to the specific circumstances of the individual countries. Significant barriers have been identified to the participation of children belonging to the Roma minority, migrant children, children with special needs or disabilities, children growing up in institutional care and homeless children, mostly due to social exclusion, the stigma associated with their status or situation and limited or lack of access to education and other resources.¹⁸ The mapping study of the EU on Roma children found that although guidelines on child participation and safe-guarding are available, these are not applied in case of the involvement of Roma children, which is rare in any case.¹⁹ The Participation Experiences and Empowerment for Roma youth project (PEER) was featured as a good practice that aimed at strengthening the participation of young Roma, among others by developing training materials (with the involvement of Roma young people).²⁰

In this study, vulnerable children as a term is used to refer to all these groups of children in order to attempt to cover as widely as possible the children who might encounter barriers in practicing their right to be heard, but whenever it is relevant, the needs of particular groups or examples are discussed, too.

2. Requirements of Participation of all Children

2.1. The Right to Participate

The legal basis of participation of all children is the right to be heard or the right to participation declared by law in conjunction with an open-ended non-discrimination clause and the obligation to take positive measures. Participation should be defined as a horizontal principle in specific legislation concerning the situation and rights of vulnerable children, too, otherwise, governments cannot be held accountable if they fail to realize children’s right to participation. In the context of international organizations, similar codification would arguably ensure the effective and meaningful participation of all children. Despite this, it is still not a common practice among international organizations or bodies to establish children’s right to participation and its framework in internal regulations, rules of procedures or working methods.

The United Nations bodies refer to Article 12 of the UN Convention on the Rights of the Child and the General Comment No. 12 of the UN Committee on the Rights of the Child that has identified

Europe Guidelines on child-friendly justice, Recommendation of the Congress of Local and Regional Authorities on the social reintegration of children living and/or working on the streets.

¹⁶ Commission Recommendation 2013/112/EU of 20 February 2013. Investing in children: breaking the cycle of disadvantage. OJ 2013 L 59.

¹⁷ Ibid. Part 1.

¹⁸ Day, Laurie, Percy-Smith, Barry, Ruxton, Sandy, McKenna, Katharine, Redgrave, Katy, Young, Tricia: *Evaluation of legislation, policy and practice on child participation in the European Union (EU) - Research Summary*. European Commission, 2015. p. 16.

¹⁹ Byrne, Kevin, Szira, Judit: *Mapping of research on roma children in the European Union (2014-2017)*. European Commission, 2018. p. 75.

²⁰ Website of the project is available at <http://www.peeryouth.eu/> (10 October 2019).

the international level as a setting where children can exercise their right to be heard. It is highlighted in the General Comment that “the Committee welcomes written reports and additional oral information submitted by child organizations and children’s representatives in the monitoring process of child rights implementation by States parties”.²¹ In accordance with this, the Committee on the Rights of the Child adopted specific working methods for child participation at the monitoring of the Convention²² and at the Day of General Discussion.²³

Other UN monitoring bodies have not adopted similar documents to date, but children have taken part in the monitoring of the International Convention on the Elimination of all form of Discrimination against Women, Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of all forms of Racial Discrimination and in the Universal Periodic Review on an occasional basis. Child participation in these monitoring mechanisms was actually triggered by a previous successful engagement with the UN Committee on the Rights of the Child. For example, the girls of Nepal prepared the first-ever girl-led report for the UN Committee on the Elimination of Discrimination against Women²⁴ and children in Albania submitted the first children’s contribution to the Universal Periodic Review of Albania²⁵ following a report on the implementation of the UN Convention on the Rights of the Child in their respective countries. The participation of children with disabilities in the monitoring of the UN Convention on the Rights of People with Disabilities could be established on the basis of Articles 7 and 33(3) of the Convention and the Committee on the Rights of Persons with Disabilities specifically referred to children with disabilities in its General Comment clarifying states’ obligations under Article 33(3),²⁶ nevertheless, children with disabilities have not yet engaged with the Committee. Strengthening and enhancing the effective functioning of the human rights treaty body system is currently under discussion at the UN,²⁷ this would be a good opportunity to take into account the cross-sector dimension of child participation and mainstream it throughout the monitoring systems.²⁸ The UN Minority Forum also recommended for states to involve young people belonging to minority groups in decision-making procedures, including at international level.²⁹

The Committee of Ministers of the Council of Europe instructed the Secretary General to encourage the participation of children in the standard-setting, cooperation and evaluation activities of the organization and to invite the relevant steering committees, advisory and consultative bodies as well as monitoring mechanisms to take all these recommendations addressed to states into consideration in their own respective work.³⁰ For the time being, there are no specific organizational rules or working methods for the participation of children in any of the activities of the organization, however where child participation does take place, they usually refer to Article 12 of the UN Convention on the Rights of the Child and to Article 9 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) in relation to the implementation and monitoring of this Convention.³¹

²¹ 1989 UN Committee on the Rights of the Child, General Comment No.12. CRC/GC/2003/5. 2003. para. 131.

²² Working methods for the participation of children in the reporting process of the Committee on the Rights of the Child. CRC/C/66/2. 2014.

²³ Working methods for the participation of children in the days of general discussion of the Committee on the Rights of the Child. CRC/C/155. 2018.

²⁴ Girl-Led Report on the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Nepal, Girls of Nepal, Date of Submission: 1 October 2018, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fCSS%2fNPL%2f32588&Lang=en (2 October 2019).

²⁵ Stakeholder report on Albania Submitted by Child Led Groups “Voice 16+” and Peer Educator’s Group with the support of Save the Children and World Vision, Universal Periodic Review 19th session, September 2013, available at https://albania.savethechildren.net/sites/albania.savethechildren.net/files/library/UPR%20submission%2016%2009%202013_Review%20of%20Albania_3.pdf (06 October 2019).

²⁶ UN Committee on the Rights of Persons with Disabilities, General Comment No. 7. on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention. CRPD/C/GC/7. 2018.

²⁷ Strengthening and enhancing the effective functioning of the human rights treaty body system, Resolution adopted by the General Assembly on 9 April 2014, A/RES/68/268.

²⁸ *Optimizing the UN treaty body system, Academic Platform Report on the 2020 review*, Geneva Academy, 2018, p. 22.

²⁹ Report of the Special Rapporteur on minority issues on recommendations made by the Forum on Minority Issues at its tenth session on the theme “Minority youth: towards inclusive and diverse societies”. A/HRC/37/73. 2018. para. 48.

³⁰ Recommendation of the Committee of Ministers of the Council of Europe on the participation of children and young people under the age of 18. Preamble.

³¹ Guidelines for Child participation in the monitoring of the Lanzarote Convention, available at <https://rm.coe.int/guidelines-for-implementation-of-child-participation-in-the-2nd-monito/16808a3956> (2 October 2019).

In case of the European Union, Article 24 (1) of the Charter of Fundamental Rights provides for child participation and is the reference for European institutions and Member States when they are implementing EU law. The European Commission proposed for the Member States to put in place mechanisms that promote children's participation in decision-making that affects their lives, support the involvement of all children in existing participation structures particularly children from disadvantaged backgrounds, including in the implementation of the recommendations in question.³² In addition, they recommended that children should be involved in the running of public services and consulted on the drafting of relevant policies in mechanism adopted to their age.³³

2.2. The Opportunity to Participate

The declaration of the right to be heard is an essential but not sufficient requirement for meaningful and sustainable child participation, legislative, policy and practical measures need to be put in place to establish both the right and the opportunity.³⁴ Both the UN Committee on the Rights of the Child and the relevant literature emphasize that child participation should not be an ad-hoc, one-off event but it should be understood as a process that is well-structured in time and place and constitute an integral part of a decision-making procedure affecting the life of children. One of the principles of child participation is accountability that means children will get a feedback about how their opinions were considered and how they eventually affected the decision itself, furthermore, children are involved in the follow-up activities such as the implementation and monitoring of the decisions taken. The opportunity to participate means that there are several entry points for children to get involved in the decision-making process including in the course of implementation and the follow-up of the decision.

Nevertheless, the quantity and quality of opportunities available for children to participate in decision-making procedures tend to be characterized by the social, political and economic situation of the country concerned, where children in vulnerable or disadvantaged situations may face even more challenges. Therefore, the UN Committee on the Rights of the Child emphasized that states "shall take adequate measures to assure to every child the right to freely express his or her views and to have those views duly taken into account without discrimination"³⁵, this covers the obligation to prevent and tackle discrimination in order to enable children from vulnerable and marginalized groups to participate on equal basis with other children.

The importance of providing opportunities in relation to particularly vulnerable groups of children has been highlighted as well. The UN Committee on the Rights of the Child stressed that children with disabilities "should be represented in various bodies such as parliament, committees and other forums where they may voice views and participate in the making of decisions that affect them as children in general and as children with disabilities specifically".³⁶ The UN Forum on Minority Issues proposed that states use quotas to ensure that minority youth are adequately represented in their national and local institutions including municipalities and schools.³⁷ The study on the "Evaluation of legislation, policy and practice on child participation in the European Union" concluded that the access of Roma children to child and youth councils should be promoted and widened.³⁸ In some countries, children living in childcare institutions are entitled to set up their own child government in order to advocate for their rights; if child participation is meaningful in such settings it

³² 2013/112/EU: Commission Recommendation of 20 February 2013, Investing in children: breaking the cycle of disadvantage, Chapter 3.

³³ Ibid. Chapter 2.3.

³⁴ Lansdown, Gerison: *The realisation of children's participation rights – Critical reflections*, p. 14.

³⁵ UN Committee on the Rights of the Child, General Comment No.12. CRC/GC/2003/5. 2003. para. 75.

³⁶ UN Committee on the Rights of the Child, General Comment No. 9. CRC/C/GC/9. 2007. para. 37.

³⁷ Report of the Special Rapporteur on minority issues on recommendations made by the Forum on Minority Issues at its tenth session on the theme "Minority youth: towards inclusive and diverse societies" para. 49.

³⁸ Day, Laurie et al.: *Evaluation of legislation, policy and practice on child participation in the European Union*, pp. 16.

can have a great impact on the life of all children living in the institution.³⁹

The Guidelines „Engaging Children with Disabilities in Decisions Affecting their Lives” prepared by UNICEF states that the opportunities for the participation of children with disabilities should be the same as for all other children and the already existing forums should be made accessible for children with disabilities.⁴⁰ Nevertheless, separate or dedicated opportunities are also necessary because on such occasions children can have the space to discuss and develop arguments in relation to issues that are specific to their life and situation, but these opportunities should never exclude or substitute inclusive participation. „Children with disabilities should always be offered the choice as to whether they want separate spaces for participation. They should never be forced to go because it is the only option available to them.”⁴¹

The UN Committee on the Rights of the Child stresses that participation should be voluntary, the child has the right not to exercise the right and the choice can be withdrawn at any moment.⁴² The right to be heard is not only an individual right but should apply to the group of children including minority children and children with disabilities.⁴³ Nevertheless, when children are involved as a homogeneous group, every child who is a member of that group should be invited to participate and given the choice, especially in cases when established groups are involved such as children living in the same childcare institutions or children living in neighbouring or the same villages in rural areas.

The question arises in relation to what topics children should be involved in regard to decision-making procedures of an international organization. At the time of the drafting of the UN Convention on the Rights of the Child, there was an initiative to decide on the particular topics and issues children can give their opinion about but eventually they decided to define it widely and ensure children are heard in relation to every decision affecting their lives. Still, children should be consulted on topics relevant for their life and should be given the opportunity to identify such topics by themselves.⁴⁴ An international organization makes decisions on issues relevant for all children or to a specific group of children.

In case of a decision related to children in general, children in vulnerable situations should be provided access to the child participation process without discrimination on any ground, furthermore, their participation should be supported by further measures including the establishment of a homogeneous group of children for consultation, if needed. Since non-discrimination is a general principle of the UN Convention on the Rights of the Child, it should be included in every decision or standard related to children but in order to apply it in practice, all provisions should be scrutinized from the point of view of children who might face discrimination. Decision-makers need to put aside prejudices against particular group of children, for example that children in disadvantaged situations have no access to internet or smart devices therefore that there is no need to consult them on standards about the practice of their rights and protection in the digital environment or that boys cannot fall victim of sexual abuse so they cannot contribute to related monitoring procedures. It can be considered as good practice the inclusive children’s reports submitted to the UN Committee on the Rights of the Child,⁴⁵ moreover, the Council of Europe involved several groups of vulnerable children in the drafting of the Recommendations of the Committee of Ministers to member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment.⁴⁶

³⁹ E.g. in Hungary, see Act 31 of 1997 on Child protection, 37.§.

⁴⁰ Duncan, Barbara: *Take us seriously! - Engaging Children with Disabilities in Decisions Affecting their Lives*, UNICEF, 2013. pp. 12-14.

⁴¹ *Ibid.* p. 17.

⁴² UN Committee on the Rights of the Child, General Comment No.12. CRC/GC/2003/5. 2003. para. 16.

⁴³ *Ibid.* para. 9.

⁴⁴ *Ibid.* para. 134.

⁴⁵ Recent example is *the Hungarian Children’s report to the UN Committee on the Rights of the Child – How do you see it?* Hintalovon Foundation, 2019. available at https://hintalovon.hu/sites/default/files/howdoyouseeit_eng.pdf (16 October 2019).

⁴⁶ *It’s Our World: Children’s views on how to protect their rights in the digital environment*. Council of Europe, 2017, available at <https://rm.coe.int/it-s-our-world-children-s-views-on-how-to-protect-their-rights-in-the-/1680765dff> (11 October 2019).

When an international organization is monitoring the situation of a specific group of children or working on a decision related to this specific group, children belonging to this group should be definitely consulted even if their participation requires special measures or allocation of additional resources compared to general child participation processes. In accordance with this approach, the UN Committee on the Rights of the Child involved children in street situations in the drafting of the General Comment on the rights of children in street situations,⁴⁷ the Council of Europe consulted unaccompanied asylum-seeking children on the topic of age assessment during the drafting procedures of guidelines for member states.⁴⁸ Nevertheless, flexible approach should be used concerning the composition of child participation groups with specific characteristics, like it happened in the case of the first-ever girl-led report for the UN Committee on the Elimination of Discrimination against Women where 17,2% of the Nepali children participating were actually boys that made possible to include also how boy perceived girls rights issues in Nepal.⁴⁹ The Council of Europe also had consultations with mixed groups of Roma and non-Roma children in three countries in order to develop the child-friendly version of the Dosta! campaign.⁵⁰ Furthermore, intersectionality should be an organizing principle in case of the involvement of children in vulnerable or disadvantaged situations. The participation of children with disabilities as a vulnerable group should be carefully referred to because they cannot be considered as a homogeneous group, as it is reflected in the pattern of civil society organizations of and for people with disabilities as many of them focus on advocacy for one particular group.

The best interests of the child is a factor that also has to be considered also in child participation, therefore, it might happen that it is in the best interest of a child to be absent from a child participation process organized by an international organization. This can be the case when the topic of the consultation or the attributions of the vulnerable group to which the children belong to, might make them a target of intimidation or reprisal in their home country or in their micro-environment. Similarly, if domestic law prescribes the consent of the parents or care-givers as a condition to participation but the child cannot obtain or does not want to seek that, it is in the best interest of the child that the organizers comply with the laws protecting them.

2.3. The Space to Participate

Children cannot practice their right to be heard if their the freedom of expression, freedom of thought and conscience, freedom of religion or freedom of assembly is not well protected and respected. All these freedoms and rights are provided for in the UN Convention on the Rights of the Child and can be subject to limitations prescribed by law which are necessary to protect a legitimate aim such as the rights or reputations of others, national security, public order, public health or morals.⁵¹

At this point, it is worth referring to child participation models in the literature. *Hart* created the “ladder of participation” model to serve as a beginning typology for thinking about children’s participation in projects.⁵² Hart classified as genuine participation when young people and adults share the decision-making (8th rung), when young people lead and initiate action (7th rung), when in an

⁴⁷ Consulting with children on the call for written submissions. The Consortium for Street Children, 2016, available at <https://www.streetchildren.org/resources/consulting-with-children-on-the-call-for-written-submissions/> (11 October 2019)

⁴⁸ *We are children, hear us out! Children speak out about age assessment Council of Europe Report on consultations with unaccompanied children on the topic of age assessment.* Council of Europe, 2019, available at <https://rm.coe.int/we-are-children-hear-us-out-children-speak-out-about-age-assessment-re/16809486f3> (10 October 2019).

⁴⁹ Girl-Led Report on the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Nepal, Girls of Nepal, Date of Submission: 1 October 2018. Annex II, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2fCSS%2fN-PL%2f32588&Lang=en (10 October 2019).

⁵⁰ Based on child consultations in Albania, Hungary and Spain during the course of 2017, the Council of Europe developed two videos to share the antigypsism message of the Dosta! campaign with children, available at <https://www.coe.int/en/web/roma-and-travellers/dosta-child-friendly-campaign> (09 October 2019).

⁵¹ 1989 UN Convention on the Rights of the Child Articles 13, 14, 15.

⁵² Hart, Roger: *Children’s Participation: From Tokenism to Citizenship*, UNICEF, 1992. p. 9.

adult-initiated process the decision-making is shared with young people (6th rung), when young people are consulted and informed (5th rung) and when young people assigned and informed (4th rung). According to him, models of non-participation are when young people are tokenized (3rd rung), when they serve just as decoration (2nd rung) or they are manipulated (1st rung).

According to *Lansdown*, without evaluation, “it is not possible to engage in any critical appraisal of what is being done in the name of participation or, indeed, of whether it is actually impacting on the lives of children”.⁵³ She classified child participation at three different levels depending on the point where children got involved and the level of their involvement. In a consultative process, the adults seek the opinion of the children in order to obtain information about their life and experiences and based on that they improve legislation, policies or services. This process is led and managed by adults and the decision-making procedure is not shared with the children. Collaborative participation provides for a higher level of partnership as children can be actively engaged in any stage of the process and the decision-making can be shared between children and adults. The third level is child-led participation when children can initiate and lead the process, the adult’s contribution is restricted to the provision of support to achieve their objectives. This can happen if “children are afforded the space and opportunity to identify issues of concern, initiate activities and advocate for themselves.”⁵⁴ There is no strict line between the different categories, the form of participation is to be adjusted to the situation and it can evolve during the process itself.

Provision of space to participate means that children can freely express their opinions, both in terms of the content and the format. Children can freely articulate the content if the adults do not manipulate or influence them but they are only present to provide adequate and necessary support. Children can express their views in any format which is suitable, expressive and natural for them, it does not have to be “adult-friendly”. The UN Committee on the Rights of the Child, stated that “full implementation of Article 12 requires recognition of, and respect for, non-verbal forms of communication including play, body language, facial expressions, and drawing and painting, through which very young children demonstrate understanding, choices and preferences.”⁵⁵ This General Comment was adopted following research showing that children can express themselves from the youngest age but not necessarily verbally. The Committee also expressed that children with disabilities should be provided with whatever mode of communication they need to facilitate the expression of their views.⁵⁶ The Lanzarote Committee followed a similar practice in its Methodology to involve children in the monitoring of the Convention.⁵⁷ The freedom to choose the form of their expression is of crucial importance especially in cases involving younger children as well as children belonging to vulnerable or disadvantaged groups to ensure that the procedure is inclusive.

The authors of “The mapping of research on Roma children in the European Union” found that the barrier to genuine and meaningful participation for Roma children in social research is that they are not provided space to form and express their views, the adults tightly control the research and they restricts real opportunities for children to speak their mind.⁵⁸ The Guide for Professionals developed in the PEER project therefore emphasized “it is important to try not to lock young people into existing arrangements, instead start with young people’s ideas and draw on existing resources as may be appropriate”.⁵⁹ This can similarly happen to children in any vulnerable situation when they are not perceived as children first and foremost but as persons in a vulnerable or disadvantaged situation. International organizations can avoid such situations by providing clear guidance for the adults facilitating the participation on how to create the appropriate space for children to express

⁵³ Lansdown, Gerison: *The realisation of children’s participation rights – Critical reflections*, p. 20.

⁵⁴ *Ibid.*

⁵⁵ UN Committee on the Rights of the Child, General Comment No.12. CRC/GC/2003/5. 2003. para. 21.

⁵⁶ UN Committee on the Rights of the Child, General Comment No. 9. CRC/C/GC/9. 2007. para. 37.

⁵⁷ Guidelines for Child participation in the monitoring of the Lanzarote Convention available at <https://rm.coe.int/guidelines-for-implementation-of-child-participation-in-the-2nd-monito/16808a3956> (18 September 2019).

⁵⁸ Byrne et al.: *Mapping of reserach on roma children in the European Union (2014-2017)*, p. 79.

⁵⁹ Percy-Smith, Barry et al.: *Supporting the Participation and Empowerment of Young Rom*, Presa Universitara Clujeana, 2016, p. 18.

their views. It is also vital that some form of child-friendly information, that is adapted to the age, gender, culture and maturity of the children participating, is also provided to properly inform the children taking part about the international organisation and the participation process itself.

2.4. The Means to Participate

The means necessary for meaningful participation include on one hand the material resources, and on the other hand child-friendly information that is prerequisite of informed involvement of children. An international organization should provide these means if it involves children in their standard setting or decision-making procedures including resources and information that is adapted to children in vulnerable or disadvantaged situations.

In accordance with Article 13 of the UN Convention on the Rights of the Child, the right to freedom of expression incorporates the right to information, furthermore, Article 17 prescribes that children shall have “access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health”. This applies to the implementation of Article 12, hence mass media also have a role in providing children with information and to empower them to practice their right to participation as well. Article 29 recalls that the aims of education foster the development of the child’s personality, talents, mental and physical abilities as well as the respect for human rights and fundamental freedoms. The Recommendation of the Council of Europe Committee of Ministers states that it is the requirement of meaningful and genuine participation to provide children with all relevant information and offered adequate support for self-advocacy appropriate to their age and circumstances, including information about “the scope of their participation, including the limitations on their involvement, the expected and actual outcomes of their participation and how their views were ultimately considered”.⁶⁰

Article 17 of the UN Convention on the Rights of the Child explicitly mentions the linguistic needs of the child who belongs to a minority group or who is indigenous in relation to the information provided by mass media which is closely connected with the cultural, religious and linguistic rights of minority and indigenous children.⁶¹ The UN Committee on the Rights of the Child stressed on several occasion that the states should raise awareness about the UN Convention on the Rights of the Child and its principles, among others, by providing translation into minority and indigenous languages and that the mass media has an important role in this.⁶²

“The mapping of research on Roma children in the European Union” found that the review of child participation methodologies should consider the use of social media and new technologies, referring to the PEER project that discovered the potential in the use of ICTs as a mean to facilitate Roma children’s participation in research and advocacy.⁶³ The Forum on Minority Issues proposed that states reach out to minority youth in decision-making processes, for example by the use of “youth-friendly tools such as online platforms and social media which can also contribute to achieve greater transparency in such processes”.⁶⁴

The UN Convention on the Rights of Persons with Disabilities recalls the freedom to seek, receive and impart information and ideas for persons with disabilities, including children with disabilities, who should receive information addressed to children “in accessible formats and technologies ap-

⁶⁰ Recommendation of the Committee of Ministers of the Council of Europe on the participation of children and young people under the age of 18, Section II - Principles.

⁶¹ 1989 UN Convention on the Rights of the Child Article 30.

⁶² *Implementing Handbook for the Convention on the Rights of the Child*, UNICEF, 2007, p. 224.

⁶³ Byrne et al.: *Mapping of research on roma children in the European Union (2014-2017)*, p. 76.

⁶⁴ Report of the Special Rapporteur on minority issues on recommendations made by the Forum on Minority Issues at its tenth session on the theme “Minority youth: towards inclusive and diverse societies”. para. 48.

appropriate to different kinds of disabilities in a timely manner and without additional cost”.⁶⁵ Access to information in accessible format for children with disabilities enables them to participate in society on an equal basis with other children and to influence decisions affecting their life. According to the UN Committee on the Rights of the Child, “children with disabilities should also be provided with the appropriate technology and other services and/or languages, for example Braille and sign language, which would enable them to have access to all forms of media, including television, radio and printed material as well as new information and communication technologies and systems, such as the Internet”.⁶⁶ Therefore communication cannot be a barrier to the participation of children with disabilities.⁶⁷

As we have seen, the right to information is acknowledged in case of children in vulnerable situations but in practice several challenges might arise. First, information should be available in a child-friendly manner, this extends not only to the UN Convention on the Rights of the Child and other closely related children’s rights topics but also to thematic conventions and issues relevant to children belonging to a particular vulnerable group. Second, child-friendly information about children’s rights in general as well as about the rights of specific groups should be prepared in an accessible format, tailor-made to the needs of the target group and in a language which is gender inclusive and which the children can understand including Braille and sign language. Therefore, if we want to combine both the content and the right format of child-friendly information, it might open up the room for endless variations, for example, an asylum-seeker girl with a hearing impairment belonging to a minority group would need information about children’s rights, the asylum procedure and her rights therein, the rights of children with disabilities, rights of minority children and the rights of the girl child, in sign language or written format if she can read and in a language she can understand, preferably her mother tongue, even if it is a minority language.

The United Nations and its agencies have several good practices when it comes to child-friendly versions of international human rights conventions⁶⁸ and the development of child-friendly information on various topics and procedures.⁶⁹ These have proved to be an important tool to support governmental and non-governmental organizations when implementing child participation in the field. The Council of Europe published an information booklet and poster about children’s rights in general in 28 languages, including in Basque language,⁷⁰ resources about sexual violence against children also exist in several minority languages, for example the “Kiko and the Hand” is available in Arabic, Basque, Catalan, Galician and Romani language.⁷¹ Several tools have been developed about the rights of children and young people in care including booklet, leaflet and poster to facilitate communication between the child and social workers, these have been translated into several languages, too.⁷²

There are few examples of child-friendly versions of thematic human rights treaties and most

⁶⁵ 2006 UN Convention on the Rights of People with Disabilities Article 21(a).

⁶⁶ UN Committee on the Rights of the Child, General Comment No. 9. CRC/C/GC/9. 2007. para. 37.

⁶⁷ Duncan, Barbara: *Take us seriously! - Engaging Children with Disabilities in Decisions Affecting their Lives*. pp. 11.

⁶⁸ Recent example is Child-friendly Convention on the Rights of the Child by UNICEF and Child Rights Connect <https://weshare.unicef.org/CS.aspx?VP3=SearchResult&STID=2AMZIFJXAUUY> (12 October 2019), Child-friendly poster: Convention on the Rights of the Child by Plan International <https://plan-international.org/child-friendly-poster-convention-rights-child> (12 October 2019), the Speak up for your rights – child-friendly version of the UN CRC Optional Protocol on the communication procedure by Child Rights Connect https://www.childrightsconnect.org/wp-content/uploads/2015/08/OP3_CF_Leaflet__En_FINAL.pdf (12 October 2019) and the Child-Friendly Text UN Disability Convention by UNICEF https://www.unicef.org/Child_friendly_CRPD.pdf (12 October 2019).

⁶⁹ For example child-friendly version of The Global Survey on Violence against Children <https://resourcecentre.savethechildren.net/library/global-survey-violence-against-children-2011-child-friendly-version> (10 October 2019), the United Nations Secretary-General’s Study on Violence against Children Adapted for Children and Young People https://www.unicef.org/violencestudy/pdf/Study%20on%20Violence_Child-friendly.pdf (11 October 2019), Fairy Tales for a Fairer World <https://sdgstorybook.com/> (09 October 2019) and the Frieda and the Sustainable Development Goals https://issuu.com/unpublications/docs/frieda_2018 (10 October 2019).

⁷⁰ All language formats are available at the Council of Europe website. [https://www.coe.int/en/web/children/i-have-rights-you-have-rights-he/she-has-rights-...#?%2212444981%22:\[1\]](https://www.coe.int/en/web/children/i-have-rights-you-have-rights-he/she-has-rights-...#?%2212444981%22:[1]) (2 October 2019).

⁷¹ Kiko and the Hand – A children’s book, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806b068b> (2 October 2019) and TV spot <https://www.coe.int/en/web/children/kiko-and-the-hand> (2 October 2019), „Tell Someone you Trust” – Brochure <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048bb6e> (2 October 2019) and TV spot <http://www.coe.int/en/web/children/tell-someone-you-trust> (2 October 2019).

⁷² “Children and young people in care – Discover your rights!” booklet, leaflet and poster available at <https://www.coe.int/en/web/children/alternative-care> (2 October 2019).

of them are developed by non-governmental organizations working on national or local level. Child-friendly information about children's rights and specific topics tailor-made to the needs of a specific vulnerable group which might have communication barriers is even more rare. The Faroese umbrella organization, MEGD developed the child-friendly version of the UN Convention on the Rights of Persons with Disabilities in three different formats: the text is available in a booklet, in a video via sign language interpretation and in a podcast.⁷³ The child-friendly versions of the UN Convention on the Rights of the Child have been translated into many languages, which can easily be accessible to children belonging to minority groups which has a kin-state, but there is no information available in any language in child-friendly format about the UN Convention on the Elimination of all forms of Racial Discrimination or the UN Declaration the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

From the perspective of an international organization, children involved in a particular decision-making procedure should be informed about the general aim and framework of the organization and its relevant bodies in order to fully understood their role and the impact of the decision to be taken. In 2019, at a conference organized by the Council of Europe, non-governmental organizations have highlighted the challenges of providing such information are partly due to the lack of child-friendly information available at international level.⁷⁴ The European Union has a compilation of games and resources on the website "Kids' corner"⁷⁵ giving a great overview of their work, on contrast only a few resources are available about the United Nations, these have been developed by different actors.⁷⁶

In relation to the material resources necessary to implement child participation, the physical environment of child consultations is of crucial importance. Children with disabilities should be provided with an accessible environment and all the activities planned should be accessible for them. Since children with disabilities are not a homogenous group and some children might have more than one impairments, the method to involve them should be fully adjusted to the needs of the children concerned in order to overcome all the barriers which impede or limit their participation. While choosing the venue, it should be taken into account whether children from disadvantaged background or children living in rural areas would have access, if not, how would it be possible to ensure their participation? Facilitators should consider whether a change of venue would be necessary. All these factors are equally applicable to child participation organized by international organizations.

2.5. The Support to Participate

Article 5 of the UN Convention on the Rights of the Child stipulates that the parents and caretakers are entitled and obliged at the same time to provide guidance for the child about the exercise of their rights under the Convention in a manner consistent with his or her evolving capacities. Accordingly, the child is the subject of the rights, he or she can exercise or enjoy these rights, the adults should only provide support adjusted to the needs and evolving capacities of the child to make them able to exercise their rights to the fullest extent.⁷⁷ Although this provision originally aimed to strengthen the role of the family and reduce the need for state intervention in the private life of the family, it can serve as a parallel in all spheres of life where adults are responsible for the care, education and development of a child.

⁷³ The child-friendly package is available on the website of the NGO: <https://megd.fo/lukka> (2 October 2019).

⁷⁴ Strengthening civil society participation in the implementation and monitoring of the Lanzarote Convention Conference Report, Children's Rights Division, Council of Europe, 2019, pp. 12, available at <https://rm.coe.int/report-international-ngo-conference-8-9april-2019-strasbourg-final/1680966285> (12 October 2019).

⁷⁵ Available at https://europa.eu/kids-corner/disclaimer/index_en.htm (12 October 2019).

⁷⁶ E.g. the video "United Nations explained" developed by CBC Kids News <https://www.youtube.com/watch?v=SaAmfJtV4I> (11 October 2019) or the video "C'est quoi, l'ONU ?" developed by 1 jour, 1 question, https://www.youtube.com/watch?v=zL90M4yD_jY (11 October 2019).

⁷⁷ Lansdown, Gerison: *The realisation of children's participation rights – Critical reflections*, p. 13.

Lundy and *McEvoy* in a study argued that child participation from the children's rights perspective does not limit an adult's contribution to simply assisting children to express their views freely but also extends to assisting them in the formation of their views. Children are seen as experts of their own lives but we cannot expect them to have a predefined opinion on all children's rights related issues, especially if they have not encountered a given topic before. The authors emphasised that children should be assisted to form their opinions. Since children should be involved in decision-making procedures affecting their lives, it is the role of adults to provide support to ensure that children are informed instead of excluding children who do not have appropriate knowledge of a given topic. Here we can refer to the need for child-friendly information since one of the main conclusions of the study is that children are able to express their own perspective more confidently and comprehensively on an issue if they are well-informed about them.

The adults facilitating the process of children participation should ensure the respectful and safe environment for all children. The adults should treat children with respect and give them space to initiate, design and implement their ideas. Children in vulnerable or disadvantaged situations are more likely to experience exclusion or discrimination, therefore they need special and dedicated attention to be empowered and confident. The adult facilitators should be prepared to work with specific groups of children and to satisfy their needs, and to have the right attitude, understanding and skills. *Lansdown* mentioned an example of necessary measures for meaningful participation is to provide pre- and in-service training on the rights of children for all professionals working with and for children.⁷⁸

A safe environment also means that the professionals working with children minimize the risk of violence, exploitation or any negative consequence of the children's participation including informing children about the right to protection and available remedies including where to turn to for help. The minimization of risks is of particular importance in cases involving children in vulnerable situations who may need an advanced level of protection of their privacy and personal data, such as children under or applying for international protection or children living in institutions or foster care who are subject to special protective measures. The international organizations can request anonymity in participatory process, the UN Committee on the Rights of the Child⁷⁹ and the Lanzarote Committee⁸⁰ did so in the course of the monitoring of the implementation of their respective conventions, by providing guidance to facilitators that children participating in the development of the reports should not be identifiable by their name or photo.

3. Conclusions

The United Nations Convention on the Rights of the Child declares that every child who is capable of forming his or her own views has the right to express those views freely in all matters affecting them, and that the views of the child should be given due weight in accordance with the age and maturity of the child. The standard-setting and decision-making procedures of international organizations are not exempted: a simple interpretation of Article 12 on the right to be heard explicitly demonstrates that this includes the international level as a setting where children should participate in decision-making. Accordingly, international organizations should provide the right, the opportunity, the space, the means and the support needed for the participation of all children.

⁷⁸ *Ibid.* p. 14.

⁷⁹ Working methods for the participation of children in the reporting process of the Committee on the Rights of the Child. CRC/C/66/2. 2014. para. 13.

⁸⁰ UN Committee on the Rights of the Child, General Comment No.12. CRC/GC/2003/5. 2003. para. 134.

In order to establish the legal framework of participation for all children, states should codify the right to be heard in conjunction with an open-ended non-discrimination clause and the obligation to take positive measures. Similarly, international organizations or bodies can establish children's right to participation and requisite frameworks in their internal regulations, rules of procedures or working methods, instead of cross-references and interpretation of provisions of international human rights instruments. For the time being, only the UN Committee on the Rights of the Child has provided detailed Guidelines on child participation, other international organizations and bodies engage with children without an established comprehensive internal framework, providing guidance on an ad hoc basis. Inspiration could even come from non-governmental organizations, some of which have drafted and published their own guidelines on child participation in order to ensure a meaningful and transparent procedures.

Children in vulnerable and disadvantaged situations should be provided with the opportunity to take part in the decision-making procedures of international organizations concerning children's rights in general and the rights and situation of any particular group of children. In accordance with the principle of non-discrimination, children from vulnerable groups should have access to the mainstream participatory processes on an equal basis with other children, if necessary, supported by positive measures. In case of monitoring the situation of a specific group of children or working on a decision related to this specific group, children belonging to this group should be systematically consulted even if their participation requires special measures or the allocation of additional resources compared to general child participation processes. If separate or dedicated child participation is justified, the composition of the group should be carefully and flexibly considered because diversity might enhance the outcomes of the process in some cases.

Provision of space to participate is of crucial importance on an international level as well. When children are consulted by international organizations, they should be given the space to freely express their opinions, both in terms of the content and the format. It happens often that vulnerable children are not perceived as children first and foremost but as persons in a vulnerable situation which might pave the direction of the consultation on any topic with them. If children are not encouraged or limited to use "adult-friendly" formats to their contributions, younger children as well as children belonging to vulnerable or disadvantaged groups can also engage in an inclusive procedure.

International organizations should provide the means necessary for participation such as the material resources including the physical environment and the child-friendly information. The latter is a prerequisite for the informed involvement of children and it has even more significance in cases of international organizations because many times children are consulted in the member states by intermediary actors like non-governmental organizations or ombudspersons for children. The professionals facilitating the consultations are not staff members or necessarily experts in the practice or case-law of a particular international organization, therefore the international organizations should develop or support the development of child-friendly resources about their own work, procedures or instruments. Few good examples are currently available of child-friendly information about topics relevant for specific groups of children in a format accessible for children who might face language barriers. There is a significant room for improvement with regard to the provision of child-friendly information about the general framework of international organizations and thematic human rights instruments including information in a format that is accessible and adequate for groups of vulnerable children such as minority and migrant children, children with disabilities and younger children.

Regardless of whether a staff member of an international organization or an employee of a non-governmental organization facilitates child consultations, the professionals should be prepared, trained

and instructed to be able to provide the necessary and adequate support to the children. Children should be assisted to form and express their views in a respectful and safe environment where the risk of violence, exploitation or any negative consequence of their participation are minimized. The best interests of the children and the protection of their privacy, especially of those coming from a vulnerable or disadvantaged background, should never be balanced against the interest of the organization, not even for campaign or propaganda purposes.

Professionals who have facilitated consultations with children for international organizations have reported that children felt like their opinions and thoughts do matter and that they can really make a difference with positive impact on their lives. The facilitators emphasised that children – even from vulnerable backgrounds - were empowered in the process, their self-esteem and self-confidence was raised and they had been trained on how to advocate for their own rights.⁸¹ The consequent implementation of the principle of equal treatment to the participation of children in decision-making procedures of international organizations – as discussed in this paper - would assure that vulnerable and disadvantaged children are given the opportunity to affect the decisions that concern them, and furthermore, to enjoy the positive impact of such participation on the development of their personality and evolving capacities on equal basis with other children.

⁸¹ See: It's Our World: Children's views on how to protect their rights in the digital environment. Council of Europe, 2017. pp. 17 available at <https://rm.coe.int/it-s-our-world-children-s-views-on-how-to-protect-their-rights-in-the-/1680765dff> (12 October 2019).