

ENOC ad-hoc position statement

“Recognising and strengthening the protection of Child Human Rights Defenders”

April 2023

1

PREAMBLE

The European Network of Ombudspersons for Children (ENOC) expresses grave concerns in response to reported repetitive violations that Child Human Rights Defenders face by acting in the public eye. Child Human Rights Defenders (CHRDs) are defined as human rights defenders under the age of 18 years. At the Committee on the Rights of the Child’s Day of General Discussion in 2018, it was confirmed that even children who ‘*do not see themselves as such, or are not considered and called as such by others*’ are indeed human rights defenders if they ‘*take actions to promote, protect and fulfil human rights, including children’s rights*’.

Child Human Rights Defenders constitute a group characterised by intersecting vulnerabilities as both children and human rights defenders. Indeed, children are entitled to special protection under the UN Convention on the Rights of the Child (UNCRC), and relevant international human rights law, being vulnerable rights-holders who are largely dependent on adults to fully enjoy their human rights; and human rights defenders are frequently targeted due to their actions to advance human rights.

The “UN Declaration on human rights defenders”¹, recognises them as ‘*all individuals that promote and strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels*’. The Declaration is not binding and does not create new specific human rights for HR defenders, but brings together rights enshrined in other highly ratified international legal instruments. Additionally, it highlights that **all** human rights defenders, therefore without any distinction on age, must be protected by States from any violence, threats, retaliation, or discrimination (art. 12).

The Committee on the Rights of the Child had already recognised² children as ‘promoters and defenders of children’s rights in their daily lives’, and stated that ‘*States parties should report on the measures they have taken to achieve this objective*’. In 2018, a joint statement was issued by UN human rights experts, including the Council of Europe (CoE) Commissioner for Human Rights, to mark the 20th anniversary of the “Declaration on Human Rights Defenders”. The statement urged States to create and strengthen their legislative

¹ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms” (1998), available [here](#).

² General Comment No. 1 (2001), para. 20, available [here](#).

frameworks protecting human rights defenders and taking into consideration the 'protection needs of human rights defenders facing specific risks', such as women and Child Human Rights Defenders.

The Council of Europe "Recommendation on the need to strengthen the protection and promotion of civil society space in Europe"³ acknowledges the specific vulnerabilities that some groups of HRDs face (*Appendix IIIb*). However, the Recommendation does not consider Child Human Rights Defenders the same way, nor it mentions them. While the Council of Europe Handbook on children's participation recognised that '*children may take on roles as human rights defenders*'⁴, there is no mechanism at the CoE level that centres around them as a particular group, having regard to their evolving capacities and specific needs.

The "EU Guidelines on Human Rights Defenders"⁵ are an important element of the EU external human rights policy. The Guidelines provide EU missions in third countries with practical suggestions to support and protect human rights defenders, as well as allow the EU to intervene and protect human rights defenders at risk. Such an external-oriented focus does not entail an introspective approach to support and protect human rights defenders within the European Union. Indeed, the EU lacks standards that could guide EU countries in the development of national legislation to protect (children) human rights defenders.

THE RISKS

A child-rights approach to the "Declaration on human rights defenders" could more extensively protect CHRDs. However, the range of current risks and challenges that Child Human Rights Defenders experience is wide **and cannot be resolved only by strictly applying the UNCRC guiding principles to the Declaration**. The application of UNCRC guiding principles, indeed, sometimes risks obfuscating rights that CHRDs enjoy as defenders.

While the **non-discrimination principle** (art. 2 UNCRC) is reflected in both the Declaration definition of HRDs and article 12.2 (*de jure* and *de facto*), article 8.1 focuses on HRD's non-discriminatory '*participation in the government [...] and in the conduct of public affairs*'. It is straightforward that CHRDs are prevented from enjoying said right as they don't have political power, and are not systematically nor meaningfully engaged at multiple levels. Child Human Rights Defenders don't have dedicated seats in civil society, national and international organisations, with the exception of some isolated good practices. Their right to freedom of expression (art. 13 UNCRC) is by default significantly restricted as they cannot express their views regularly in fora with decision-making powers. Within this context, it is improbable that Child Human Rights Defenders' **views are given due weight** (CRC art. 12).

³ Recommendation CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe, available [here](#).

⁴ CoE Handbook on children's participation, 2021, available [here](#).

⁵ EU Guidelines on Human Rights Defenders (adopted in 2004, updated in 2008), available [here](#).

CHRDs are frequently not considered as such by adults, their opinions are sometimes heard, but not always taken seriously at the decision-making processes because CHRDs are constantly underestimated in their understanding of the human rights concerns of the society they live in.

The **best interests of the child** (art. 3 UNCRC) is a principle that can be interpreted to give protection to CHRDs, but may also be misused by adults to restrict what an individual CHRD may or may not do. Child Human Rights Defenders do not receive thorough and child friendly information (art. 13 UNCRC) on the risks and benefits they could face by acting in the public eye (art. 17 and 29 UNCRC), countering adults' opinions on their interests. They do not consistently receive information either about human rights and children's rights, or what HRDs and CHRDs do, and are therefore unable to identify themselves as such. CHRDs do not receive information about existing remedies and support mechanisms, oftentimes not child-friendly, that they could access if they become targets of human rights violations.

Child Human Rights Defenders' **right to life, survival and development** (art. 6 UNCRC) is frequently undermined by the risk of retaliation and sanctions from authorities (including schools) upon their public activities. CHRDs receive abuses, threats and hate crimes both online and offline (name-calling, cyberbullying, etc). They are at risk of reprisals and violence and are generally stigmatised and portrayed as 'troublemakers' by the media, which decreases their chances to be taken seriously by adults. Additionally, previously existing vulnerabilities are exacerbated by their public exposure and consequent stigmatisation based on gender, disability, race, language, religion, ethnicity, and social origin. Child Human Rights Defenders can be targets of violence as a deterrent measure towards other CHRDs and HRDs.

Although these risks definitely have a worsening impact on the development of the child, the best interest principle should not override the rights CHRDs hold as human rights defenders. For instance, while CHRDs might be more vulnerable to the above risks when engaging in public and pacific protests, the best interest principle should be applied not as a preventing measure forbidding their public action, but as an incentive to guarantee safe conditions for their meaningful participation.

Child Human Rights Defenders should be protected and enjoy their rights based on their intersecting vulnerabilities as both children and human rights defenders. As a result of the specificities of the group, and the relatively new developments and recognition at the international level of their public role as defenders, **there is a need to develop tailored measures for CHRDs**. Such measures must recognise, protect and empower them to engage meaningfully in civil society and international organisations. Although the very few legal instruments currently available at the regional and international level apply to all human rights defenders - and irrespective of their age - their effective implementation should take into consideration the specific needs (i.e. child-friendly complaint mechanisms, etc) and interests that Child Human Rights Defenders have.

In this context, we, members of **ENOC**, urge all concerned actors i.e., **States, national (local/regional), European and International authorities and organisations, Independent Children's / Human Rights Institutions, the private sector, media, parents/families and communities to endorse, implement, and support the following recommendations:**

Recommendations for States

- Children are rights holders and as such, they have a voice and are entitled to claim their rights. States have the primary responsibility to publicly recognise the critical role played by CHRDs in the protection and promotion of human rights in general and children's rights in particular.
- States should refrain from any actions that hinder or undermine efforts of the civil society organisations to defend children's human rights, such as smear campaigns targeting individuals, cumbersome NGO registration procedures and criminalising support to vulnerable populations, such as children on the move or LGBTIQ+ children. Such actions threaten the democratic role played by the civil sector in a society and have intimidating effect on CHRDs.
- States should not only refrain from any actions that prevent, harm or discredit children to act as human rights defenders but also have the obligation to effectively protect them in the exercise of their rights, including their right to freedom of association, peaceful assembly, and public action in general.
- States should remove all legislative or administrative restrictions and other barriers that prevent CHRDs from fully exercising their rights and carrying out their human rights work.
- States should create all the appropriate and necessary conditions to empower children acting or aspiring to act as human rights defenders, in line with their right to be heard (Art.12), participate in decision-making and exercise their civil and political rights and freedoms.
- As part of the empowerment measures, States should provide mandatory, age-appropriate interactive human/children's rights and HRD education beginning in the early years, continuing through school, and extending to further education and professional development. The curriculum should include information about available mechanisms of remedy and support including those before Ombudspersons / Commissioners for Children.
- States should create and/or facilitate the creation of safe online and offline spaces where Child Human Rights Defenders can freely, and without fear of reprisals, express their views, stand up for their or others' rights, including adults', or protest against human rights violations.
- States also have a positive obligation to enact legislative, administrative and any other measures and policies that explicitly and specifically protect and empower CHRDs. These measures should be in full compliance with the UNCRC and the UN Declaration

of HRD integrating an approach sensitive to additional vulnerabilities of CHRDs, which may include gender, disability, race, language, religion, ethnicity and social origin.

- The views of Child Human Rights Defenders should be included in the development of such national legislation and policy. During the drafting of related legislation, States should consult with children and child rights organisations that have as various as possible experience on the matter and include their perspectives and recommendations⁶. The consultation process should be inclusive and representative.
- States should strive to ensure CHRDs have access to child-friendly information about their rights, effective support and remedies.
- States should ensure that Child Human Rights Defenders can access child-friendly and efficient national, European and international complaint mechanisms to challenge rights violations.
- States should ratify the Optional Protocol to the CRC on Communications Procedures to enable CHRDs to submit complaints for violations of their human rights to the Committee and seek effective remedy. States that have ratified the Optional Protocol should make consistent and effective efforts to disseminate its content and facilitate access to ICRIs/NHRIs in an age-appropriate and accessible manner to adults and children, including those with disabilities, in line with Article 17 of the Protocol.
- States should strengthen the mandate and provide adequate powers to Independent Children's Rights Institutions (ICRIs) and National Human Rights Institutions (NHRIs) to consider complaints and carry out investigations, including those submitted on behalf of or directly by CHRDs.

Recommendations for European and International Human Rights institutions and other relevant organisations

- European and International HR organisations should develop standards and tools that specifically promote, protect and defend CHRDs. These standards and tools should explicitly acknowledge the particular role of CHRDs as a separate group of HRDs that requires additional protection.
- European and International Human Rights organisations (EU, CoE, UN, etc) that monitor States' compliance with human/children's rights should explicitly require from States parties to report on the situation of CHRDs within their jurisdictions. CHRDs should be directly involved in the reporting process.
- The UN Committee on the Rights of the Child should systematically include in its concluding observations to States parties specific recommendations on CHRDs.
- The UN should propose, similar to the one tailored to HRDs, a Model Law for the Recognition and Protection of CHRDs, based on a child rights approach that distinguishes the realisation of the rights of CHRDs from adult HRDs, and is guided by the general principles of the UNCRC.
- The UN Special Rapporteur on Human Rights Defenders should specifically

⁶ ENOC position statement on Child Rights Impact Assessment (2020), available [here](#)

acknowledge the role of CHRDs in all of its activities. The rapporteur should pay special attention to the situation of CHRDs during country visits, reports, comments on legislation and policy, and others. The possibility to submit information under the communications procedure should be promoted among CHRDs and the procedure made child-friendly.

Recommendations for Independent Children's/Human Rights Institutions/NHRIs

- ICRI/NHRIs should play a prominent role in strengthening the legal status of CHRDs and helping them claim their rights.
- ICRI/NHRIs should not only recognise the role and actions of CHRDs but they must actively and effectively encourage, equip, support and protect them with particular attention to vulnerable groups of children.
- ICRI/NHRIs should systematically reach out and engage with children, including with CHRDs, and ensure they are equally accessible and visible to all groups of children. They should develop appropriate Child Protection Policies to guarantee children's engagement is safe.
- ICRI/NHRIs should be proactive and contribute, through information campaigns, awareness raising, advocacy and other appropriate activities, to a shift in mentality where CHRDs are recognised as active defenders and promoters of their rights.
- ICRI/NHRIs should support CHRDs to report on and seek redress for human rights violations.
- ICRI/NHRIs should be equipped with all the necessary powers and resources to help secure effective protection and remedies to CHRDs.

Recommendations for other actors: private sector, media, parents/family, communities, etc.

- The private sector should ensure that its activities do not harm CHRDs and when appropriate promote their human rights work.
- The media should report in a transparent and objective way on the activities carried out by CHRDs, and promote a positive image of CHRDs.
- Adults should actively seek information about children's rights, learn about their obligations in the protection and empowerment of children, and recognise CHRDs when they act as such.
- Adults should respect and support children who are or want to become HRDs. They should not hinder children's rights to freedom of expression, association, peaceful assembly and protest under any pretext. Instead, they should strive to contribute to the creation of safe conditions for the exercise of these and all the other rights by CHRDs.



ENOC is co-funded by the European Union's Citizenship, Equality, Rights and Values Programme. The content of this publication represents only the views of ENOC and is its sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.