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# UN & CoE

28 January – In *O’Keeffe v. Ireland* (No. 35810/09), the ECtHR rules on a failure of the state to put appropriate mechanisms in place to protect pupils from sexual abuse by teachers

## January

25 February 2014 – UN Committee on the Rights of the Child issues concluding observations on the periodic reports of Germany and Portugal

## February

7 March – PACE adopts Resolution 1980 (2014) on increasing the reporting of suspected sexual abuse of children

13 March – UN Human Rights Council adopts Resolution 25/6 on the rights of the child and access to justice for children

## March

11 April – PACE adopts Resolution 1995 (2014) and Recommendation 2044 (2014) on ending child poverty in Europe

14 April – Third Optional Protocol to the Convention on the Rights of the Child (CRC) on a communications procedure enters into force

23 April – PACE adopts Resolution 1927 (2014) on ending discrimination against Roma children

## April

30 May – Belgium ratifies Third Optional Protocol to the CRC on a communications procedure

## May

27 June – PACE adopts Resolution 2010 (2014) on child-friendly juvenile justice: from rhetoric to reality

## June

## July

1 August – CoE Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) enters into force

18 August – Latvia ratifies CoE Convention on the protection of children against sexual exploitation and sexual abuse (Lanzarote Convention)

## August

19 September – UN Committee on the Rights of the Child issues concluding observations on the periodic reports of Croatia and Hungary

24 September – Ireland ratifies Third Optional Protocol to the CRC on a communications procedure

## September

3 October – PACE adopts Resolution 2020 (2014) on the alternatives to immigration detention of children

24 October – European Network of Ombudspersons for Children issues position statement on children and austerity

## October

4 November – UN Committee on the Elimination of Discrimination against Women (CEDAW) and Committee on the Rights of the Child issue joint general recommendation/comment on harmful practices against women and girls, such as female genital mutilation, ‘honour-based’ crimes and child marriage

## November

## December

# EU

27 January – European Commission initiates infringement procedure against 11 EU Member States for non-communication of national measures implementing Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography

## January

## February

11 March – European Parliament and the Council adopt Regulation (EU) No. 223/2014 on establishing a fund for European aid to the most deprived

19 March – European Commission issues communication on taking stock of the Europe 2020 strategy for smart, sustainable and inclusive growth

## March

10 April – European Commission launches public consultation on EU guidance on integrated child protection systems

## April

5 May – European Commission launches public consultation on the Europe 2020 strategy: towards a post-crisis growth strategy for Europe

## May

5 June – Council of the European Union adopts conclusions on preventing and combating all forms of violence against women and girls, including female genital mutilation

## June

18 July – European Commission launches public consultation on the functioning of Council Regulation (EC) 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility

## July

## August

25 September – European Commission initiates infringement procedure against the Czech Republic for discriminating against Roma children in schools

## September

22 October – European Parliament adopts resolution on the European Semester, suggesting stronger efforts to combat child poverty

## October

27 November – European Parliament adopts resolution on the 25th anniversary of the CRC expressing its will to establish an intergroup on rights of the child

## November

4 December – EU Justice and Home Affairs Council adopts conclusions on the promotion and protection of the rights of the child and child well-being

10 December – European Parliament Conference of Presidents establishes first intergroup on the rights of the child

## December

# 6

## Rights of the child



*Europe and the world celebrated the 25th anniversary of the adoption of the Convention on the Rights of the Child in 2014. Despite considerable progress in those 25 years, some old challenges remain and new ones have arisen. The latest data show that 27.6 % of children in Europe – more than 26 million – are at risk of poverty or social exclusion. Many families with children have difficulties paying for their rent or mortgage, heating, school materials and even food. The legal protection of child victims of violence or sexual abuse and children without parental care was significantly reinforced and relevant policies were developed. European Union (EU) Member States have, however, allocated insufficient resources to child protection services. The EU and its Member States are also establishing judicial safeguards for children involved in justice proceedings. Yet, their practical implementation in the day-to-day experiences of children at court remains unconvincing.*

### 6.1. Children living in poverty in Europe

The latest available EU-28 estimates<sup>1</sup> from 2013 indicate that 460,000 fewer children are at risk of poverty or social exclusion than in 2012.<sup>2</sup> Although this is a positive development, the proportion of children at risk of poverty or social exclusion has remained high and relatively unchanging in recent years. According to the earliest available Eurostat data, 28 % of children in the EU were at risk of poverty or social exclusion in 2005 and 27.4 % were at risk in 2010. Children continue to be poorer than adults: 27.6 % of all children in the EU live in poverty, compared with 23.8 % of adults.

A comparison of 2012 and 2013 data, as presented in [Figure 6.1](#), shows diverging trends: some EU Member States have made strides, though they may, like **Croatia** and **Romania**, still have high proportions of children living in poverty or social exclusion; other EU Member States have lost ground. Whereas **Bulgaria** saw a slight reduction in the risk of poverty for children, it is still the country with the highest risk in the EU. In **Croatia**, the proportion of children at risk of poverty or social exclusion decreased from 34.8 % to 29.3 % and in **Romania**, it decreased from 52.2 % to 48.5 %.

In other Member States, the situation has worsened. In **Lithuania** the proportion of children at risk increased from 31.9 % to 35.4 %, in **Austria** it rose from 20.9 % to 22.9 %, in **Greece** from 35.4 % to 38.1 %, and in **Portugal** from 27.8 % to 31.6 %.

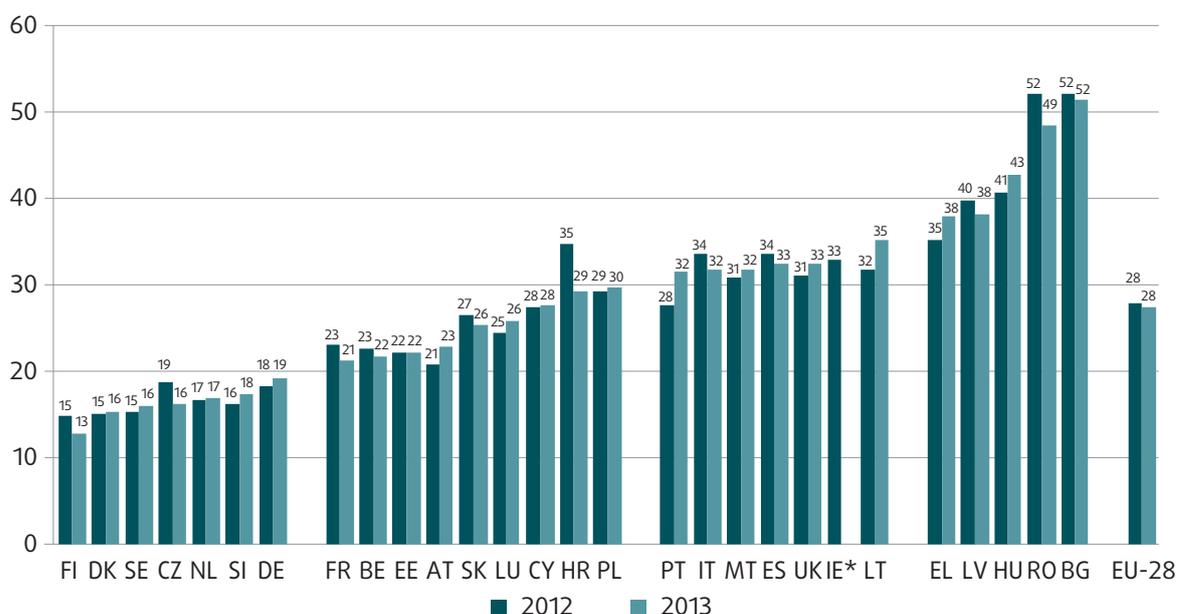
Turning to the impact of the economic crisis on children's well-being, according to a 2014 UNICEF report,<sup>3</sup> children suffer from family downturns in evident ways. They feel anxious and stressed when parents endure unemployment

*“Children feel anxious and stressed when parents endure unemployment or income loss, and they suffer family downturns in subtle and painfully evident ways. Housing, a large part of every family’s budget, is one important indicator of poverty. Evictions, mortgage defaults and foreclosures all spiked in many countries affected by the recession. Such constraints at home have been compounded by weakened safety nets in healthcare, education and nutrition.”*

UNICEF, Office of Research (2014), Children of the recession: the impact of the economic crisis on child well-being in rich countries, Florence, Innocenti Report Card 12, p. 2

One study in the region of Catalonia in **Spain** analysed the impact that living in deprived families has on the mental health of children. The results show not only a rise in the

**Figure 6.1: Children at risk of poverty or social exclusion in 2012 and 2013, by EU Member State (%)**



Notes: \* EU-28 Eurostat estimation.

2013 data for Ireland (IE) were not available; the EU-28 average therefore includes an estimate for this country.

Source: Eurostat, European Union Statistics on Income and Living Conditions (EU-SILC) 2013 (accessed on 16 January 2014)

number of children with mental health problems, but also the oversubscription of public health services, as fewer people are able to turn to private services.<sup>4</sup>

Children face differing risks of poverty and social exclusion; the risk climbs for those whose parents are poorly educated or foreign-born. An earlier Eurostat report<sup>5</sup> has already shown that children are more often at risk of poverty or social exclusion if their parents have low levels of education, or if at least one parent is foreign-born (more than 30 % compared with less than 20 % if both parents are native-born). The most recent (2013) Eurostat data estimates that 62.2 % of children in Europe whose parent(s) have attained a low level of education (pre-primary, primary or lower secondary education) are at risk of poverty or social exclusion, compared with 10.5 % of those whose parents have attained the highest level of education (first and second stage of tertiary education).<sup>6</sup>

It is well established that education substantially impacts on life chances and hence economic status. In its *Recommendation on investing in children: breaking the cycle of disadvantage* (2013/112/EU)<sup>7</sup>, the European Commission suggests improving the quality of education systems so that they can promote equal opportunities and break the cycle of disadvantage. Looking at the latest available data (2011), Member States' expenditure on education ranged from 3.07 % of GDP in **Romania** to 8.75 % of GDP in **Denmark**. The EU-28 average was 5.25 %.<sup>8</sup> Research published in 2014 for **Romania** estimates how much the country is losing by failing to

allocate enough resources to education. It estimates that the cost of non-investment in education is equivalent to between 7 % and 9 % of 2015 GDP. The report's authors suggest increasing education expenditure to 6 % of GDP as a tool for achieving the EU 2020 country targets.<sup>9</sup>

### Promising practice

#### Asking children about their school

One way to gather information about the situation of children and the impact of policies on them is to ask children themselves. The European Commission *Recommendation on investing in children: breaking the cycle of disadvantage* (2013/112/EU) asks Member States to put in place mechanisms that promote children's participation in decisions affecting them and in the running of services such as care, healthcare and education.

In 2014, the **Danish** Ministry of Education introduced a mandatory satisfaction survey on Danish schools. The aim of the initiative is to improve the quality of education and the overall satisfaction among students in Denmark, asking those who know most about everyday life in schools and educational institutions. The questions cover issues such as fondness for the school, the school class, teachers and other pupils, feelings of loneliness, occurrence of stress symptoms, ability to concentrate, cooperation, bullying and sanitary conditions.

For more information, see: Danish Centre of Educational Environment

A 2014 survey among 11- to 15-year-old children in **Greece** concerning health behaviour in school-aged children (HBSC)<sup>10</sup> shows that the economic crisis has increased tensions and fights within the family. Pupils' life satisfaction fell by almost 10 % between 2006 and 2014. Almost 30 % of the children report that the family has stopped going on holiday.<sup>11</sup>

### 6.1.1. EU 2020 targets and the European Semester

The issue of children living in poverty is not specific to the EU but rather part of the wider picture, with child poverty and national budget allocations being discussed in various international forums. The Committee on the Rights of the Child is preparing a general comment on better public spending for children's rights, which is expected to be published in 2016.<sup>12</sup> For its part, the UN Human Rights Council is dedicating its 2015 full-day children's rights meeting to the theme 'towards better investment in the rights of the child'.<sup>13</sup> The OHCHR has prepared a report on the subject with contributions from governments and civil society.<sup>14</sup>

The European Commission Communication taking stock of the Europe 2020 strategy, released in March 2014, acknowledges that the EU is not likely to reach its target of lifting at least 20 million people out of poverty and social exclusion by the year 2020.<sup>15</sup> Europe 2020, the EU's 10-year growth and jobs strategy, sets up five targets. Of these, reducing poverty and tackling early school-leaving both have the potential to change children's lives. Unlike the poverty target, however, the target on early school-leaving is broadly achievable by 2020.<sup>16</sup>

The European Commission recommendation on investing in children,<sup>17</sup> which is seen as a comprehensive and well-defined policy, is starting to play a greater role in the discussions within the European Semester, a monitoring and coordination mechanism to ensure good economic governance and better policy coordination between EU Member States. The main elements of the European Semester are the National Reform Programmes (NRPs) and country-specific recommendations.

The NRPs submitted by Member States to the European Commission in 2014 addressed the EU 2020 targets related to children in different ways, such as recommending the provision of childcare services, early childhood education, family support schemes and addressing child poverty. For example, **Spain's** NRP made specific reference to a new, integrated Child Poverty Plan,<sup>18</sup> while **Romania's**<sup>19</sup> addressed specific considerations relating to the protection of children whose parents work outside the country.

#### Promising practice

##### Setting child-specific sub-targets

Recognising the risks and lifelong consequences of child poverty, **Ireland** has established, in its National Policy Framework for Children and Young People 2014–2020, a new, child-specific poverty sub-target, in addition to the national poverty target of the EU 2020 strategy. Under this sub-target, Ireland aims to lift more than 70,000 children out of consistent poverty by 2020, a reduction of at least two thirds on the 2011 level. This target will include reducing the higher risk of consistent poverty for households with children compared with households without children (8.8 % v. 4.2 %) and for children compared with adults (9.3 % v. 6 %).

*For more information, see: Ireland, National reform programme, April 2014*

After reviewing Member States' NRPs, the European Commission drafts country-specific recommendations, to be endorsed by the Council of the EU. Member States take these recommendations into account when drawing up national budgets for the following year. Like the NRPs, the recommendations cover several issues related to children, children's services, education and child poverty. Civil society has criticised the insufficient inclusion of EU 2020 targets and children's rights in country-specific recommendations.

**Table 6.1** shows the countries that received recommendations in 2014, and in which area or areas, as well as the percentage of children at risk of poverty or social exclusion in each EU Member State. Seven countries received recommendations on making education more inclusive, especially for disadvantaged persons, Roma and migrants. There was, however, no reference to greater inclusion of children or persons with disabilities. For more information on persons with disabilities ► and Roma, see **Chapters 1 and 3**.

In 2014, 17 EU Member States received one or more country-specific recommendations related to children. Ten Member States (**Belgium, Croatia, Finland, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Portugal and Slovenia**) did not receive any child-focused recommendations in the 2014 European Semester.<sup>20</sup>

Seven country-specific recommendations focus on child poverty: these were made to **Bulgaria, Hungary, Ireland, Italy, Romania, Spain** and the **United Kingdom**. These seven countries have high proportions of children living in poverty or social exclusion, all above 30 %. The four other countries – **Lithuania, Latvia, Malta and Portugal** – with child poverty over 30 %, however, did not receive any recommendations in this area. Civil society took issue with this apparent arbitrariness,

criticising the lack of clarity in defining the country-specific recommendations.<sup>21</sup> It questioned why certain countries received recommendations on improving their poverty levels but others did not, although, according to Eurostat child poverty data, the countries had similar

levels of child poverty. Civil society questioned, for instance, why the **United Kingdom**, which has a child poverty strategy, received a child poverty recommendation while other countries with similarly high poverty levels but no strategy did not. It also claimed that the

**Table 6.1: 2014 European Semester – country-specific recommendations (CSRs) including the latest data on children at risk of poverty and social exclusion, by EU Member State**

EU Member State	CSRs on care services for children	CSRs on early childhood education	CSRs on inclusive education	CSRs on child poverty	% of children at risk of poverty or social exclusion in 2013
AT	Yes	Yes	No	No	22.9
BE	No	No	No	No	21.9
BG	No	Yes	Yes	Yes	51.5
CZ	Yes	Yes	Yes	No	16.4
CY*	N/A	N/A	N/A	N/A	27.7
DE	Yes	No	No	No	19.4
DK	No	No	Yes	No	15.5
EE	Yes	No	No	No	22.3
EL*	N/A	N/A	N/A	N/A	38.1
ES	No	No	No	Yes	32.6
FI	No	No	No	No	13.0
FR	No	No	Yes	No	21.3
HR	No	No	No	No	29.3
HU	No	No	Yes	Yes	43.0
IE	Yes	No	No	Yes	33.1**
IT	No	No	No	Yes	31.9
LT	No	No	No	No	35.4
LU	No	No	No	No	26.0
LV	No	No	No	No	38.4
MT	No	No	No	No	32.0
NL	No	No	No	No	17.0
PL	Yes	Yes	No	No	29.8
PT	No	No	No	No	31.6
RO	Yes	Yes	No	Yes	48.5
SE	No	No	Yes	No	16.2
SI	No	No	No	No	17.5
SK	Yes	Yes	Yes	No	25.5
UK	Yes	No	No	Yes	32.6
<b>Total</b>	<b>99</b>	<b>6</b>	<b>7</b>	<b>7</b>	<b>27.6</b>

Notes: Cells highlighted where countries received country-specific recommendations (CSRs).

\* No CSRs pursuant to an Economic Adjustment Programme.

\*\* IE data are for 2012. Data for 2013 are not available.

Source: FRA, 2014, and EU-SILC 2013 (Eurostat)

priorities identified in NRPs do not seem to inform the elaboration of country-specific recommendations.

The European Parliament called on the European Commission to tackle child poverty by introducing a guarantee against child poverty. The parliament's resolution on the European Semester also stresses the importance of involving the European Parliament at an early stage of the European Semester. Civil society has repeatedly suggested that this is desirable.

*"[The European Parliament welcomes] the fact that some CSRs are concerned with the fight against child poverty and with affordable childcare services [...], urges the Member States to follow up the recommendations closely, to deliver on them and to propose specific, targeted measures within their NRPs with a view to tackling poverty, especially homelessness and child poverty [...], calls on the Commission to tackle immediately the alarming increase in child poverty throughout the EU through the introduction of a child guarantee against poverty; believes that such a guarantee is of the utmost importance in order to protect children affected by the consequences of the current economic and social crisis."*

*European Parliament (2014), European Parliament resolution of 22 October 2014 on the European Semester for economic policy coordination: implementation of 2014 priorities, Strasbourg, 22 October, paras. 109, 103 and 106*

Civil society has criticised the European Semester generally for the low priority it gives to the Europe 2020 targets. Eurochild, a network of 170 children's rights organisations, recommends including a specific section on child poverty in each Annual Growth Survey and every NRP.<sup>22</sup>

The European Semester Alliance, an NGO network focusing on the policy tool of the European Semester, notes that even when the country-specific recommendations include recommendations on child poverty, minimum income or tax evasion, which it welcomes, these efforts are outweighed by more powerful recommendations based only on short-term financial considerations.<sup>23</sup> It claims that many of the challenges facing Europe are not consequences only of the crisis but also of austerity. The alliance reminds EU Member States about the importance of involving the European Parliament, national parliaments and civil society in the European Semester process.

### 6.1.2. Member States' measures, including the use of EU funds

EU Member States are targeting child poverty directly by adopting child poverty strategies or action plans, or by including specific objectives within more general anti-poverty policies. To help combat child poverty, the EU and various European funds are increasingly requiring that portions of the funds be used to address overarching priorities, such as poverty.

The new **United Kingdom** Child Poverty Strategy 2014–17 focuses on education for children and adult employment.<sup>24</sup> Several measures are intended to support families in difficult circumstances, providing housing, childcare subsidies, free school meals, free childcare, and reduced fuel and energy costs. The strategy will raise minimum wage and personal tax allowances and provide better access to affordable credit.

A review by the Children's Commissioner for England is critical of the **United Kingdom's** strategy, claiming that local authorities do not have the resources to provide the early intervention required by the strategy. The Commissioner says that "since 2010, targeted redistribution through the tax and benefits system has been eroded, and attention has shifted from the responsibilities of the state to the responsibilities of families".<sup>25</sup>

**Croatia**, which, according to Eurostat data, reduced child poverty rates from 34.8 % in 2012 to 29.3 % in 2013,<sup>26</sup> has adopted the National Strategy on the Rights of the Child 2014–2020, with child poverty eradication one of its strategic priorities.<sup>27</sup> It aims to protect children from the risk and consequences of poverty, provide support through social policies and prevent the separation of children from their families for economic reasons. In addition, the Croatian Government adopted an overarching Strategy to Combat Poverty and Social Exclusion 2014–2020<sup>28</sup> and a programme for its implementation in 2014–2016.<sup>29</sup> Other countries, such as **Malta**<sup>30</sup>, **Lithuania**<sup>31</sup> and **Poland**,<sup>32</sup> also included measures to address child poverty in their generic national programmes on social inclusion established in 2014.

#### Promising practice

##### Coordinating local policies to combat child poverty

The Berlin Senate has established a working group on child poverty formed by staff from various senate departments. It has established four sub-working groups (education, health, social integration and employment), and civil society organisations are also invited to the discussions. The working group is chaired by the senate department for health and social affairs and the senate department for education, youth and science. It aims to develop a coordinated, interdepartmental strategic plan to tackle child poverty, as established in the Berlin Guidelines on Government Politics 2011–2016.

*For more information, see: Governing Mayor of Berlin (2011), Richtlinien der Regierungspolitik 2011–2016*

The European Commission emphasised the importance of using EU funds to implement child poverty policies in its recommendation on investing in children in 2013.<sup>33</sup>

This link was further operationalised at the end of 2013 through changes to the disbursement of EU funds brought in by Regulation (EU) No. 1303/2013. One of the thematic objectives of the European Structural and Investment Funds for 2014-2020 is “promoting social inclusion, combating poverty and any discrimination”. In accordance with Regulation (EU) No. 1304/2013, 20 % of the total resources in each Member State shall be allocated to this thematic objective (for more information ► on the use of structural funds, see [Chapters 1 and 3](#)).

A report by the Network of Independent Experts on Social Inclusion found that countries with high rates of child poverty or social exclusion use structural funds more than those with lower poverty levels, although not all countries with high child poverty rates make use of the funds. **Croatia, Greece, Hungary, Ireland, Latvia and Spain**, which have high or very high poverty rates, made good use of EU funds. It appears that some countries, such as **Bulgaria, Italy, Lithuania, Romania and the United Kingdom**, do not make full use of these EU funds, although they also have high rates of child poverty or social exclusion.<sup>34</sup>

In March 2014, through Regulation (EU) No. 223/2014, the European Commission launched the Fund for European Aid to the Most Deprived, with a budget of €3.8 billion. It aims to provide non-financial assistance to some of the EU’s most vulnerable citizens from 2014 to 2020, for example by providing food, clothing and school materials. Member States may also support non-material assistance to the most deprived people, to help them integrate better into society. For example, the programme adopted for **Italy** will disburse €670 million to provide food, support children in deprived families with school materials and provide assistance to homeless people.<sup>35</sup>

## 6.2. Protection of children, including against violence

To help EU Member States to improve the protection of children across a range of situations, for example protecting victims of violence, victims of trafficking and unaccompanied children, the European Commission is preparing guidance on integrated child protection systems.<sup>36</sup> The guidance, expected to be adopted in 2015, should take stock of the various existing EU instruments relating to the protection of children’s rights and suggest how EU Member States can better use or implement those instruments. It should describe good practices in looking after children in cross-border and national contexts and cover all forms of violence as determined by the Convention on the Rights of the Child (CRC).<sup>37</sup>

In preparing its guidance on integrated child protection systems, the European Commission asked FRA to map national child protection systems in the 28 Member States. The research examined the scope and key components of national child protection systems across the EU, focusing on the systems’ laws, structures, actors and how the systems function, as well as the human and financial resources required and the degree of accountability that exists. The research, to be published in 2015, identifies legislative and policy gaps and implementation challenges, but also promising practices.<sup>38</sup>

The FRA research findings on child protection systems show that in many Member States, legal, policy and administrative provisions regulating the operation of child protection systems are fragmented. National legislation and policies targeting particular groups of children and/or particular child protection issues, as well as sector-specific laws, are not always aligned with overarching national child protection legislation. The fragmentation of legislation and policies is a major challenge for achieving comprehensive and efficient child protection systems in line with the CRC.

In many Member States, the allocation of financial and human resources to child protection systems may not be sufficient, which is exacerbated by decentralised protection systems. Local authorities may be unable to respond efficiently to ever-increasing responsibilities, and cross-sectoral coordination suffers as a result. In the **Netherlands**, for example, under the 2014 Youth Act,<sup>39</sup> municipalities are responsible for a wide range of services for children and families, ranging from universal and general preventative services to specialised care. The Ombudsman for Children reported that a majority of municipalities lack information about child abuse and its prevention.<sup>40</sup> Although the Transitional Committee Youth System Revision had shared similar concerns in previous reports,<sup>41</sup> in its fifth report the committee considered that the infrastructure in the municipalities was ready for the new tasks.<sup>42</sup> In **France**, a Senate report raised the issue of the limited resources of local child protection monitoring mechanisms.<sup>43</sup>

Ensuring effective monitoring of private institutions working with children remains a challenge in Europe, because of insufficient monitoring mechanisms, a lack of human resources and, more importantly, a lack of clearly defined quality standards for service delivery. The lack of monitoring was raised by the ECtHR in its ruling against **Ireland** for failing to protect a girl who was a victim of sexual abuse by a lay teacher in an Irish National School run by the Catholic Church.<sup>44</sup> As a consequence of this judgment, the **Irish** government has approved an out-of-court settlement scheme for other survivors of child abuse in schools.<sup>45</sup>

*“Despite this awareness [of the existence of sexual crimes against children], the Irish State continued to entrust the management of the primary education of the vast majority of young Irish children to privately managed National Schools, without putting in place any mechanism of effective State control.”*

ECTHR, O’Keeffe v. Ireland, No. 35810/09, 28 January 2014

FRA research found that most Member States contract private organisations, whether commercial or non-profit, to provide various types of child protection services. In many Member States, commercial institutions offer alternative care services. Among those countries that have an accreditation system for service providers, some stipulate a review of each accreditation after a specified period, ranging from one to five years, while others do not specify a review period.<sup>46</sup>

The **United Kingdom** Department for Education opened a consultation on a set of draft regulations that would extend the range of children’s social care functions that local authorities can delegate to third-party providers. The majority of 1,300 responses received raised concerns about the possibility of ‘privatisation’ of or ‘profit making’ in children’s services. In view of this, the government amended the drafts to ensure that functions can be delegated only to non-profit making organisations.<sup>47</sup> Concerns remain, however, that commercial companies are taking over certain child protection services.<sup>48</sup> The Children and Families Act 2014 was enacted in March, revising the 1989 Children’s Act, and covering several areas of child protection, such as adoption, the family justice system, special education needs, childcare and strengthening the role of the Children’s Commissioner.<sup>49</sup>

**Estonia** also adopted a new Child Protection Act in November 2014.<sup>50</sup> NGOs working on children’s rights strongly supported the new law, seeing it as a substantial step forward in the protection of children’s rights.<sup>51</sup> Several NGOs, however, have said that the new legislation disproportionately limits the right to privacy and family life, as Article 33 empowers social workers and police officers to remove a child from the home for up to 72 hours without court permission if they believe the child is in danger.<sup>52</sup> The government views the 72-hour limitation as a better guarantee of the rights of the child since, under the previous law, the court had to be informed “without delay”, which in practice could mean more than 72 hours.

### 6.2.1. Allocation of resources to child protection systems

Child protection systems are dependent on sufficient human and financial resources; budget allocation should therefore be transparent. Data collected by FRA show, however, that budgetary allocations to child protection are not visible in the majority of

Member States, as these funds are often included in overall social policy or social welfare expenditure. Furthermore, the types of child protection may vary. Typically, they include child allowances or the budget allocated to the responsible child protection authority; in principle, however, it does not cover other ministries’ related expenditures.<sup>53</sup>

Research shows the financial benefits of child protection systems based on prevention and community-based and family-like care over those based on institutional care. The Central Union for Child Welfare of **Finland**, for instance, compared the cost of prevention services to community care.<sup>54</sup> It finds that prevention services that ensure a child can be taken care of by his or her family cost much less than community care services (€12,000 per child versus €60,000 per child).

*“The cost of child protection reform in Romania equals the costs for the construction of 30 miles of highway.”*

Stefan Darabus, Director, Hope and Homes for Children Romania, Eurochild Annual Conference, Budapest, November 2014

Past use of EU funds remains contentious in the child protection field. Civil society has often claimed that EU structural funds have been used to institutionalise children, especially children with disabilities and from the Roma community.<sup>55</sup> The European Ombudsman is preparing her own initiative report on the use of structural funds in the previous programming period<sup>56</sup> (see also [Chapter 1](#)).

The European Structural and Investment Fund Regulation 2014–2020 (Regulation (EU) No. 1303/2013) imposes conditions on the funds’ use, which should encourage Member States to use them for community care rather than institutional care. The regulation establishes that, under the thematic objective ‘Promoting social inclusion and combating poverty’, “Member States need a national strategy for poverty reduction that, inter alia, includes measures for the shift from residential to community based care”.<sup>57</sup> Following this approach, the **Lithuanian** Ministry of Social Security and Labour approved a 2014–2020 action plan that shifts care of children without parental care or with disabilities from institutions to family- and community-based services<sup>58</sup> (see also [Chapter 1](#)).

A study in **Romania**, aimed at persuading the government to better use the 2014–2020 EU structural funds, built an economic case for child protection reform.<sup>59</sup> It presents three scenarios for the child protection system: staying with the current system; deinstitutionalising and moving towards family-like residential care; and, finally, investing in prevention to keep children in family care. Recurrent costs are significantly lower in the long term for scenario two and even more so for scenario three.

## 6.2.2. Protection of child victims of violence

Child protection authorities are responsible for protecting children who are suffering or are at risk of suffering any form of violence. The 2014 FRA survey on violence against women<sup>60</sup> shows that 27 % of women experienced some form of physical abuse in childhood at the hands of an adult, and just over one in 10 women (12 %) experienced some form of sexual abuse by an adult before they were 15 years old (for more information on measures to combat domestic violence and enhance victims' rights, see [Chapter 7](#)).

For the first time, two UN committees issued a joint general comment, focusing on states' obligations to prevent and eliminate harmful practices inflicted on women and girls. The Committee on the Rights of the Child and CEDAW issued a comment covering female genital mutilation, underage and/or forced marriage, polygamy and 'honour-based' crimes.<sup>61</sup> EU Member States continued to ratify the Convention on preventing and combating violence against women and domestic violence (Istanbul Convention),<sup>62</sup> with five new ratifications in 2014.<sup>63</sup> These brought the total to eight EU Member State ratifications since the treaty opened for signature in May 2011. It entered into force in August 2014. The Convention on the protection of children against sexual exploitation and abuse (Lanzarote Convention)<sup>64</sup> already has 19 ratifications, with **Latvia** joining in 2014.

The EU made similar expressions of commitment. The protection of girls from violence is a major concern of the European Council's conclusions on preventing and combating all forms of violence against women and girls, including female genital mutilation.<sup>65</sup> The conclusions emphasised the FRA survey findings on violence against women<sup>66</sup> and made a number of recommendations to Member States, including on the lack of reporting, the collection of data, the protection of victims and the use of EU funds.

The effective implementation of the directives on the protection of child victims of trafficking – namely the Human Trafficking Directive (2011/36/EU) and the Directive on combating sexual abuse and sexual exploitation of children and child pornography (2011/93/EU)<sup>67</sup> – as well as the transposition of the [Victims' Directive \(2012/29/EU; see Chapter 7\)](#) should improve the way that national authorities prevent violence and respond to victims.

The transposition deadline for Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography was 18 December 2013. By the end of January 2014, the European Commission had already initiated formal infringement procedures against 11 Member States<sup>68</sup> for non-communication of national measures implementing the directive.

The Commission ended infringement procedures against **Cyprus** in November 2014 because it passed and communicated a new law on preventing and combating sexual exploitation of children and of child pornography.<sup>69</sup> The new law criminalises various forms of sexual violence, including those occurring through electronic means, and establishes a number of guarantees for the protection of the child, including during the investigation and prosecution of the crime. **Greece** has incorporated Directive 2011/93/EU into a law providing for the protection of child victims in criminal investigations and proceedings.<sup>70</sup>

Some other Member States have undertaken or are discussing reforms to civil or criminal child abuse-related legislation, including **Belgium, Bulgaria, Finland, Germany, Latvia, Lithuania, Poland, Sweden and the United Kingdom**.

In **Germany**, for example, a draft law simplifies the prosecution of genital mutilation committed abroad and changes statutes of limitations in sexual abuse cases.<sup>71</sup> It also expands the definition of child pornography and penalises its production even when there is no intent to distribute.

EU Member States have also taken steps at the policy level, adopting national strategies or action plans to address violence against children generally or within the family context. The **Slovak** government adopted a national strategy to protect children from violence and established a national coordination centre.<sup>72</sup> The **Portuguese** 2014–2017 national action plan against domestic violence includes measures to protect child victims or those at risk of violence,<sup>73</sup> as does **Poland's** 2014–2020 national program for preventing domestic violence.<sup>74</sup>

The issue of children in situations of vulnerability, such as children with disabilities, is generally neglected or only superficially tackled in policies addressing violence against children. FRA's research on children with disabilities and their experiences of violence indicates that none of the EU Member States has a separate strategy or action plan on violence against children with disabilities.<sup>75</sup> Member States address the issue of violence against children with disabilities in policies dedicated either to the general child population, or to people with disabilities or through policies targeting different types of violence, such as domestic violence. Even though some of these policies recognise the greater vulnerability of children and persons with disabilities to violence, few of them contain specific, targeted measures aimed at preventing and combating it.

The FRA research on child-friendly justice,<sup>76</sup> child victims of trafficking<sup>77</sup> and children with disabilities<sup>78</sup> has shown that professionals often lack guidance, and that having clear guidelines, practical protocols or

handbooks can improve their performance. In 2014, FRA together with the European Commission published a handbook for practitioners on guardianship for children deprived of parental care,<sup>79</sup> focusing in particular on the needs of child victims of trafficking ► (for more information on trafficking, see Chapter 4).

Member States continued to develop guidance and action protocols targeting different professionals in 2014. The **Croatian** government, for instance, adopted the 2014–2020 National Strategy on the Rights of the Child.<sup>80</sup> One of its specific goals is to develop protocols for different professionals, such as teachers, to allow early detection of children at risk of violence or who are experiencing violence. The Ministry of Health, Social Services and Equality in **Spain** adopted a protocol for intervention in child abuse cases in the family context.<sup>81</sup>

### 6.3. Access of children to judicial proceedings

Contact with the justice system can be a difficult, even traumatic, experience for children. Despite clear legislative progress over the last years, Member States are far from ensuring that children have access to child-friendly justice. The difficult technical language, the procedural deadlines, the sometimes unclear roles of the different actors, the never-ending court cases, and the repetitive declarations: justice professionals need to adapt the way they work so that justice can be done while ensuring that children are supported in the process. This is one of the aims of the Council of Europe Guidelines on child-friendly justice<sup>82</sup> and the EU Agenda for the rights of the child.<sup>83</sup>

The question of how to adapt justice systems to children has also been the focus of discussions at the international level. The UN Human Rights Council dedicated its annual 2014 full-day meeting on the rights of the child to access to justice for children and adopted a resolution calling on states to take measures to remove barriers to children's access to justice.<sup>84</sup>

Following a civil society advocacy campaign, the General Assembly asked the Secretary General to commission an in-depth global study on children deprived of liberty.<sup>85</sup> The Council of Europe Parliamentary Assembly also passed a resolution asking Member States to take measures in the field of juvenile justice, including using detention only as a measure of last resort.<sup>86</sup>

Turning to the international level, children now have the opportunity to bring cases before the Committee on the Rights of the Child, as the CRC Third Optional Protocol entered into force in April 2014.<sup>87</sup> The protocol, opened for signature since February 2012, has

received little support from EU Member States, with a total of only six ratifications; **Belgium** and **Ireland** ratified it in 2014.

#### 6.3.1. Children before courts: laws and standards

In 2014, political consensus emerged<sup>88</sup> in the Council of the European Union with regard to the draft directive on procedural safeguards for children suspected or accused in criminal proceedings.<sup>89</sup> Civil society, however, criticised the weakening of certain safeguards that the original European Commission proposal had included.<sup>90</sup>

Several EU directives that have already been adopted and that establish procedural safeguards for child victims of crimes are still to be implemented. While infringement proceedings against 10 Member States for non-communication on national measures implementing the Directive on combating sexual abuse and sexual exploitation of children and child pornography are ongoing, the Victims' Directive is approaching its transposition deadline of November 2015. The Victims' Directive establishes special safeguards for children, as shown in Figure 6.2. A 2014 FRA report on victims of crime analyses the extent and nature of support for victims<sup>91</sup> (for more information on victims' rights, ► see Chapter 7).

In 2014, the European Commission published its first research results on children's involvement in judicial proceedings, focusing on indicators, statistical data and legal safeguards in criminal proceedings. The summary of the criminal judicial proceedings in the 28 Member States,<sup>92</sup> in addition to the 28 national reports already published, provides a legal assessment of the types of procedural safeguards that exist and in which Member State. It analyses different standards and shows, for example, that while a majority of countries have state regulation of the media to protect the child's right to privacy, only a minority of countries have a legal obligation to communicate and explain to a child victim the decision or judgment in a language adapted to the child's level of understanding.

*“Acting for the interest of the child, is making sure that justice doesn't generate more violence. Which is ambitious. Because the meeting of the child victim with justice is too often violent. Our duty as adults around him/her is to limit to the maximum the violence he/she might suffer during the procedure. The duration can be a form of violence. The way the trial is led can be a form of violence. The lack of information can be a form of violence. I think we can work on that. It's a question of practices.”*

*Judge, female, France (FRA, 2013, child-friendly justice project)*

The FRA research, focusing on the views of justice actors in 10 Member States,<sup>93</sup> reinforced the European

**Figure 6.2: EU Victims' Directive: protection measures for victims with specific protection needs and all child victims of crime (Articles 21, 22, 23 and 24)**



Source: FRA, 2014

Commission's research findings with insight into the actual day-to-day functioning of the safeguards. The Commission's legal analysis, for example, indicates that 17 countries have a requirement to video-record interviews with child victims, and that in 10 countries such recording is optional. The FRA interviews with professionals show that video recordings are not necessarily carried out, however, for example because of inoperable equipment.

*"Another thing is that I, as a judge, was never trained how to talk with children, so I can only use my private knowledge. And that is one dangerous zone. In my opinion."*

Judge, female, Croatia (FRA, 2013, child-friendly justice project)

Clearly, despite legal safeguards, practices differ within Member States, depending on the severity of cases and the approach individual judges adopt. FRA concludes that there tends to be a lack of standardisation. The implementation of national law in specific cases is left to the individual assessments of the professionals involved. FRA recommends developing specific professional guidance, particularly on hearing children and informing them about their rights and the procedures. Many professionals interviewed also highlighted a need for better multi-agency cooperation and training.

### Promising practice

#### Improving police investigations and increasing prosecutions

The **United Kingdom** College of Policing published several guidance documents for police officers in 2014:

- *Police response to concern for a child* deals with the initial response to a call, investigation and the gathering of evidence;
- *Investigating child abuse and safeguarding children* stresses that concerns about children should be investigated and that officers should focus on gathering evidence that does not rely solely on the victim's or suspect's account;
- *Responding to child sexual exploitation* is designed to raise awareness of child sexual exploitation, increase reporting, disrupt offender activity and increase safeguarding measures to help protect children and young people from being sexually exploited.

For more information, see: 'Major investigation and public protection' on the website of the College of Policing

**Latvia** reformed its law on the protection of children's rights,<sup>94</sup> requiring that professionals working with

children acquire specialised knowledge. At least 50 % of the training programme aimed at prosecutors, judges, prison officers, lawyers and police who work with children should now cover how to communicate with children, including during criminal proceedings. This reform addresses one of the challenges FRA identified in its research: the need for more and better professional training.

EU Member States have taken a number of initiatives since the European Commission's and FRA's legal and social research took place, often in the process of transposing the Victims' Directive. In 2014, **Croatia, Cyprus, Germany, Hungary, Latvia, Lithuania, Malta, the Netherlands, Spain and the United Kingdom** reformed or began reforming their legislation. These reforms mainly relate to legal assistance and legal aid for children who are victims, training, hearing proceedings, guardianship and protection measures.

National courts have ruled on various aspects related to the standing of children in court proceedings. In **Belgium**, for example, the Court of Cassation ruled on the case of a girl who did not want to appear at the hearing and asked to be represented by a lawyer, a request that was rejected by the Court of Appeal. According to the Court of Cassation, the fact that the child does not appear in person at a trial does not deprive the child of her right to be represented by a lawyer at the hearing.

*"Noting that the minor, because of the fear that her parents inspired in her, refused to be present with them and asked to be represented by a legal counsel, the judgment considers that the refusal of the minor to appear voluntarily and the desire to be represented by a lawyer are among the rights of the defence and a fundamental element of a fair trial."*

Belgium, Hof van Cassatie/Cour de Cassation, No. P.14.0704.F, 4 June 2014

### 6.3.2. Children before the court: experiences in practice

Many Member States lack comparable information concerning children's involvement in criminal, civil and administrative judicial proceedings.<sup>95</sup> Therefore, in 2013–2014 FRA interviewed 380 children about their direct experiences in nine Member States, employing protection mechanisms to avoid re-traumatisation. The children shared the positive and negative aspects of their experiences during criminal or civil proceedings, answering questions on the same topics as the justice professionals, according to the standards of the Council of Europe Guidelines on child-friendly justice.<sup>96</sup>

*"I didn't know when to stand up and then I got yelled at: you should stand up when you talk to a judge!"*

Boy, 14 years old, involved in a custody proceeding, Estonia (FRA, 2014, child-friendly justice project)

The professionals spoke at length about the need for child-friendly rooms to hear children. The children themselves, however, seemed more interested in how the person hearing them behaved – whether or not they were respectful, friendly, open and gave them time to answer and ask questions – than in how the hearing environment was set up. Thus, it becomes apparent that much more attention needs to be paid to hearing techniques and the professional behaviour of everybody who is in contact with children.

While professionals tend to view parental involvement critically, children value the support of their parents highly, especially in difficult hearings. Many children said they were scared because their neighbourhood or school knew about their case, or because they might run into the defendant or other parties during trials.

The European Commission's research and FRA's interviews with both professionals and children all lead to the conclusion that one fundamental right – the right to information – is inadequately implemented. Children made clear that receiving information was key to reducing their anxiety and enabling them to express their views openly.

FRA's research shows that generally and no matter how difficult the process was, children were satisfied that they had been heard during the judicial proceeding. Some children even talked positively about the proceedings; in all those cases, children had received consistent support and information.

## FRA conclusions

- Child poverty and social exclusion rates have remained entrenched at high levels in recent years, data show.

*To address this, at its 2015 mid-term review of the EU 2020 Strategy, the EU should consider adopting a specific child poverty target. The European Semester process could monitor progress towards achieving this target, recommending evidence-based measures to tackle child poverty.*

- The 2014–2020 European Structural and Investment Funds – and the legal obligation to ensure that operational programmes funded by these funds fulfil the requirement to respect the principles of gender equality, non-discrimination, the rights of persons with disabilities and Roma inclusion – open a new avenue to address well-being and poverty for all children.

*EU Member States, with the engagement of civil society, should make better use of EU funds to ensure the provision of quality services for children, using*

*the comprehensive approach to child well-being established in the European Commission's recommendation on investing in children. Specifically, efforts should continue to promote the transition from institutional care to family- and community-based care, particularly for children with disabilities. As children suffer disproportionately from poverty, effective monitoring of the use of structural funds to achieve the poverty reduction target of the Europe 2020 Strategy, including child specific actions and the implementation of ex ante conditionalities, is key to enhancing children's well-being and enjoyment of their fundamental rights.*

- FRA evidence published in 2014 shows that the level of coordination between central governments and municipalities remains insufficient in the context of decentralised child protection systems. This also affects the way that services are provided in the different municipalities and by different service providers.

*EU Member States are encouraged to enhance coordination mechanisms and develop quality standards and monitoring mechanisms to ensure compliance with children's rights by public and private service providers.*

- FRA evidence analysed in 2014 shows that, while child-friendly justice is often a well-recognised

legal concept in national legal systems, it could be applied more in practice. Protection measures established in the Victims' Directive, such as video recording of child victims' statements, although a legal possibility in most EU Member States, are not widely used.

*EU Member States should make sure that the Victims' Directive, which has a transposition deadline of November 2015, is properly transposed and implemented. Moreover, the approval of a new directive on procedural safeguards for children suspected or accused in criminal proceedings will be a step forward in ensuring that all children, including those that have violated the law, are adequately treated by the justice system.*

- FRA research on child-friendly justice, children with disabilities and child protection shows that professionals working with children greatly benefit from continuous support and capacity building.

*All relevant professionals should take a consistent and rights-compliant approach in their work with children and their families. Competent authorities are thus encouraged to provide specific guidance, training and practical protocols. The EU Guidance on integrated child protection systems is expected to facilitate this process.*

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