



# **POLICY PAPER ON YOUTH RIGHTS**

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## **1. Introduction**

The European Youth Forum promotes a rights-based approach to youth policy and has for many years promoted better access of young people to their rights. As an outcome of a long-term, multi-stakeholder process in the 1980s and the beginning of 1990s, the European Youth Forum developed a European Charter on Youth Rights in 1993. This Charter aims to set in statute the rights and standards which young people need in order to fully realise their potential in an emerging Europe. As the main human rights Institution in Europe, the process has so far been focused on the Council of Europe framework. However, the discussion is also taking place on a global level, mainly through contributions from two existing legal frameworks (Ibero-American Convention and the African Youth Charter) and in the recommendations from the Declaration of the World Youth Conference 27<sup>th</sup> August 2010 Guanajuato, which recommended discussing an international legal framework that recognises the specific rights of young people.

The European debate on youth rights reached an important milestone in June 2011, when the Parliamentary Assembly of the Council of Europe adopted Recommendation 1978 (2011) *“Towards a Framework Convention on the Rights of Young People”*.

Meanwhile, the Youth Forum also places particular emphasis regarding youth rights on research and on gathering information and first-hand experiences from the local level, mainly through the support of an Expert Group on Youth Rights. This Group has been working on analysing the knowledge and the awareness of the European Youth Forum Member Organisations regarding the issue of Youth Rights, on identifying advantages and disadvantages of the different instruments supporting the implementation of youth rights and finally on drafting a report with strategic recommendations for the European Youth Forum on how to continue working on Youth Rights in the near future.

This policy paper aims at drawing the institutional framework, setting the basic principles and drafting the future European Youth Forum advocacy actions in the field of Youth Rights.

## **2. What is a rights-based approach to youth policy?**

In Europe and the world today, there is a need to recognise young people as a demographic group, between childhood and adulthood, with specific needs. A rights-based youth policy should strive to actively promote the autonomy of young people as well as their full participation in society. Protection against discrimination should be strengthened and specific measures to include young people with fewer opportunities in society need to be put in place. Youth rights encompass a wide range of basic rights and fundamental freedoms, already enshrined by international and regional human rights instruments.

The rights-based approach starts from the philosophical position that all people are entitled to a certain standard in terms of physical, mental and social well-being. It takes the side of people who suffer injustice by acknowledging their equal worth and dignity; it removes the charity dimension of protecting and promoting their rights by emphasizing them. It recognises people not as beneficiaries, but as active rights-holders and establishes corresponding duties for states and other actors against whom claims can be held. The concept of rights-holders and duty-bearers introduces an important element of accountability into working with youth rights and moves the focus where it should be: empowering young people to claim their own rights. As a concept, the rights-based approach ensures the meaningful and systematic inclusion and empowerment of the most vulnerable.

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<sup>1</sup> <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/EREC1978.htm>

When talking about youth rights, the European Youth Forum refers to the full enjoyment of fundamental rights and freedoms by young people. Therefore we do not focus on creating something “new” vis a vis existing human rights, but the full enjoyment mentioned above may also entail, where needed, the creation of new rights and freedoms related to the age-specific needs of young people in connection and in complementarity with the existing legislation on human rights, including social and civil rights. Promoting Youth Rights certainly means promoting equality of opportunity and this could be done also through positive discrimination for young people. In this field it is crucial that young people’s information and awareness of their rights are promoted and that youth organisations represent an essential actor in this regard, together with advocacy work to formulate and seek the best instruments to defend and recognise such rights.

Youth rights can be referred to - among others - the following coherent categories: autonomy, education, participation, employment and social protection, freedom of expression and information, non-discrimination and equal opportunities, freedom of thought, conscience and religion or belief, including the right of conscientious objection to military service, juvenile justice and detention, mobility, sexual and reproductive health, healthy life, and the right to decide over their own body. Except for mobility, the European Social Charter or the European Convention on Human Rights somehow covers them all. However, considering the preliminary research on the case law from the European Court of Human Rights that is applicable to youth rights, it appears that there are (major deleted) challenges for young people to access their rights. The case law also suggests that the cases that are actually brought up in the Court mostly relate to the field of juvenile justice, i.e. cases where lawyers are already involved. This points to two major difficulties: first, the existing legal instruments cover somewhat many of the aspects of youth rights, but, having been drafted a long time ago, they are not able to cover all fields that are relevant for young people. Second, in those cases where youth rights are already covered by existing legal instruments, it is extremely difficult for young people to enforce their rights by bringing a case to the relevant legal or quasi-legal authority.

Another potential tool is the UN Convention on the Rights of the Child. While it has a limited outreach due to its protective nature and age range (up to 18 years of age), it can still prove useful in the struggle for greater protection of youth rights. Furthermore, much can be learned from the work of human rights organisations specialised in promoting a rights-based approach to children.

The Ibero-American organisation of youth has adopted a Convention on the rights of youth that entered into force on March 1<sup>st</sup> 2008. The Convention has been ratified at the time of writing by seven member states of the organisation and ten more have signed it and are in the process of ratification. There is currently no mechanism to monitor the Convention, but ratifying States are required to submit a report every two years to the Secretary General of the Ibero-American Youth Organisation. The African Union convened a meeting in May 2006 at which it approved the African Youth Charter. The charter has a dual purpose of allowing youth to more effectively assert their human rights but also to fast-track the development and implementation of supportive policies and programmes for young people.

Reading the African Youth Charter and the Ibero-American Convention it becomes clear that it has not been a necessity to define many new youth rights. Most of the paragraphs in these texts are not specifically related to youth but are common human rights. Indeed, what is important to note is once again that when talking about youth rights we refer both to the needs of specific protection to ensure young people full access to their fundamental rights and freedoms but also to the possibility of including under the collective heading of youth rights some new group of rights and freedoms that are not yet established such as those concerning students, school students or volunteers.

It therefore seems clear that only a rights-based approach to youth policy can contribute to the full enjoyment of human rights by young people. This approach thus ensures that youth rights represent the legal basis of any youth related policy. Currently young people very much rely on States to promote and protect their rights. However, most States are reluctant to take a progressive stance towards youth rights and therefore the challenges that young people face accessing their rights are almost never remedied. A recognised and strong legal basis focusing on youth would ensure that the focus of youth policy would lie on empowering young people to effectively access their own rights. As is the case in other fields, such as the women's rights movement, this would empower young people to fight for their rights, while also making them active citizens ready and able to act as full and equal members of society.

There are certain preconditions for a rights-based approach. One of the central ones is a clear and understandable compilation of rights and the related legal instruments that exist, as well as young people awareness of both. Therefore, the compilation of youth rights into one (ideally legally binding) document would be a big step towards enabling a rights-based approach to youth policy. Such a document could take the form of a (framework) convention or a charter by the Council of Europe, although also possibly through other fora of international law (UN, OSCE and others).

The European Youth Forum thinks that different needs and different challenges young people face in Europe should be properly reflected in a code of legal norms containing a set of youth rights, such as those listed in Annex II.

### **3. How to promote youth rights?**

The advocacy work of the European Youth Forum shall be based on two main categories of actions: the ones aiming at gathering more evidence and data on the actual status of youth rights and their protection and the ones focused on legal tools empowering and protecting youth rights, either existing or new instruments.

Among the first category, the European Youth Forum will collect **case laws from the European Court of Human Rights, the European Social Committee and from national courts** documenting human rights violations involving young people. It will also investigate if and how General Comments by the UN Children's Rights Committee and, once entered into force, cases from the individual complaint mechanism of the 3rd Optional Protocol of the UN Convention on the Rights of the Child can be used to promote youth rights. This will lead to a good overview of systemic violations of human rights of youth (i.e. higher unemployment rates or HIV/AIDS infections among young people than the population average).

In this concern, particularly crucial is the collaboration with the **Fundamental Rights Agency (FRA)**, whose mandate is to provide advice to EU institutions and Member States through providing research in certain areas where there may be violations of fundamental rights. The research topics are selected by the FRA in cooperation with their advising groups in the different states (network of NGOs and governmental representatives). Sometimes the FRA research is mandated by the European Commission and topics can also be proposed by the European Parliament. The European Youth Forum will ask for disaggregated data regarding the reports already undertaken but will also aim to be part of the Management Board of the Agency, thus allowing us to mainstream youth-related issues stronger across the FRA work and to ask for specific studies and research.

In the second category, the European Youth Forum will aim to become a **member of the group of INGO's with a right to make collective complaints to the European Social Committee**. This way the Forum will start tackling rights violations through the

use of the European Social Charter and contribute to the creation of more comprehensive case law on youth. This action should be coupled with a campaign to have European States ratify the revised European Social Charter. Moreover, the European Youth Forum can **advocate for an ombudsperson for youth rights** both at European and at national level. Together these two recommendations would sharpen advocacy work and generate practice in youth rights violations.

Finally, having a specific **Convention on the Rights of Young People** both within the Council of Europe Framework and beyond will ensure a coherent international tool for ensuring coherency and sustainability of a rights-based approach to youth policies. The main elements in favour of having specific legal tools protecting youth rights can be summarised as follows:

a) *The specificity of the age group.* Youth is a transition period from childhood to adulthood. This transition period is filled with new responsibilities and duties, but it does not ensure the same rights as adults have. One example is that a young person at 16 years of age can, in many States, be convicted of a crime, but cannot vote. Another example is that young people are expected to be able to support themselves at an early age, while the labour market is highly discriminatory towards young people.

b) *No legal framework for youth.* There are several frameworks dealing with young people and cooperation on youth policy in Europe, none of which bind Member States to implement it. These frameworks are only using a needs-based approach, not a rights-based approach and as they are merely based on policies that can be revoked at any time. One overall framework is needed which gathers all the existing rights and adds other relevant issues binding the signatories to implement them and switches the focus to a rights-based approach, putting the full access of young people to their fundamental rights at the centre. This document could be used, not only on the European political level, but also by the Member Organisations of the European Youth Forum and young people themselves in order to fight for their rights. A legal framework can legitimise and strengthen the role of youth organisations and youth work.

c) *The role of the Council of Europe as pioneer and defender of Human Rights and the work done in the field of youth Rights.* The Council of Europe as an institution is built on international cooperation regarding human rights and its mission is to secure human rights for all. A Convention on the Rights of Young People would be the best way to proceed in their work to protect and promote all human rights and would be in line with the PACE Recommendation 1978 (2011) "Towards a Framework Convention on the Rights of Young People" adopted by the Parliamentary Assembly of the Council of Europe. The cautious reaction to this Recommendation, made by the Committee of Ministers<sup>2</sup>, gives us the opportunity to strengthen and intensify our advocacy efforts related to this with the aim of gathering stronger political support and of pushing them to fully embrace one of the principal mission of the Council of Europe, namely the full protection of human rights for everyone.

#### **The European Youth Forum will:**

- Create a framework enabling youth organisations to adopt a rights-based approach (including creating awareness and understanding of what a rights-

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<sup>2</sup> Reply to Parliamentary Assembly Recommendation 1978 (2011) on "Towards a European framework convention on youth rights" adopted by the Committee of Ministers on 28 March 2012 at the 1138th meeting of the Ministers' Deputies) <https://wcd.coe.int/ViewDoc.jsp?id=1927297&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383>

based approach is and material focusing on a rights-based approach in youth organisations);

- Advocate toward governments and international organisations to adopt a rights-based approach to youth policy, including the creation of support mechanisms to strengthen the rights-based approach in governments and youth organisations;
- Advocate toward European human rights institutions to create more knowledge and awareness about human rights challenges which young people are facing and how to address these challenges;
- Advocate toward European Governments to ratify the 3rd Optional Protocol of the UN Convention on the Rights of the Child, the Revised European Social Charter and its optional Protocol regarding the collective complaints procedure;
- Follow the debate and advocacy processes on ageing and elder people's Rights at UN level;
- Continue its work to gather more evidence and knowledge on youth rights, as well as creating more awareness on youth rights;
- Strengthen its cooperation with the European Court on Human Rights, the European Social Committee, the EU Fundamental Rights Agency and Human Rights Non Governmental Organisations;
- Work towards creating and collecting more case law on youth rights;
- Work towards the creation of a specific Convention on the Rights of Young People;
- Actively spread knowledge on the violations against youth rights to relevant institutions;
- Further investigate what rights young people would possibly need, in addition to the existing human rights and freedoms, in order to live a decent life and advocate for their effective implementation.
- Follow the implementation and developments of the African Youth Charter and the Ibero-American Convention on Youth Rights in cooperation with the relevant bodies;
- Strengthen its advocacy efforts to put the EU horizontal Anti-Discrimination Directive in place as a central tool for young people's access to their rights;
- Together with human rights activists, legal experts and Member Organisations compile principles on how international human rights law applies to young people (in a similar format as the Yogyakarta principles for LGBTQ people's human rights);
- Capacity-build Member Organisations in advocating for national instruments for young people's human rights and in mainstreaming young people's human rights at grass-roots level;
- Support and work with Member Organisations in their efforts to monitor and report upon violations of young people's human rights on local and national level including e.g support for Member Organisations in provision of shadow reports towards conventional mechanisms.

In order to also strengthen the awareness of youth rights, the Forum will investigate the possibility of promoting participatory processes and events dedicated to youth rights, potentially including the drafting of a Youth Rights Charter by young people in a participative process. Such processes/activities would have the aim of contributing to a wider debate on youth rights and of strengthening the pressure on governments to act.

#### **4. Conclusions**

Looking at youth rights, many challenges remain. This Policy Paper has set up many fields of action the Youth Forum should act upon in its policy and advocacy work. As most aspects of youth rights don't require small changes, but rather a fundamental change in the way that youth policy is approached, it must be seen that the work on youth rights should be focused on medium and long term action.

However, one of the most central aspects of the struggle towards full and effective enjoyment of human rights by young people is not to be found in the policy field, but in the way that we look at young people: young people should be understood as active bearers of rights, enabled and empowered to fight for their rights. Therefore, governments, but also the European Youth Forum and its members, have to switch from needs based approach to youth policy to a rights based approach.

This means that youth rights is not something that we merely demand from governments, but that we actively and consciously embrace a rights based approach in all our work. Otherwise young people will remain at the mercy of Governments in having their rights protected and promoted, instead of demanding this as active and empowered citizens.

## ANNEX I

### **Background Context**

Ever since the post-Second World War period, the Council of Europe has been the engine for the creation of a Europe based on the respect of human rights, peace and tolerance, its biggest achievement being the adoption of the European Convention for the Protection of Human Rights and Fundamental Freedoms. That's why the European Youth Forum is pushing for an increased emphasis on the improved protection and promotion of the rights of all people (including youth) in the context of the Council of Europe.

On the international level, two legal instruments enshrining specifically youth rights exist, namely the Ibero-American Convention on youth rights and the African Charter on Youth. Furthermore, the Convention on the Rights of the Child and a range of other UN-Conventions for specific groups such as women, migrants, disabled persons, etc. exist. Within the Council of Europe, besides the European Convention on Human Rights, the European Social Charter addresses many of the rights that are also applicable for youth. However, while mentioning some rights of children and young people, both the Convention and the Charter are much more focused on the protection of a narrow set of rights rather than on the promotion of a wider set of rights important for young people. Notably, autonomy is pertinent for young people to lead the independent lives they are often expected to lead, but cannot be found in these traditional instruments. The Revised European Charter on the Participation of Young People in Local and Regional Life adopted by the Congress of Local and Regional Authorities, furthers the notion of active participation of young people. The Agenda 2020, adopted at the Ministerial Conference on Youth in Kiev in 2008, gives more explicit value to the participation of young people in policy and social life. In spite of these efforts made within the Council of Europe, there is no specific legal framework encompassing all rights and responsibilities of young people in Europe.

Following a European Youth Forum initiative, a motion on the need for a Convention on the Rights of Young People was tabled in the Parliamentary Assembly of the Council of Europe (PACE) in July 2009. The report has been debated and the Recommendation 1978 (2011) "Towards a European framework Convention on youth rights" has been approved during the Session of the PACE on the 24th June 2011. The recommendation states: *"...it is undeniable that gaps remain when it comes to the promotion of these [youth] rights and between theory and practice. A European Convention on youth rights would not only create binding minimum standards for Europe, but would also increase awareness of youth rights across Europe. A new instrument should aim both to co-ordinate existing texts and fill lacunae with respect to specific areas not sufficiently covered"*. However, the opinion released in October 2011 by the Joint Council on Youth on this Recommendation focused mostly on the need of guaranteeing the implementation of the existing legal texts protecting youth rights using other instruments and mechanisms that the Council of Europe has at its disposal rather than advocating for a specific Convention. This view reflects the more cautious approach diffused at Member States level when it comes to a proper and clear recognition of youth rights.

In the European Union, Article 165 of the Lisbon Treaty gives the Union a strong legal basis to pursue a rights based approach regarding young people, and their right to participation in particular, stating that the *"Union action ... shall be aimed at encouraging the participation of young people in democratic life in Europe"*. This view is also reflected in the Article 24 of the Charter of Fundamental Rights of the European Union which stipulates that *"children ... may express their views freely"*.

*Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity".* Beside this, specific mentions of the principle of non-discrimination based on age and of the protection of young people at work are respectively present in the article 21 and 32 of the Charter. The European Commission adopted a [strategy for the effective implementation of the Charter](#) in October 2010 with the aim of guaranteeing that the EU is beyond reproach in upholding fundamental rights. This strategy underlines that the public needs to be well informed about their rights and about how to enforce them in practice when they are violated. Information on means of redress is particularly important in relation to the rights of the children and of young people: “problems most often cited by young people are that they do not know how to defend their rights or who to turn to<sup>3</sup>”. The Fundamental Rights Agency reported the same type of difficulties in connection with discrimination<sup>4</sup>. As a monitoring tool since 2010 the Commission publishes [an annual report](#) on the application of the Charter. While implementing the Fundamental Rights policy, the Commission relies on the data and information collected by the [Fundamental Rights Agency](#).

In the context of the United Nations, the Convention on the Rights of the Child could represent an important step toward the recognition and protection of part of young people: while it has a limited outreach due to its protective nature and age range (up to 18 years of age), it might still prove useful in the struggle for greater protection of youth rights, in particular through the Comments by the UN Children's Rights Committee and – once entered into force – the cases from the individual complaint mechanism of the 3rd Optional Protocol.

## **ANNEX II**

### **Proposed list of Youth Rights**<sup>5</sup>

- Right to Autonomy e.g. support for young people to set up their private economy, fully participate in society, have access to labour markets, social welfare, housing, financial services;
- Right to Education e.g. access to free and high quality education for all without any discrimination, including recognition of non-formal education, Right to active citizenship and human rights education;
- Right to Participation e.g. Freedom of assembly and association, including labour unions, right to vote and to be elected in free elections;
- Right to Employment and social protection e.g. facilitate the entry of young people into labour markets, Protection from exploitation and financial discrimination, Access to workers' collective rights;
- Right to Freedom of expression and information e.g. Freedom to seek, receive, impart and access information and ideas of all kinds in any form and through any media, Right to media usage education, Right to express culture, ideology, and

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<sup>3</sup> When young people between 15 and 18 were asked which problems might be encountered by under 18s seeking to defend their rights (80%); Flash Eurobarometer No 273, May 2009, 'The Rights of the Child

<sup>4</sup> EU-MIDIS European Union Minorities and Discrimination Survey.

<sup>5</sup> This list is based on the inputs provided by the Member Organisations and the Experts Group on Youth Rights: it is therefore not to be considered as an exhaustive list.

sexuality, Right to learn your native language and a language which enables fair international communication;

- Right to Non-discrimination and equal opportunities e.g. protection against direct or indirect discrimination based on age, linked to multiple discrimination;
- Right to Freedom of thought, conscience and religion or belief, including the right of conscientious objection to military service;
- Rights regarding juvenile justice and detention e.g. Prohibition from torture and punishment without law, Right to liberty and security, Right to a fair trial, Right to preventative services and re-socialization;
- Right to Mobility e.g. Right to freedom of movement and residence within the borders of each state, Right to leave any country, including their own, and to return to his country, Right to access public transportation;
- Right to Sexual and reproductive health e.g. Right to objective and not discriminatory sexual education, Right to have your own sexual orientation, Access to free and safe sexual and reproductive health services (including abortion, free contraception);
- Right to decide over their own body: e.g Right for minors to decide whether or not to get treatment and surgery, Right to decide over their own sexual practice and Right to express themselves with their body (including piercings and tattoos);
- Right to Healthy life e.g. Right to health education, Right to age-appropriate health care services and disease prevention (including adequate access and privacy for young people), Right to live in an unpolluted and sustainable environment and to be protected from a polluted environment, right to have access to healthy food and healthy beverages.
- Right to volunteer e.g Right to actively engage in voluntary activities individually or collectively and to have volunteering appreciated, recognised and supported<sup>6</sup>

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<sup>6</sup>Please refer to the Policy Agenda on Volunteering in Europe (P.A.V.E) and the European Charter on the Rights and Responsibilities of the Volunteer.