**OHCHR call for input**

*OHCHR is conducting a study on the implementation of human rights with regard to young people, the identification of cases of discrimination against young people in the exercise of their human rights, and best practices in the full and effective enjoyment of human rights by young people.*

[The European Union Agency for Fundamental Rights (FRA)](http://fra.europa.eu/en) is the EU’s center of fundamental rights expertise. It is one of the EU’s decentralized agencies. The Agency helps to ensure that the fundamental rights of people living in the EU are protected by: collecting pertinent and timely data and information; sharing evidence-based insights and advice with policy- and decision-makers; raising rights awareness and promotes fundamental rights; engaging with a wide array of diverse stakeholders from the local to international level with targeted assistance and in-depth knowledge.

Recent works by the agency, where the human rights of young people are analysed, include the Fundamental Rights Report 2017 and the recent web publication on Minimum age requirements concerning the rights of children and young people in the EU. The [Fundamental Rights Report](http://fra.europa.eu/en/publications-and-resources/publications/annual-reports/fundamental-rights-2017), which is published annually, reviews the diverse efforts at both EU and national levels to bolster fundamental rights protection. The report includes a chapter dedicated to the Rights of the Child, which analyses major developments in the protection and human rights of children. The web publication on the [Minimum age requirements](http://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements-concerning-rights-child-eu)covers differences in legal minimum ages across the European Union in a number of fields such as marriage and sexual activity; citizenship; political participation; health; and religion.The findings underline the wide differences in the limits set by Member States and identifies inconsistencies, protection gaps and restrictions deriving from different age thresholds.

Others publications related to the rights of children and young people include two reports and two checklists for professionals on Child-friendly justice – one on the [experiences of professionals on children’s participation in judicial proceedings](http://fra.europa.eu/en/publication/2015/child-friendly-justice-perspectives-and-experiences-professionals-childrens) and a second one on [children’s own experiences in judicial proceedings as victims](http://fra.europa.eu/en/publication/2017/child-friendly-justice-childrens-view); and the report [European legal and policy framework on immigration detention of children](http://fra.europa.eu/en/publication/2017/child-migrant-detention), which outlines the main fundamental rights safeguards provided for in EU and human rights law to prevent unlawful and arbitrary detention, while describing practical examples from the Member States.

* Challenges faced by young people

In Europe, young persons’ access to social and economic rights and their non-discrimination within the Human Rights framework is far from being fully realised. To the contrary, almost 27% of children in the EU are at risk of poverty and social exclusion.[[1]](#footnote-1) For example in 2016, out of 118,036 people at risk of poverty and social exclusion in the EU, 24,976 were children (these are 2 children out of every 10 people).[[2]](#footnote-2) At the same time, thousands of migrant and asylum-seeking children travelling alone or with their families have continued to arrive in Europe. In 2016, More than 1,166,885 people applied for asylum in the EU. This included 376,835 children.[[3]](#footnote-3) This means every third person seeking asylum was a child. Despite all efforts, providing care and protection to these children remains a great challenge.

The last two decades have witnessed a growing recognition of the pervasive nature and impact of violence against children. [[4]](#footnote-4) This includes not only domestic violence but also violence taking place outside the home sphere, for example in schools, through peer violence and bullying, including cyber bullying. Although the number of child victims of violence in the EU remains high, the United Nations and the European Union have both stressed the lack of internationally comparable data on violence and children, [[5]](#footnote-5) and the failure to involve children themselves in inquiries.[[6]](#footnote-6)

Young persons’ unemployment within the EU (in 2016, on average 18.7% of unemployed youth within the age group 15-24[[7]](#footnote-7) compared to 7.5% unemployed within the age group 25-74),[[8]](#footnote-8) especially among youth from vulnerable groups (e.g. young migrants, young Roma, young persons with disabilities, etc.) remains high and, hence, a major problem within the EU. Youth unemployment is amplifying poverty and social exclusion by not granting them the full access to their economic, social and cultural rights, including the right to employment (for those who can work), the right to education, the right to social protection, the right to participation, as well as the right to living a life in dignity.[[9]](#footnote-9) Employment conditions such as ‘zero-hours’ contracts, youth wages below the national minimum and consecutive unpaid traineeships add to the precariousness of the situation. Access to quality vocational training and higher education is not guaranteed everywhere in the EU.[[10]](#footnote-10)

* Examples of discrimination against young people in the exercise of their rights

International treaties, the Charter of Fundamental Rights of the European Union, European Union (EU) secondary law and national legislation provide a number of rights to citizens. Citizens under the age of 18 years are not always entitled to those rights and children are often dependent on the decisions of their parents to exercise certain rights. Legal minimum ages are set by states and define when children are considered to be adults before the law and when they are allowed to access certain rights – such as the right to marry, to vote or to seek employment.

Differences in minimum age requirements between Member States may result in a child, or even an adult person, to be treated differently based on controversial age criteria. Such a differentiated treatment may in turn raise concerns about the sound implementation of the rights of the child, as provided and protected under the EU legal order. There should also be consistency, for example, in the age of completion of compulsory education and for admission to employment.[[11]](#footnote-11)

Protecting children from harm and promoting their participation are two sides of the same coin, but finding the right balance in practice remains a challenge. Here are a few examples of how some measures aimed at protecting children might in fact discriminate them in the exercise of their rights.

* Young people and the media: On the one hand the digital world offers momentous possibilities to interact, find information, engage politically and culturally and express one’s opinions, as well as to play, learn and explore one’s identity. Oh the other, the use of technology exposes children to several risks as well. For instance, they might be confronted with harmful content and conduct, such as cyber-bullyingand grooming, endangering their well-being and their safe development. Article 8 of the General Data Protection Regulation[[12]](#footnote-12) (GDPR) requests parental consent up to the age of 16 years for information society services offered directly to a child, unless the EU Member States provides by law for a lower age not below 13 years. Surveys conducted prior to the GDPR showed that 38% of children aged between 9 and 12, and 77% of 13-16 year olds, had a profile on a social network site even though the privacy policies of most of them prohibited that.[[13]](#footnote-13) Setting 16 years as age requirement is likely to exacerbate this situation further.[[14]](#footnote-14)
* Access to justice: The right of children to be heard in judicial proceedings is enshrined in both the EU Charter and the CRC. Although the CRC Committee in its General Comment No. 12[[15]](#footnote-15) points out that Article 12 of the CRC does not foresee an age limit for the right of children to express their views, many Member States set up minimum age for children to be heard and to be present at the trial they are involved in. The right of children to express their views and be heard directly in judicial proceedings should always be respected independently from their role, the type of proceedings or the seriousness of the case. Consistent and harmonised criteria should be applied in all judicial proceedings and children should be able to express their views on all issues concerning them, being the necessary procedural safeguards in place.
* Accessing reproductive or sexual health services: In some countries, there is a discrepancy between the age of sexual consent and the age at which children can access reproductive or sexual health services without parental consent. In three Member States, for example, the age of sexual consent is 15 years. However, accessing reproductive or sexual health services without information being submitted to the parents is only possible at 18 years. In another Member State, the difference is four years: the age for sexual consent is 14 years, while children can access reproductive or sexual health services without parental consent only at 18 years.[[16]](#footnote-16)
* Are you aware of policies and programmes aimed at supporting young people to realise their rights? If so, please describe them
* The Social Pillar is an important policy effort of the EU and its Member States to address some of the socio-economic problems affecting EU citizens. The way that children and their families will be considered in it, will have a long-lasting effect in the years to come. Part of the Social Pillar April package of the Commission included the [evaluation of the implementation of the 2013 Recommendation “Investing in children”](http://ec.europa.eu/social/BlobServlet?docId=17618&langId=en), the key European policy framework to combating child poverty. The Staff Working Document suggests progress mainly in the first two pillars:[[17]](#footnote-17) areas of parent’s access to resources (employment and social services) and to social services (such as early childhood and child care services). However, national Reform Programmes, which are developed in the European semester context, do not use the 2013 Recommendation as a guiding policy. Out of 27 National Reform Programmes only the [IrishProgramme](https://ec.europa.eu/info/files/ireland-national-reforme-programme_en) made specific reference to the 2013 Commission’s Recommendation Investing in Children. This shows the limited leverage the Recommendation has in national policy development and in the European Semester process.
* In April 2017 the Commission published a [Communication on the protection of children in migration](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf) setting out a series of actions to be taken in view of the high numbers of migrant children arriving and living in the EU and the growing pressure on national migration management and child protection systems. In its Communication the Commission raises a series of issues ranging from addressing root causes and protecting children in migration routes, to suggesting actions and appropriate treatment of children arriving or staying in the EU. Member States are called to actively implement in external relations with third countries the [EU Guidelines on the Promotion and Protection of the Rights of the Child](https://eeas.europa.eu/headquarters/headquarters-homepage_en/22017/Guidelines%20on%20the%20Promotion%20and%20Protection%20of%20the%20Rights%20of%20the%20Child).
* EASO is currently developing a guidance on best interest assessment to be published during 2018, which will provide guidance to Member States on specific elements of best interests assessment in the asylum procedure.
* The European Commission has established under the Urban Agenda a [Housing](https://ec.europa.eu/futurium/en/housing) Partnership and an [Urban Poverty](https://ec.europa.eu/futurium/en/urban-poverty/actions) Partnership, both of which are developing action plans touching upon affordable housing as a way to support social cohesion, measures to combat child poverty and homelessness. The European Union is also supporting the efforts of Member States with the funding of different housing programmes, the majority of them specifically supporting families, through the [Urban Innovative Actions](http://www.uia-initiative.eu/en/uia-cities?combine=&tid=All&field_city_taxo_target_id=All&page=0) funds, the [Regional Policy EU Invest](http://ec.europa.eu/regional_policy/en/information/publications/brochures/2017/eu-invest-projects-funded-by-regional-policy), or [European Regional Development Fund or Cohesion Fund](http://ec.europa.eu/regional_policy/en/atlas/programmes/). Examples of funded projects are very diverse, and can range from the support of housing for unaccompanied children in [Antwerp](http://www.uia-initiative.eu/en/uia-cities/antwerp) (Belgium), to the construction of 71 social houses for families with children with health problems or disabilities in [Sofia](http://www.eufunds.bg/sofia/item/16994-2017-06-20-06-45-11) (Bulgaria).

How are youth organisations or youth-led structures involved in developing, implementing, monitoring and/or evaluating policies and programmes on youth

* In December 2017 the European Economic and Social Committee of the EU (EESC) highlighted the major role that civil society actors, especially youth organisations, play in the process of preventing the radicalisation of young people and violent extremism.[[18]](#footnote-18)
* The Radicalisation Awareness Network (RAN), funded and supported by the EU, launched an initiative entitled “RAN Young” calling for involvement of young persons in the development of anti-radicalisation programmes.[[19]](#footnote-19) Moreover, in July 2017 RAN, which has established a specific working group focusing on youth, families and communities, published a manual[[20]](#footnote-20) on responses to the issue of foreign terrorist fighters and their families returning to their home countries in the EU from terrorist conflict zones.
* Within the Agency for Fundamental Rights (FRA), [the Fundamental Rights Platform (FRP)](http://fra.europa.eu/en/cooperation/civil-society/about-frp) is the channel for cooperation and information exchange with civil society organizations active in the field of fundamental rights at the national, grassroots, European or international level. In particular, a few organizations are active in the field of young people’s human rights, such as [Don Bosco International](http://donboscointernational.eu/), [Eurochild](http://www.eurochild.org/), [COFACE Families Europe](http://www.coface-eu.org/), [Forum of European Muslim Youth and Student Organisation (FEMYSO)](https://www.google.co.uk/search?ei=rLwBWvj_F5L1kwXr-qD4Dw&q=FEMYSO+Brussels&oq=FEMYSO+Brussels&gs_l=psy-ab.3..0i22i30k1.3044.5095.0.5257.15.11.0.0.0.0.415.1327.0j1j2j1j1.5.0....0...1.1.64.psy-ab..10.5.1322...0j0i10k1j0i30k1.0.EP4JJz9O5tc) and the [Child Rights International Network (CRIN)](https://www.crin.org/). Recent activities include two events that took place in 2017 at the Agency; “[Improving child participation in justice and beyond](http://fra.europa.eu/en/event/2017/improving-child-participation-justice-and-beyond)”, and the Symposium ‘[Is Europe doing enough to protect fundamental rights?](http://fra.europa.eu/en/event/2017/presenting-fra-fundamental-rights-report-2017-high-level-symposium)’, which saw the participation and interaction of different stakeholders including high-level policy makers, EU representatives and young people.
* Erasmus+ is the EU's programme to support education, training, youth and sport in Europe. It also contributes to achieving the objectives of the [EU Youth Strategy](http://ec.europa.eu/youth/policy/youth_strategy/index_en.htm) by tackling issues such as youth unemployment and young people participation in European democracy. To make sure Erasmus+ works well across different countries, the EU works with [National Agencies](http://ec.europa.eu/programmes/erasmus-plus/contact/national-agencies_en) to manage the programme. Their role involves selecting projects to be funded; monitoring and evaluating Erasmus+; supporting applicants and participants; working with other National Agencies and the EU.
* The [European Youth Forum](http://www.youthforum.org/) is a platform made up of nearly 100 National Youth Councils and international youth NGOs from across Europe. The YFJ works to empower young people to participate actively in society and improve their living conditions by representing their interests in the European institutions, the Council of Europe, the United Nations, and other partners active in the youth field. The YFJ’s work focuses mainly on articulating and voicing the concerns of its membership and seeking their inclusion on the political agendas of governmental institutions—namely, the European Union, the Council of Europe, and the United Nations—in complementarity to the work of its member organizations.
* What measures at international level would facilitate/support the realisation of young people’s rights;
* On 21 April 2016, the Council adopted the final text of a directive strengthening rights of children in criminal proceedings. [The directive](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L0800), which will come into force in 2019, provides a number of procedural safeguards for children (i.e. individuals below 18) who are suspected or accused of having committed a criminal offence. A core provision of the directive relates to assistance from a lawyer. Member states should make sure that suspected or accused children are assisted by a lawyer, where necessary by providing legal aid. It also provides special safeguards for children during deprivation of liberty, in particular during detention.
* On 20 November 2016, FRA published a [web publication](http://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements-concerning-rights-child-eu) on differences in legal minimum ages to help the EU and its Member States eliminate inconsistencies, protection gaps and seemingly arbitrary restrictions resulting from different age thresholds. To highlight these differences the Agency mapped the national legal age requirements in various areas across the EU in the field of marriage and sexual activity; citizenship; political participation; health; and religion. Further findings will be released in 2018. They will cover migration and asylum, access to justice, social and economic rights, the digital world and LGBTI issues.
* Regarding children in the digital world, the General Data Protection Regulation (GDPR) [[21]](#footnote-21) laid down rules concerning the “protection of natural persons with regard to the processing of personal data and on the free movement of such data”. It applies from 25 May 2018, repealing the former Data Protection Directive. [[22]](#footnote-22) Unlike the former Directive, the GDPR mentions several times the peculiar position of children and puts an important age threshold as regards the consent for the processing of their personal data. For example, Article 8 of the GDPR requests parental consent up to the age of 16 years for information society services offered directly to a child, unless the EU Member States provides by law for a lower age not below 13 years. Moreover, Article 57 states that the promotion of “public awareness and understanding of the risks, rules, safeguards and rights in relation to [data] processing” is listed among national supervisory authorities’ tasks. In this regard, “activities addressed specifically to children shall receive specific attention”.
* Any other issue you would like to share with OHCHR.
1. European Union Agency for Fundamental Rights (FRA) (2017), [*Fundamental Rights Report 2017*](http://fra.europa.eu/en/publications-and-resources/publications/annual-reports/fundamental-rights-2017), Luxembourg, European Union Agency for Fundamental Rights. [↑](#footnote-ref-1)
2. Eurostat (2017), *People at risk of poverty or social exclusion by age and sex [ilc\_peps01]* last updated on 19 December 2017. [↑](#footnote-ref-2)
3. *Ibid*. [↑](#footnote-ref-3)
4. Article 19 of the United Nations Convention on the Rights of the Child defines violence as ‘all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse,’ as also specified in General Comment No 13 (2011) of the UN Committee on the rights of the child on the right of the child to freedom from all forms of violence. [↑](#footnote-ref-4)
5. EU COM (April 2015) 9th European Forum on the rights of the child Coordination and cooperation in integrated child protection systems, [Reflection Paper](http://ec.europa.eu/justice/fundamental-rights/files/2015_forum_roc_background_en.pdf). [↑](#footnote-ref-5)
6. UNICEF Innocenti Research Centre (2005), [Violence against Children in Europe – a preliminary review of research](https://www.unicef-irc.org/publications/pdf/violence_against.pdf). [↑](#footnote-ref-6)
7. Eurostat, [Youth unemployment rate by sex](http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&pcode=tesem140&plugin=1) [tesem140], last updated on 9 January 2018. [↑](#footnote-ref-7)
8. Eurostat, [Unemployment by sex and age – annual average](http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do) [une\_rt\_a], last updated on 9 January 2018. [↑](#footnote-ref-8)
9. European Union Agency for Fundamental Rights (FRA) (2017), “[Living in poverty violates the fundamental right to dignity](http://fra.europa.eu/en/news/2017/living-poverty-violates-fundamental-right-dignity)”, Press release, 17 October 2017. [↑](#footnote-ref-9)
10. See European Youth Forum (2016), [Social inclusion and Young People](http://www.youthforum.org/publication/excluding-youth-a-threat-to-our-future-report-on-social-inclusion/). [↑](#footnote-ref-10)
11. European Union Agency for Fundamental Rights (FRA), [Mapping minimum age requirements concerning the rights of the child in the EU](http://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements-concerning-rights-child-eu). [↑](#footnote-ref-11)
12. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, OJ 2016 L 119. [↑](#footnote-ref-12)
13. Livingstone S., Haddon L., Görzig A., Ólafsson K. (2011), *EU Kids Online. Final Report*, London School of Economics and Political Science, September 2011, p. 18, and *Risks and safety on the internet: The perspective of European children. Full Findings*, London School of Economics and Political Science. [↑](#footnote-ref-13)
14. Unicef (2017), *Children in a digital world*, New York, 2017, p. 93. [↑](#footnote-ref-14)
15. United Nations (UN), Committee on the Rights of the Child (2009), *General Comment No. 12 (2009), The right of the child to be heard,* CRC/C/GC/12, 12 June 2009. [↑](#footnote-ref-15)
16. European Union Agency for Fundamental Rights (FRA), [*Accessing reproductive or sexual health services*](http://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements/sexual-health-services). [↑](#footnote-ref-16)
17. See also Frazer, H. and Marlier, E. (2017), [*Progress across Europe in the implementation of the 2013 EU Recommendation on ‘Investing in children: Breaking the cycle of disadvantage’. A study of national policies*](http://ec.europa.eu/social/BlobServlet?docId=18237&langId=en). European Social Policy Network (ESPN), Brussels: European Commission. [↑](#footnote-ref-17)
18. European Economic and Social Committee, *Cooperation with civil society to prevent the radicalisation of young people*, SOC 565. [↑](#footnote-ref-18)
19. Radicalisation Awareness Network (RAN) (2017), [*RAN YOUNG kick-off meeting* ***–*** *Young people’s views on the work of first-line practitioners and policies*](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation_awareness_network/about-ran/ran-yf-and-c/docs/ran_young_kick_off_meeting_madrid_28-29_03_2017_en.pdf), Ex Post paper, 28-29 March 2017. [↑](#footnote-ref-19)
20. RAN Centre of Excellence, *RAN Manual*, *Responses to returnees: Foreign terrorist fighters and their families*, July 2017. [↑](#footnote-ref-20)
21. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, OJ 2016 L 119. [↑](#footnote-ref-21)
22. Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ 1995 L 281. [↑](#footnote-ref-22)