

Reaching the heights for the rights of the child

Sofia, 5-6 April 2016

**The right to be heard: Taking child participation to a new
level**

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CoE Recommendation CM/Rec (2012)2

Participation of children under 18 years

- Recognition of Article 12 both as a fundamental right and as a general principle of the UNCRC
- Recognition that Article 12 is linked with all other articles of the UNCRC and in particular:
 - General principles, articles, 2,3 and 6
 - Evolving capacities, article 5
 - Broader civil rights, articles 13,14, 15, 16, 17

CoE Definition of participation

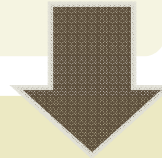
‘individual or groups of children (have) the right, the means, the space, the opportunity and, where necessary, the support to freely express their views, to be heard and to contribute to decision making on matters affecting them, their views being given due weight in accordance with their age and maturity.’

Why do we need an assessment tool?

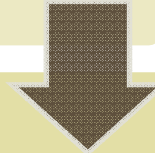
- CoE Recommendation adopted - but failure to achieve systemic change on child participation
- Continuing lack of understanding about what participation is or means
- Participation too often reliant on goodwill rather than measures to ensure entitlement
- Lack of tools currently available
- Need to provide indicators to enable governments to measure progress and be held to account

Aim of the Child Participation Assessment Tool

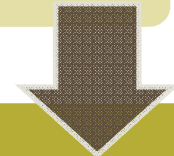
To enable countries to undertake a baseline assessment of current implementation



To help identify measures needed to achieve further compliance



To provide benchmarks to measure progress over time



To strengthen monitoring and accountability

Structure of assessment tool

10 Indicators

- Structural indicators eg laws and policies
- Process indicators eg training, measures to implement policies
- (no outcome indicators)

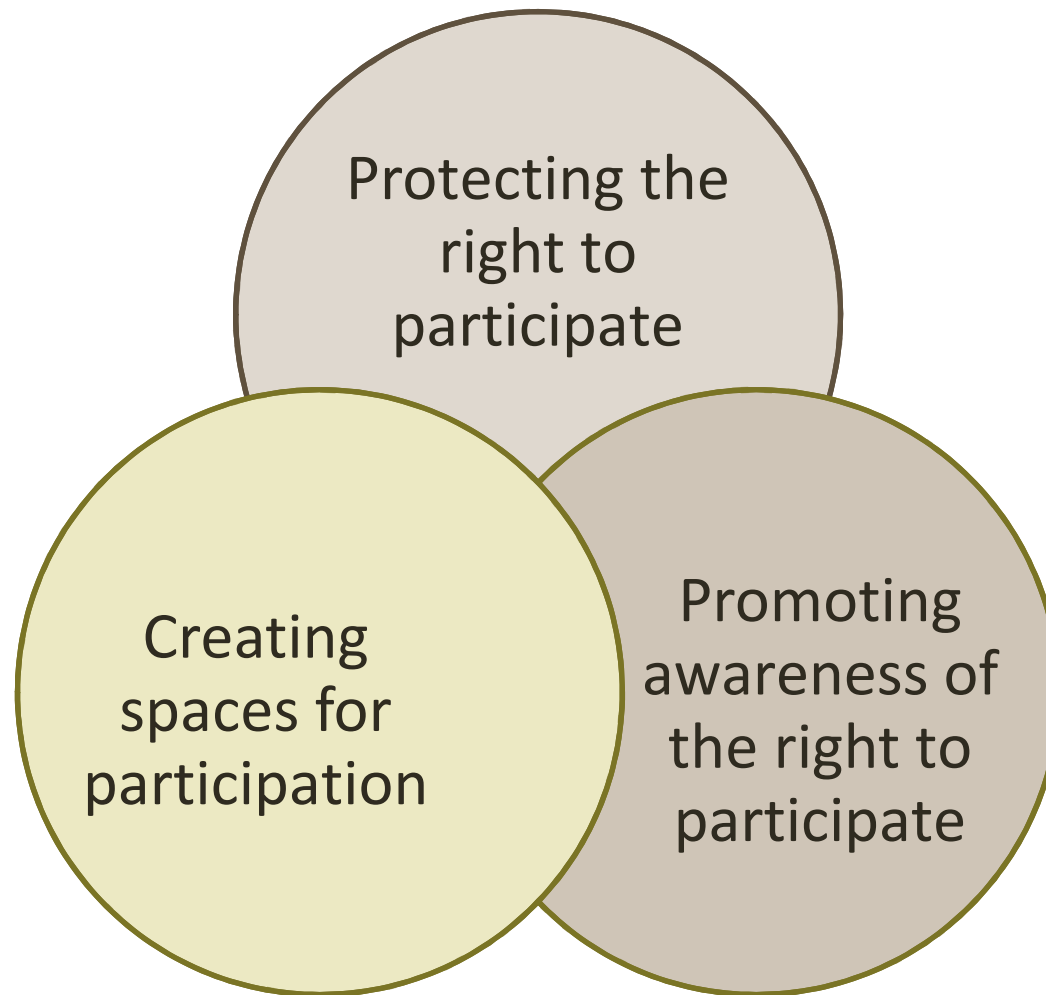
Data sources

- Constitutions, laws, policies, strategies
- Qualitative research, Eurobarometer surveys, NGO reports
- Monitoring reports, CRC Concluding observations

Assessment criteria

- Graduated criteria from 0-3
- Aim to enable tracking of progress
- Need for disaggregation

The 10 indicators fall into 3 clusters



Protecting the right to participate

1. Legal protection for children's right to participate is reflected in the national Constitution and legislation
2. Explicit inclusion of child participation in a cross-sectoral national strategy to implement children's rights
3. An independent children's rights institution is in place and protected by law
4. Existence of mechanisms to enable children to exercise their right to participate safely in judicial and administrative proceedings
5. Child friendly complaints procedures are in place

Promoting awareness of the right to participate

6. Children's right to participate in decision-making is embedded in training programmes for professionals working with and for children
7. Children are provided with information about their right to participate in decision-making

Creating spaces for participation

8. Children are represented in forums, including through their own organisations, at school, local, regional and national governance level.
9. Child-targeted feedback mechanisms on public services are in place
10. Children are supported to participate in the monitoring of the UNCRC and CRC shadow reporting, and relevant CoE instruments and conventions

EXAMPLE: Indicator 4 - Existence of mechanisms to enable children to exercise their right to participate safely in judicial and administrative proceedings

Definition

Children who come into contact with the justice system should be informed of their rights, have free access to a lawyer, be heard and taken seriously, and have decisions affecting them explained in a way that they can understand. These provisions should be available to children in criminal justice proceedings, family law proceedings care and protection proceedings, immigration proceedings

Data Sources

Key legal and policy instruments; UNCRC monitoring reports and concluding observations; European Commission for the Efficiency of Justice monitoring reports on efficiency and quality of justice; Eurobarometer surveys; FRA and European Commission forthcoming data on Child Friendly Justice.

Assessment criteria

0= No direct access to the courts for children
1= Rules and procedures to ensure access to information on rights, to free access to a lawyer, and to be heard in judicial proceedings and to have decisions explained to them in a way they can understand are being applied in one of the judicial or administrative settings listed.
2= Rules and procedures to ensure access to information on rights, to free access to a lawyer, and to be heard in judicial proceedings are being applied in at least two of the judicial or administrative settings listed.
3= Full implementation of the Council of Europe Child Friendly Justice guidelines has been achieved in all of the specified judicial and administrative settings.

EXAMPLE: Indicator 5 – Child-friendly individual complaints procedures are in place

Definition

Complaints procedures are mandated by law, and are child-friendly and easily accessible to all children in a range of contexts, notably in schools and education settings, care and protection, health, criminal proceedings, family law proceedings, immigration proceedings. To be child-friendly, a complaints procedure must be safe and accessible, provide information in accessible formats, create effective referral and feedback mechanisms.

Data Sources

National law; Legal and policy instruments in the field of family law, education, health care, juvenile justice, social welfare, housing, immigration; Qualitative research available

Assessment criteria

0= No complaints or feedback mechanisms in place in any of the areas specified

1= Child-friendly complaints procedures are in place in two of the areas specified.

2= Child friendly complaints procedures are in place in four of the areas specified

3= Child friendly complaints procedures are mandated by law and easily accessible to all children across all of the areas specified. Children are provided with information about their right to complain and receive help and support to pursue a complaint in accordance with their age and capacity.

Supporting implementation of the Tool

- Piloting process undertaken in 3 countries
- Identified the guidance and support needed
- Detailed guidance for governments provided including:
 - Fact sheet
 - Frequently asked questions
 - Guidance note on collecting evidence
 - Roadmap providing timetable and process
- CoE will be providing support in 2016 to help 1-2 countries to undertake the assessment

Conclusion

- Over 25 years since CRC adoption by UN and only limited progress globally in development of indicators on participation
- CoE Recommendation insufficient without tools for implementation
- Will be a resource for governments, researchers, and civil society
- Will also facilitate reporting to the Committee on the Rights of the Child
- The challenge is to utilise it as a means of building societies in Europe which respect children's rights and take children seriously