

EUROPEAN YOUTH, CLAIM YOUR RIGHTS!

**Report of the European Youth Forum
Expert Group on Youth Rights**



Editorial team

Report of the European Youth Forum Expert Group on Youth Rights

| | |
|------------------------|--|
| Editor in Chief | Giuseppe Porcaro |
| Expert Group | Mourad Mahidi (Board member responsible), Giorgio Zecca (Secretariat support), Musa Akgul (PoT facilitator) |
| Members | Guan Schaiko (IFLRY), Alexia Tsouni (EBCO) Georg Boldt / Johanna Nyman (ALLIANSSI), Aleksandra Maldžiski (OBESSU) & Joel Arens (RDJ) |
| Copy Editor | Giorgio Zecca |
| Graphic Design | Laurent Doucet |

European Youth Forum
120, rue Joseph II
1000, Brussels
Belgium
www.youthforum.org

with the support of / avec le soutien de:

the European Commission/la Commission européenne
the European Youth Foundation of the Council of Europe/
le Fonds européen pour la Jeunesse du Conseil de l'Europe



Youth
in Action
Programme



2013 European Youth Forum

ISSN: 2032-9938

Contents

| | |
|--|-----------|
| 1. The work done so far | 3 |
| 1.1. An ongoing discussion inside the European Youth Forum | 3 |
| 1.2. The research done by the Expert Group | 4 |
| 1.3. Main findings of the survey on youth rights | 9 |
| 2. Youth rights and the youth rights law | 13 |
| 2.1. Working on a common understanding of the concept of youth rights | 13 |
| 2.2. Sources of the international law on youth rights | 15 |
| 2.3. An analysis of the existing legal tools in Europe | 17 |
| 3. Towards a rights based approach to youth policy | 21 |
| 3.1. What is a rights based approach? | 21 |
| 3.2. Why a rights based approach to youth policy important? | 23 |
| 4. Recommendations to the European Youth Forum and its membership | 27 |
| 4.1. Internal recommendations | 27 |
| 4.2. External recommendations | 27 |
| Annex 1 – Survey on youth rights | 29 |
| Annex 2 – Expert Group on Youth Rights Briefing Note | 33 |
| Annex 3 – Mapping age limits – main findings | 37 |

I. THE WORK DONE SO FAR

1.1. An ongoing discussion inside the European Youth Forum

According to the Youth Forum's Work Plan 2011–2012,

“...the Forum works towards the full realisation of the rights and freedoms of young people as a pre-requisite to further develop and build a democratic Europe with a sound social and economic model at all levels, and which is able to ensure the full development of the human and the social potential of young people.”

Therefore, an Expert Group on Youth Rights was established in spring 2011 with a two-year mandate. The fundamental aim of the group was to support the Forum in promoting and implementing a rights-based approach to youth policy. The expected result of the Expert Group on Youth Rights was to contribute to a coherent strategy of the Forum on youth rights. More specifically to:

- Help create and develop evidence-based arguments for youth rights;

- Follow and stimulate the academic discussion on youth rights in Europe;
- Link the debate on youth rights to the debate on children's rights;
- Identify ways of mainstreaming youth rights in the human rights agenda in Europe;
- Assist the Member Organisations of the Forum in the internal discussion on how to best protect and promote youth rights.

The European Youth Forum strives for ensuring and improving the rights of young people and promotes a rights-based approach to youth policy. For the past four years the Forum has actively advocated for a Convention on the rights of young people within the Council of Europe framework and has also brought the discussion to meetings at the United Nations level.

The European debate on youth rights reached a highpoint 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”*.

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”.

The view of the parliamentary assembly has been affected by the Declaration of the World Youth Conference on 27th August 2010 in Guanajuato, Mexico, which recommended discussing an international legal framework that recognizes the specific rights of young people.

The next important advocacy step in this concern will be contributing to the Draft Declaration and related implementation actions of the Ministerial Conference on Youth of the Council of Europe that will take place in St Petersburg on 23–25th September 2012 concerning *“Young people’s access to rights: development of innovative youth policies”*.

1.2. The research done by the Expert Group

The Expert Group had four meetings during its two-year mandate: 11–12 June 2011 in Brussels, 22–23 October 2011 in Vienna, 3–4 March 2012 in Brussels, 29 June – 1 July 2012 in Brussels.

What do we mean when we refer to youth rights?

During its first meeting, the group discussed the concept of youth rights itself. Based on this discussion and throughout its further work, the expert group refers to the concept of youth rights as the full enjoyment of fundamental rights and freedoms by young people, including their access to existing human rights, entailing where needed, the creation of new rights and freedoms. This discussion will be further elaborated in chapter 2 of this report.

Which youth policies?

Many effective youth policies already exist in Europe. Some countries have better policies than others — in different fields. The group thought that it would be helpful to have collections of models of best-practice from existing youth policies in Europe. Such a compilation should not be seen as exhaustive, but rather advisory. The National Youth Policy reviews of the Council of Europe could be good sources to look at in this regard. This could raise the awareness of successful policies and why these are successful in these specific localities.

Which youth rights?

The rights the group discussed more closely were the ones outlined in the Forum's report "The state of youth rights in Europe", which was published in 2010, following consultation with the Forum's membership. Furthermore, additional feedbacks on a list of youth rights came out from the Survey (see below) and from the political discussion held during the Youth Forum's Council of Members in April 2012. This resulted in a list of youth rights taking into account the following ten areas: Mobility; Autonomy; Sexual and reproductive health; Formal and non-formal education; Participation; Employment and

social protection; Freedom of expression; Freedom of thought, conscience and religion or belief, including the right of conscientious objection to military service; Non-discrimination and equal opportunities; Juvenile justice and detention.

Chart of unrealized rights

The group made a first attempt to list the unrealized rights (existing rights that are not implemented for young people). The group then discussed why there has not been sufficient action with regards to these rights and finally, who are the responsible actors for the implementation of these rights. The following list is not exhaustive and should lead to further elaboration.

List of Unrealised Rights

| Unrealised rights | Why inaction | Responsible actors/ Duty bearers |
|---|---|---|
| Conscientious objection to military service | Legislation, tradition, nationalism, pressure from army | Government / state |
| Equal access to quality education | Financial, priorities, discrimination | Local, regional, national government, EU, UN |
| Employment | Legislation, under-representation of young people in stakeholders (decision-making) | Government, state, socio-economic actors |
| Representation | Economic/financial, organise, attitude, lack of awareness | Political parties, cities / municipalities, young people, schools |
| Right to private life | Cameras, mosquito device, personal data protection | City council, police, government |
| Access to health care | Sexual and reproductive rights, abortion, family planning | Ministries of health and education |
| Juvenile Justice | Fair trial, custody under police, rehabilitation programs | Ministry of justice, society |

Youth Rights Chart

The group then agreed to work on a Youth Rights Chart, which would include:

- interpretation of which rights exist by looking at the *European Convention on Human Rights* and the *European Social Charter*, and how they apply to youth, what impact they have on the lives of young people
- comparison with the state of youth rights in Europe — see which existing rights that match with the previous established groups of rights;
- comparison with the Ibero-American Convention on Youth Rights — how have the rights been argued for, in order to make them youth rights;
- comparison with the African Youth Charter — how have the rights been argued for, in order to make them youth rights;
- comparison with the *Chart of unrealised rights* and deepening of the sections ‘why inaction’ and ‘responsible actors’.

The group continued our work during our second meeting on 22–23 October 2011 in Vienna. The group concluded that many of the demands from the Forum are met in some way by the *European Convention on Human Rights* and the *European Social Charter*; only mobility was completely missing. The articles do not, however, reflect the specific focus that are relevant for young people, such as non-formal education within education, sexual and reproductive health within health, internships within employment or conscientious objection to military service within the freedom of

thought, conscience and religion or belief. It is also important, looking at the case law analysed, that many of the rights exist but are not accessible for young people. A further elaboration on this part of our work can be found in chapter 2.

Many of the rights outlined in the Ibero-American Convention on Youth Rights and the African Youth Charter are not rights specifically needed only by youth. They are rights that should be granted to everyone but tend to be overlooked when it comes to youth. Much like the UN Convention on the Elimination of All Sorts of Discrimination Against Women, which is similarly outlining how the rights of women should be protected. Although they are formally covered by the Universal Declaration of Human Rights.

PACE Report Towards a Framework Convention on Youth Rights

The group discussed the report of the Parliamentary Assembly of the Council of Europe (PACE) and the group highlighted that the report does not include conscientious objection to military service, juvenile justice and visa/mobility other than for academic mobility. With regard to mobility, however, the convention on transnational mobility for volunteers was recommended in the report, going further than academic mobility. The group sent further inputs to the Forum. The work that has been carried out by the Forum in cooperation with Elvira Kovacs (rapporteur) was applauded. Three

Experts took part in the Informal Debate on Youth Rights at the Council of Europe in Strasbourg on 23 June 2011. The aim of the debate was to create a space for youth representatives to discuss youth rights with parliamentarians in the PACE. The objective was to highlight the need to view youth policy as a transversal issue also in the PACE and not work on issues relating to young people on merely a committee level.

Networking Event on Youth Rights

On 23–24 October 2011, the group met with researchers, institutions and youth representatives in Vienna for a networking meeting on the state of youth rights in Europe. The discussions ranged from discussing what youth rights actually are to defining what the group want to achieve and finally to discuss recommendations on how the future work on youth rights can be focused. Guests from the Fundamental Rights Agency, the Boltzman Institute for Human Rights, the Council of Europe and the Maynooth University enriched the discussions, which were based on the experience and previous work of the Forum's membership. The Expert Group used this opportunity to gather input and insights from the Forum's Membership present at the networking event. The group took note of the input and included this input in our further work.

Briefing Note on Youth Rights

The group drafted a Briefing Note on Youth Rights to raise awareness of the debate on youth rights and what has been happening on European level. The group presented it in plenary during the November 2011 COMEM in Braga. The Briefing Note included an introduction to the work of the Forum and our expert group so far, an elaboration on what youth rights are, a presentation of the existing legal European and regional instruments, and an overview of the debates and developments on European level. The group concluded our Briefing Note with recommendations to the Forum and an outline of our next steps. You can find this briefing note in annex 2.

Survey on Youth Rights

After the November 2011 COMEM in Braga the group elaborated a survey on youth rights and distributed it among the Forum's Member Organisations in order to gather comparable information on their understanding of youth rights, their work on this field, the actual situation in their countries and their willingness to support the Forum's work on youth rights. The group then analysed the input and during the April 2012 COMEM in Brussels the group presented the main findings based on the replies that the group received by 24 Youth Forum Member Organisations in the policy commission. The main findings will be presented in part three of this chapter. The original survey questionnaire can be found in annex 1.

Policy Commission on Youth Rights

Based on the research done at this moment, the group concluded that a Policy Paper on Youth Rights would be necessary for the further work of the Forum. As a consequence the group asked for a Policy Commission during the April 2012 COMEM in Brussels. The board supported our proposal. For the Policy Commission on Youth Rights the group prepared a slightly updated briefing note and presented a list of youth rights, and the main findings of the survey on youth rights. The objective of the Policy Commission was to discuss the way forward for the Forum with regards to youth rights. The results of this discussion will be integrated into a Youth Forum policy paper on youth rights.

List of Youth Rights

In April 2012 the list of youth rights was updated on the basis of the discussions during the COMEM policy commission. The rights can be grouped around the following broad areas: 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, right to healthy life. You can find this list as an annex to the policy paper.

Facts and Figures Report on Age Limits in accessing youth rights in Europe

In order to produce a clear reporting tool on youth rights as well as additional evidence that can be used for advocacy work, the group considered a comparative analysis on different legal age limits in Europe. During our third meeting the group drafted a list of criteria to be further investigated. In June 2012 the group updated the list of age limits and the group reached to the following broad areas: Sexual and Reproductive Health, Educational Rights, Autonomy, Political Rights and Religious Rights. The main research was conducted by a Forum intern after a consultation of the National Youth Councils sharing with us, the information they had. The main findings of this exercise can be found in annex 3.

Pilot Studies on Youth Rights Violations in Europe

Only two researches on youth rights violations were finalised under the pilot funds: one on Moldova and one on Greece. The group had a look at these pilot studies and recommended to share the two researches with the Membership through the Forum's website and directly to the Youth Employment Action consortium members.

Collaboration with the Advisory Council of the Council of Europe

The group encouraged the Forum on working on a closer relation with the new AC Advisory Council members. One of the main results of this collaboration was the support given to the Advisory Council in contacting the European Court of Human Rights regarding the possibility to have a first case law compilation on young people. The aim of this was to gain better knowledge on how many cases are submitted by youth and on which fields, setting a basis for investigating to what extent this tool is used by young people, how much it is “youth friendly” and how it could be used more. A positive answer has been received, the Court providing an exceptional opportunity to work further on this issue.

Collaboration with the Fundamental Rights Agency

Discrimination on the basis of age, special challenges faced by youth, and the need for special protection of the rights of young people were also raised by a member of the Expert Group in the 5th Annual Meeting of the Fundamental Rights Platform on 19–20 April 2012 in Vienna. New opportunities were identified in working with the FRA, such as promoting ad hoc studies and gathering disaggregated data. The Youth Forum can always participate in the consultations launched by the FRA and send contributions and inputs to their work plan and annual report.

Ministerial Conference on Youth of the Council of Europe

As important advocacy step, the group gave input to the Forum's contribution on the Draft Declaration of the Ministerial Conference on Youth of the Council of Europe that will take place in St Petersburg on 23–25th September 2012 concerning *“Young people's access to rights: development of innovative youth policies”*.

Preparation of the Forum's Policy training on Youth Rights

During our fourth meeting, the group worked on the structure of the policy training on youth rights, which is supposed to take place in Helsinki on 13–15 December 2012.

1.3. Main findings of the Survey on Youth Rights

The Forum's Membership has been asked to respond to the survey on youth rights. Only 24 Member Organisations made use of this opportunity, to share their ideas and knowledge with the Expert Group. Due to the relatively low response rate and sometimes ambiguous formulations of some answers, the results presented should be considered rather suggestive than significant. However, the group would like to share these findings with the Forum to give a better understanding of the recommendations the group will make later on.

The first section of the survey was about defining youth rights. The three main concerns of the responding organisations in reference to youth rights young people are employment, education, and democracy/human rights/non-discrimination/equal opportunities. Moreover, three human rights seem to have a particular importance for young people: freedom of expression and information, equality/equal opportunities/non-discrimination and participation.

The survey made clear that the concept of youth rights is very clear only for a minority of the MOs (37,5%). Even though many claimed they understand the concept of youth rights "more or less", an in depth analysis of the members' descriptions of the concept showed, that there have been

different approaches to it. Furthermore, only 29.2% of the MOs said that there are no youth rights that are not included in the European Convention on Human Rights/ European Social Charter, while 41.7% said they don't know. These findings show the need for a common understanding of the concept of youth rights and for a better knowledge of the European legal instruments.

The second section of the survey looked into the youth rights in the Forum's Member Organisations. The vast majority of the MOs (78.3%) said that they apply a rights-based approach to youth policy, while 8.7% said that they don't understand the concept of a rights-based approach to youth policy. One MO out of eight said that they do not promote / deal with youth rights in their work as organisation, and as many MOs said that they do not use youth rights as part of their argumentation / lobbying strategy. The vast majority of the MOs (78.3%) said they have never considered or really used any complain mechanism or taken legal action to ensure the human rights of young people. These findings demonstrate on the one hand the importance of youth rights for the work of the MOs and the wide application of a rights-based approach to youth policy by them, and on the other hand the need for promotion of the complain mechanisms and legal actions against the violations of the human rights of young people.

The third section of the survey examined the actual situation. About 60% of the MOs said that there are human rights that are being denied, violated or restricted for young people in their country, while 20% said that they don't know. Only one out of ten MOs stated their country somehow monitors the access to rights and freedoms of young people, while 54,5% said that they don't know. Only 8.7% of the MOs said that their country explicitly recognises one or several youth rights, while 26.1% said that they don't know. Only 30.4% of the MOs said they know of existing national or European legal instruments protecting youth rights, while 21.7% said that they don't know. These findings reveal on the one hand the extent of the violations of the human rights of young people, and on the other hand the lack of monitoring mechanisms and recognition of youth rights. In addition, these findings highlight the need for wider knowledge about monitoring, recognition and protection of youth rights.

The fourth section of the survey was dedicated to future work of the Forum. The vast majority of the MOs (79.2%) said that they have networks, contacts, partners with (other) human rights organisations on national, European or international level. However, the majority of the MOs (62.5%) said that these contacts and partners have no experience of using legal tools or procedures (national procedures, common complaints procedures etc). Only 4.2% of the MOs said that if the Forum could lodge collective complaints for youth rights

violations their organisation would not be interested in cooperating in this (for example by providing cases of youth rights violations). Moreover, only 12.5% of the MOs stated young people need no preferable status, compared to other segments of society. Only 4.3% of the MOs said that a Convention on Youth Rights would not help raising awareness, monitoring youth rights violations and safeguarding youth rights, while 8.7% said that they don't know. The vast majority of the MOs (73.9%) showed interest in (regularly) updating the report on the "State of youth rights in Europe". Finally, only 4.2% of the MOs said they do not want to mainstream youth rights in their work. These findings show the need for wider knowledge about using legal tools and procedures. On the other hand, the 24 Member Organisations participating in this survey insinuate a common position in favour of a preferable status of young people and a Convention on Youth Rights. The Member Organisations showed a willingness to cooperate for collective complaints for youth rights violations, for (regularly) reporting on the state of youth rights and for mainstreaming youth rights in their work.

2. YOUTH RIGHTS AND THE YOUTH RIGHTS LAW

2.1. What are Youth Rights?

Throughout its work, the Group refers to the concept of youth rights as *the full enjoyment of fundamental rights and freedoms by young people, including their access to existing human rights, entailing where needed, the creation of new rights and freedoms.*

Inside this group of young people — as in the entire society — there are sub-groups with difficulties in claiming and accessing their rights. Standard negotiated settings can play a role when it comes to ensuring this accessibility. In many countries, several advocacy groups claim those structural inequalities require positive discrimination similar to ethnic or gender quotas. This argumentation is also often heard by the Youth Forum Member Organisations. This results in the understanding, that youth rights are about equal opportunities. To better understand the definition used by the Expert Group, certain concepts need further elaboration.

Fundamental Rights and Freedoms

Human rights are applicable to all people and refer to their inherent rights and duties. This standard setting should ensure that all groups have access to their rights. However there are sub-groups with difficulties in claiming or accessing their rights. This includes young people regardless of their socio-economic background as well as women, elders, children, migrants or people with disabilities.

Young people – a vulnerable group?

Young people can be perceived as a heterogeneous group with particular needs. It is a group that is in transition from childhood to adulthood. This makes them more vulnerable when it comes to claiming their rights. Young people potentially are not even the weakest group in society; however the surrounding circumstances infringe their possibilities to carry stronger responsibilities. This includes their role in creating societies future. This report does not further define that group by putting age limits on it. Nevertheless, a political decision defining those age limits probably remains necessary.

Accessibility of Human Rights

Accessibility refers to the absence of legal, political and social barriers, which inhibit young people in fully enjoying their rights. Awareness is one of the most important issues with regards to youth policies and youth rights, as many young people are not aware of what policies their states have adopted, thus reducing their possibilities to participate in their creation, implementation or evaluation. The accessibility of the universal Human Rights by young people refers to both, the legal protection through universal, inherent and fundamental human rights (a global framework) as well as their insufficient implementation through other legal rights and obligations (a societal order).

Legal framework

A legal framework structures the society, introduces and defines new concepts and encourages changes, but it cannot immediately change the minds and habits of people, especially if there is no or no efficient enforcement mechanism. Not all problems young people face are normative or legal problems. They can be political, economic, cultural, psychological or social too. In this regard, there is a gap between these problems and their legal aspects. The Forum has to take this gap into account, when working with youth rights.

Youth Policy and a need for participation

Youth policy is a cross-sector, horizontal and integrated policy aimed at young

people, involving young people, and stemming from the needs of young people. Its aim is to improve and develop the living, learning and working conditions and participation of youth, encompassing the social, cultural, economic, and environmental issues affecting them and other groups in society. Youth policies are changeable and not permanent. They should be measurable, aimed/targeted and their effects need to be properly evaluated. Cooperation and dialogue are important pillars of youth policies. Youth policies do not have to be implemented by governments only, NGOs can also — to a certain extent — work on the implementation of youth policies. Youth policies are aimed at changing the situation of young people. Even when the group have to distinguish between the policies and their implementation, it is crucial to highlight the need for young people to be actively involved in all parts of policy — including their evaluation. Best practice should be established as well as a political willingness to change.

Rights-based approach to youth policy

When it comes to the linkages between youth policy and youth rights, youth rights should be a source for youth policy, the fundamentals on which the policies are built on. Youth rights should be defined first and then be used to identify which policies that are needed to guarantee the access of young people to their rights. Youth policies are a way of achieving political objectives. Policies should be the tools, but it is

important to first need to define what you want to achieve. A rights-based approach means that policies cannot go away from implementing the existing rights. Rights are both the starting point of politics and what the group needs to ensure. Rights define the minimum legal standards beneath which authorities cannot go in their policies. The concept of a rights based approach will be further elaborated in Chapter 3.

2.2. Sources of international law on youth rights

This section will give a short overview on the sources of international youth rights law. For additional and more elaborated information, the group refers to the “International Law of Youth Rights” by William D. Angel edited in 2012 by Jaakko Weuro (Second edition). This book will be published soon and it could serve as a crucial source of information in order to learn more about the historical background and developments.

European Convention on Human Rights

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. The Council of Europe’s biggest achievement in this field has been the adoption of the European Convention for the Protection of Human Rights and

Fundamental Freedoms. This convention is the main instrument guaranteeing that the founding values of our societies, reflecting in principle civil and political rights, are protected. The European Court of Human Rights is a supra-national court established by that convention and hearing complaints on violations of the human rights enshrined in the Convention and its protocols by contracting states.

European Social Charter

Within the Council of Europe, a second important convention, the European Social Charter, addresses many of the rights that are also important to youth. Although mentioning some rights of children and young people, the Charter is all too focused on the protection of these as opposed to their promotion. The Charter sets out human rights and freedoms and establishes a supervisory mechanism guaranteeing their respect by the State. The basic rights set out in the Charter include housing, health, education, labour rights, employment, social and legal protection, poverty and social exclusion free movement of persons and non-discrimination, and also the rights of migrant workers and of the persons with disabilities.

Other European Sources

Autonomy is pertinent for young people to lead the independent lives they are often expected to lead. 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 and 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.

International Sources

Furthermore, next to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the international human rights law consists of 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. The International Labour Organisation agreed on several additional binding conventions regarding the Labour Law. They are equally sources of the International Human Rights Law and affect young people too. Whenever in history a certain social group seemed to be marginalized and neglected their human rights, this led to the creation of a specific charter, making states aware of their obligations to support the members of a vulnerable group to access their rights. This has i.a. been the case for refugees (1954), women (1981), children (1990) or people with disabilities (2006). Even those new treaties did not create new rights nor are legally binding; they have had a major impact on the life of that group.

Regional Conventions on Youth Rights

In addition to that, two regional conventions targeted young people. The Ibero-American organisation of youth has written a convention on the rights of youth that entered into force in March 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 effective 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. As in the Ibero-American Youth Charter, the African one lacks an efficient monitoring system.

Reading the African Youth Charter and the Ibero-American convention, it becomes clear that there has not been a necessity to define many new youth rights. Most of the paragraphs in those texts are not specifically related to youth but are common human rights. Indeed what is important to note is that youth rights are not specific rights needed by young people but the need for specific protection to ensure young people to access their rights. However, there might be groups of rights

such as those concerning students or volunteers that are not yet written down and that perhaps should be included under the collective heading of youth rights. The main advantage with the *Ibero-American Convention on Youth Rights (IACYR)* is that it includes some measures for monitoring; a biannual reporting structure should ensure the overview of the implementation of the Convention. In the *African Youth Charter (AYC)*, the right to National Youth Policy stands out as a new right that doesn't exist on European level, youth organisations are recognised as actors, and the responsibilities of young people make the document more holistic.

The “target group specific” documents like a convention for women, children, people with disabilities or youth aim at defining mechanisms for ensuring that young people can access their rights through implementing and monitoring tools. Looking at the UN Convention on the rights of people with disabilities, the most modern Human Rights treaty the group know, the group can identify a national implementation through the establishment of focal points and implementation plans. The Monitoring is twofold: on the one hand there is a national monitoring by the national human rights institutes; on the other hand, the international monitoring is assured by a UN committee. Participation of civil society organisations is assured in all aspects of policy, planning, implementation and monitoring.

2.3. An analysis of the existing legal tools in Europe

The social norms and structures changed during the last decades, without significantly changing the primary international human rights treaties. Some current questions important to young people are new or neglected phenomena and developments, which couldn't have been included at the moment of writing of such international treaties. However and due to the Courts, monitoring systems and commissions, those Conventions were able to be living documents, slowly and suddenly evolving by issuing new cases before the courts. This case law clarified provisions of the conventions. The international commissions evaluating the progress reports and analysing complaints were able to issue some recommendations and explanatory opinions on how states should interpret and apply the international human rights law. Anyhow, the conventions have not yet been able to reflect all challenges young people face in this further developed world. Their protection by the Human Rights Law is not sufficient. Some provisions of the treaties are not clear or do potentially contradict each other, i.e. Each person may be entitled to start a family and nobody may be discriminated because of its sexual orientation. Nevertheless, gay marriage may be forbidden. These inconsistencies can be both, door-openers or barriers when it comes to youth rights.

An analysis of the meaning of the provisions of the European Charter on Human Rights and of the European social charter has been conducted in depth. The Group also indicated several Youth Rights and — in coherence with the existing publications of the European Youth Forum — grouped them under ten thematic fields. This list — included as annex to the policy paper — does not claim to be exhaustive and should serve as a starting point for further discussions. Each of these main thematic fields within the framework of youth rights is analysed in the following paragraphs with particular attention to the European Charter on Human Rights and the European social charter and the regional tools.

Non-discrimination and equal opportunities

Talking about non-discrimination and equal opportunities, the European Charter on Human Rights finds a balance between the freedoms of people and their equality, meaning that the freedoms of a person do not allow him or her to infringe the freedom of others. This includes that the principle of non-discrimination does not automatically gives preference to the traditionally discriminated parts of the society (=positive discrimination), but simply inhibits the discrimination on the base of inherent or unchangeable characteristics of a person. However, discrimination because of age or on other grounds can be hidden by other arguments. The other way round, practices can be considered discriminatory because the group does not fully understand the mechanisms behind.

Youth autonomy

A right to housing and a right to protection against poverty and social exclusion is included in the ESC. However, this insufficiently reflects the needs of young people who are willing but not capable to cover the financial burdens and do not want to rely on public means. The right to development and to live in a healthy and balanced environment, as described in the Ibero-American Charter of youth Rights (IACYR) can also be supportive to the autonomy of young people. Since both aspects do infringe the right to autonomy of young people.

Formal and non-formal Education

Equal access to quality education is an unrealised right, mainly applicable to young people with incontrovertible effects on the employability of this person later on. The main question is how the socio-economic situation of the parents has on the education in order to ensure equal access to quality education. Additionally, the recognition and support for life long learning processes is not included in the European Conventions. The IACYR did so.

Employment

Employment facilitates and allows the autonomy of young people. Getting equal access to the labour market is therefore important. Unfortunately, discrimination on the base of age is often hidden by higher demands regarding experience (and others). It is important to understand why youth unemployment is higher than the

employment of other categories and why young workers are more exploited. Young mothers for instance face additional discrimination on the labour market since legislation may protect young mothers but cannot neutralise the employer's attitude regarding the employment of young women.

Health

Providing access to health care is essential for augmenting the wellbeing of young people and enabling them to determine their own life, especially when it comes to sexual and reproductive health. The right to life ensures the right to abortion out of medical necessity, the right to disseminate and receive information about abortion and the right to buy and sell contraceptives. However, sexual education in schools is not always as informative as it should be, since the information is biased. A right to protection against sexual abuse, as described in the IACYR, can be interpreted as additional tool to ensure the sexual and reproductive health of youth.

Participation

The under-representation of young people in political, social, cultural and economic decision making bodies and processes can be caused by several facts. It reflects the lack of financial means, a lacking awareness or a negative attitude of the institutions on the importance of active participation of young people in politics and society. Other reasons can be the structural problems of the institutions in supporting

young people to gather new skills, due to a discriminatory legal minimum age or experience of candidates. The possibility to reserve the right to vote or to stand for election for people with a certain age is a political problem and not sufficiently linked to human rights. The mayor question, from which age on a person is capable to execute its active and passive voting right, so to say the interpretation of maturity, is a pure political question. The IACYR highlights the relevance of independent and youth-led bodies in charge of discussing and defending youth issues.

Freedom of expression

The freedom of expression includes the right to think freely and critically about information that is handed to young people, especially in the formal education. In this regard, the right to education is also closely linked to the freedom of expression. Public spaces are public and nobody may be hindered to use it but there are many examples of measures that inhibit young people to peacefully gather on public spaces, since their presence infringes the rights of somebody else. This is one of the cases in which authorities try to ensure that some rules are respected by everyone but in doing this they stigmatise and act against a certain group of people. Another sensitive example comes from the world of internet: personal data of young people are stored and not adequately protected because of the economic interests of the hosts. The internet never forget, and youthful folly will probably lag forever on young

people, infringing their rights and chances in the future.

Freedom of thought, conscience and religion or belief, including the right of conscientious objection to military service

The freedom of thought, conscience and religion or belief, including the right of conscientious objection to military service is clearly linked to the previous issue. Conscientious objection to military service clearly affects the life of young people, since only young people are obliged to fulfill military service. Even though some countries released young people from the compulsory military service and some others allowed the alternative civilian service, some countries did not legalize conscientious objection to military service and/or discriminated against young people who opted for doing so (mobility and employment related disadvantages). The current legislation in some states reflects a tradition of military services in modern European history, actually maintained because of nationalism and the pressure from the army and other lobby groups. In many countries, conscientious objectors to military service even play an important role in supporting the social and medical sector. In 2011 the European Court on Human Rights explicitly recognised the right of conscientious objection to military service. In this regard, national legislation has to be amended. However, discrimination against conscientious objectors, regarding the length of the service or financial recuperation, still seems possible.

Juvenile justice

The case law of the European Court on human rights clearly demonstrate that rights concerning juvenile justice, a fair trial, custody under police and rehabilitation programs are infringed. The educational system inside prisons must be kept high quality. This is very important for a later re-socialisation of the young offenders. Sentences have to be looked upon taking into consideration the age of the offender, as the length of a sentence increase in gravity for young people. Life imprisonment handed to young people is purely punitive, as it completely runs counter the idea of re-socialisation.

Mobility

There is no clear right to mobility included in any convention. There is a lack of access to mobility, which decreases the information and knowledge that young people can gather. Improvements have been made with regards to mobility, but still many young people are excluded. Mobility for young people is mainly related to education, training and employment issues. There is a need to find more specific examples of what mobility rights should be available for young people.

3. TOWARDS A RIGHTS BASED APPROACH TO YOUTH POLICY

3.1. What is a rights based approach?

A rights-based approach means basing policy and political decisions on rights, rights agreed internationally. The basic rights are the fundament for decision and the engine driving the decision forward, forcing policy to be created in order to implement the rights given.

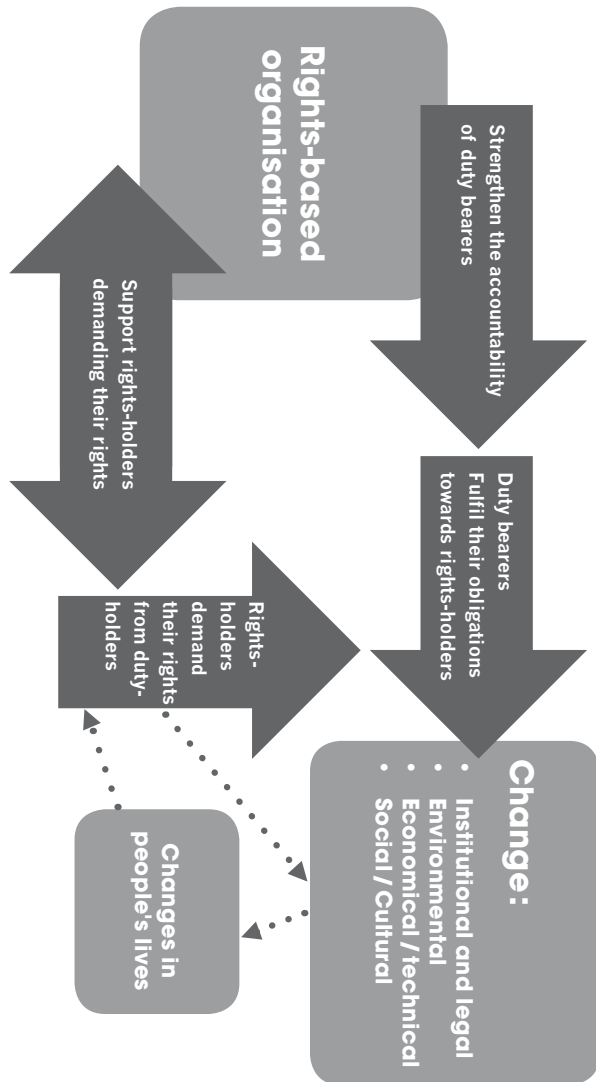
A rights-based approach derives from the thought that all young people/human beings/women/children are entitled to a standard of material and spiritual well-being. These are secured through given rights. The political decisions taken on a national or international level implement these rights.

One of the most fundamental dynamics of a rights based approach, is that every human being is a rights-holder and that every human right has a corresponding duty-bearer. It is central to the rights based approach that human beings have inalienable rights and a violation of needs can so be addressed as a denial of rights. Rights trigger obligations and responsibilities,

thus creates duty-bearers and a controlled agreement between individuals in our society.

A central dynamic of a rights based approach is: identifying root causes to e.g. poverty, discrimination, lack of housing or marginalization; empowering rights-holders to claim their rights; forcing duty-bearers to meet their obligations.

A rights based approach takes the blame of e.g. poverty from solely the individual and gives a responsibility to the state to grant that the rights are met. A rights based approach also means lifting the specific need into a right. Denying to respond the need therefore means denying the human its right. In order to help enforcing rights, they can be monitored on a national and international level.



References :

Figure 1. Kirkemann Boesen, J. and Martin, T. 2007 : Applying a Rights-based Approach – An Inspirational Guide for Civil Society. Danish Institute for Human Rights.

3.2. Why is a rights based approach to youth policy important?

As seen in the Age Limits Mappings Exercise, the youth of Europe have very different starting points and realities when it comes to rights and obligations. A rights based approach to youth policy is an approach making sure that all young people have the same starting point, the same possibilities and opportunities, or generally spoken, their rights. The same goes for the youth policies in European countries — they are for historical reasons very different and thus creating different possibilities, circumstances and lives for young people in Europe. Giving young people in Europe the same rights would be one step in realizing the mission of the European Youth Forum, having a Europe where young people are equal citizens.

A rights based approach to youth policy on the European level would mean youth policy based on the rights of young people, as stated in the European Convention on Human Rights and the European Social Charter or in other sources of the actual or future International youth rights law.

It can be concluded that the rights of young people, as given by the ECHR and ESC, are not fully accessible today. The right to housing, expressed in the European Social Charter, is an example of this. The different age limits to participate in political elections can also be seen as an obstacle to the

equal treatment of young people all over Europe. Having a rights based approach to youth policy would mean that young people get rights realized through the policies created by the duty-bearers. Young people should though be able to claim their rights. By striving for a rights based youth policy, the European Youth Forum can — finally — get access to the rights ensured by the European Social Charter and the ECHR. Youth organizations should work for a rights based approach in order to enable the European youth to access their inherent rights. By striving for this, the European Youth Forum can increase the wellbeing of young people as well as their non-discrimination.

However, a rights based approach has some weaknesses too. Having rights and basing policy on these can lead to ignoring the specific needs of humans. Some argue that the transformation from a needs based policy to a rights based one would fail to address some specific needs of some (sub-)groups of young people. This critic is specially used towards the Universal Human Rights on the basis that they are exactly universal and not fulfilling the specific needs of some special groups of people. In this regard, the universal rights, inherent to every single person, may be there, but not everybody has an equal access to them. This is why there has been identified a need of Women's Rights, Children's Rights and rights for other specific groups, with specific needs, like people with migrant background or with disabilities.

When it comes to Youth Rights, the situation is more challenging since as opposed to the other groups listed above, there is no specific instrument naming, implementing, guaranteeing and monitoring the rights of young people at neither international nor European level. A rights based approach is a principle of working with policy, but in order for it to function, the rights that this policy should ensure need to be specified and agreed upon. In this way, moving from a need based youth policy to a rights based youth policy would grant the same rights for all young people, thus the same starting point for every young European. To fully implement a rights based approach to youth policy there is a need for a clear definition of the rights concerning young people.

A fear of the rights based approach is that it will tie the youth organizations to only working around the rights of young people, or working with realizing the rights of and their accessibility by young people. Youth Organisations must keep in mind that a huge part of the activities they are doing today are centered around and connected to the rights of young people, even they probably call it in a different way. They work a lot with the freedom of assembly, the right to education, the right to culture, the right to association and the right of participation in public life, just to mention some of the existing rights. Youth organizations are working on the realization of the rights of young people, even if not always consciously. In addition to this, youth organisations are also already working with

issues that are not covered neither by the ECHR and the ESC, but are playing a central role in the Forum's actions and are included in the Forum's list of youth rights (for example the right to mobility).

Another critic towards the rights based approach is that it could make the youth policy less progressive, even if a rights based approach is progressive in itself. Once a legal system/framework identifying these rights exist, there remain a possibility the youth organisations are stuck with these and there would be a need to review the whole system every time they want to move forward. It is also important to remember that the concept of youth rights reflects all of them, not prioritizing or choosing. The Human rights system in itself should be interpreted as a developing system in itself, the Human rights are interlinked and mutually supporting each other.

Another critic is that the rights based youth policy would be very rigid, thus not responding to the needs arising from young people and that it would be difficult for the youth organizations to influence youth policy, as it would be created on the basis of given rights. However, it has to be kept in mind that human rights should not be seen as static but as dynamic, adapting to new developments in society. This also follows the logic of the European Court of Human Rights, which — in the case of *Tyrer v. UK* — stated that “The Court must also recall that the Convention is a living instrument which, as the Commission rightly stressed,

must be interpreted in the light of present-day conditions.” (Case of Tyrer v. UK, Para. 31). Thus a rights-based approach does not prevent progress, but adapts to new realities while not losing track of the underlying human rights. This would also give the youth organizations a chance to influence the definition of rights in a more focused and thus more powerful way, by joining forces in one big process, not a number of processes and institutions spread over the whole of Europe.

A rights based approach to youth policy would mean basing policy on rights given, not on needs. This would create a Europe with a more equal starting point for its young people, not correcting inequalities and problems when they already exist, but preventing them from arising.

4. RECOMMENDATIONS TO THE EUROPEAN YOUTH FORUM AND ITS MEMBERSHIP

4.1. Internal recommendations

The Expert Group on youth Rights recommends to the European Youth Forum the following actions aimed at promoting youth rights and rights based approach amongst its membership:

- Increasing the internal understanding of the concept of youth rights and rights-based approach (RBA) amongst the membership
- Creating a framework enabling member organisations to adopt a rights-based approach
- Organising policy and advocacy trainings on how to use the rights based approach in advocacy work on national and European level
- Employing an ombudsperson for youth rights. This would sharpen advocacy work and generate practice in youth rights violations
- Providing information and support for the use of complaint mechanisms in case of violation of the rights of young people
- Informing and encouraging MOs to participate to the Universal Periodic Reviews

(UPR) by submitting their own reports on youth rights situation at country level

- Updating the publication “*The state of youth rights in Europe*” on regular basis in order to have an up to date data base on the situation of youth rights in Europe.
- Raising young people awareness of their rights by advocating, supporting and promoting human rights formal and non formal education.

4.2. External recommendations

To a certain extent youth rights are covered by the already existing conventions and young people in Europe have access to those instruments the conventions put at the disposition of the people. The later is true when it comes to theory; in fact, they often lack the necessary means in order to enforce their rights. This existence of legal tools does not mean, there is no space for improvement left. First, **the accessibility of already existing tools should be strengthened and facilitated by (youth) organisations.** In our view the Forum can contribute to the elaboration of new instruments young people can use and afford

when they face situations infringing their rights, for example where there are no suitable, no sufficient tools or no tools at all. Secondly, young people are often unhappy with interpretations given to those existing conventions. Realities have changed drastically, but human rights law followed only by making small steps. That's why the interpretation of human rights law needs a reshaping and a common understanding.

Youth organisations as well as other human rights organisations have to strive towards additional interpretations and dimensions of existing Human Rights Law by creating new case law.

In line with the above, the EGYR recommends the following advocacy actions:

- The European Youth Forum should 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 could start tackling rights violations through the use of the European Social Charter. This should be coupled with a campaign to have European states ratify the revised European Social Charter.

- 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. This will lead to a good overview of violations of human rights of youth.

- Collaborate with the Fundamental Rights Agency (FRA) asking to carry on ad hoc research on the actual access of young people to fundamental rights in Europe.

- Strengthen Youth Forum advocacy actions based on rights at any institutional level (i/e quality education, decent job, etc.) also through improved collaboration with other stakeholders.

- Follow the implementation and developments of the African Youth Charter and the Ibero-American Convention on Youth Rights cooperating with the relevant bodies

- If continuing the lobbying towards a European Convention on Youth Rights, ensuring that national and European implementation and monitoring mechanisms are introduced.

[September 2012]

ANNEX 1

SURVEY ON YOUTH RIGHTS

A. DEFINING YOUTH RIGHTS

1 What are the concerns of young people in your country?

2 Which human rights have particular importance for the young people?

3 How clear is the concept of youth rights for you?

- ☐ Very clear.
- ☐ More or less clear.
- ☐ Very unclear.

Comments:

4 What is the meaning or definition of youth rights for you?

5 Do you think there are any youth rights that are not included in the European Convention on Human Rights / European Social Charter?

- ☐ Yes.
- ☐ No.
- ☐ I don't know.

If yes, please briefly specify.

Comments:

B. YOUTH RIGHTS IN YOUR ORGANISATION

6 In your work do you apply a rights-based approach to youth policy?

- ☐ Yes.
- ☐ No.
- ☐ Partly.
- ☐ I don't understand the concept of a rights-based approach to youth policy.

Comments:

7 Do you promote / deal with youth rights in your work as organisation?

- ☐ Yes.
- ☐ No.
- ☐ Partly.

If yes, which one(s) and how you promote them?

Comments:

8 Do you use youth rights as part of your argumentation / lobbying strategy?

- ☐ Yes.
- ☐ No.
- ☐ Partly.

Comments:

9 Have you ever considered or really used any complain mechanism or taken legal action to ensure the human rights of young people?

- ☐ Yes.
- ☐ No.

If yes, please briefly specify. If no, please explain why.

Comments:

C. ACTUAL SITUATION

10 Are there any human rights that are being denied / violated / restricted for young people in your country?

- ☐ Yes.
- ☐ No.
- ☐ I don't know.

If yes, which one(s)?

Comments:

11 How are the rights of young people protected in your country?

12 Does your country somehow monitor the access to rights and freedoms of young people?

- ☐ Yes.
- ☐ No.
- ☐ I don't know.

If yes, how?

Comments:

13 Does your country explicitly recognise any youth rights?

- ☐ Yes.
- ☐ No.
- ☐ I don't know.

If yes, which one(s)?

Comments:

14 Do you know of existing national or European legal instruments protecting youth rights?

- ☐ Yes.
- ☐ No.
- ☐ I don't know.

If yes, which one(s)?

Comments:

D. FUTURE WORK

15 Do you have networks/contacts/partners with (other) human rights organisations (national / European / international)?

- ☐ Yes.
- ☐ No.

If yes, please briefly specify. If no, please explain why.

Comments:

16 Do your networks/contacts/partners have experience with using legal tools / procedures? (national procedures, common complaints procedures etc)

- ☐ Yes.
- ☐ No.

If yes, please briefly specify. If no, please explain why.

Comments:

17 If the YFJ could lodge collective complaints for youth rights violations would your organisation be interested in cooperating in this (for example by providing cases of youth rights violations)?

- ☐ Yes.
- ☐ No.
- ☐ It depends on the case.

If yes, please briefly specify. Otherwise, please explain why.

Comments:

18 Do you think that young people need a preferable status, compared to other segments of society?

- ☐ Yes.
- ☐ No.
- ☐ Partly.

Comments:

19 Do you consider a Convention on Youth Rights would help raising awareness, monitoring youth rights violations and safeguarding youth rights?

- ☐ Yes.
- ☐ No.
- ☐ Partly.
- ☐ I don't know.

If yes, please briefly specify. Otherwise, please explain why.

Comments:

20 Would your organization be interested in (regularly) updating the report on the "State of youth rights in Europe" (the yellow booklet, published by the YFJ in 2010)?

- ☐ Yes.
- ☐ No.

Comments:

21 After reading the briefing note on youth rights, what do you think you would need to mainstream youth rights in your work?

- ☐ Toolkit.
- ☐ Training course.
- ☐ Contacts / networking / partnerships.
- ☐ I don't want to mainstream it.
- ☐ Other... (please specify).

Comments:

CONTACT e-mail (optional):

ANNEX 2

EXPERT GROUP

ON YOUTH RIGHTS

BRIEFING NOTE (UPDATED APRIL 2012)

Introduction

The European Youth Forum strives for ensuring and improving the rights of young people and has worked on youth rights since the 1980s. For the past four years it has actively advocated for a Convention on the rights of young people within the Council of Europe framework and has also brought the discussion to meetings at the United Nations level.

According to the Work Plan 2011–2012,

“...the European Youth Forum works towards the full realisation of the rights and freedoms of young people as a pre-requisite to further develop and build a democratic Europe with a sound social and economic model at all levels, and which is able to ensure the full development of the human and the social potential of young people.”

An Expert Group on Youth Rights was established in Spring 2011. The fundamental aim of the group is to support the European Youth Forum in promoting and implementing a rights-based approach to youth.

More specifically:

- ① Help create and develop evidence-based arguments for youth rights
- ② Follow and stimulate the academic discussion on youth rights in Europe
- ③ Link the debate on youth rights to the debate on children's rights
- ④ Identify ways of mainstreaming youth rights in the human rights agenda in Europe
- ⑤ Assist the Member Organisations of the European Youth Forum in the internal discussion on how to best protect and promote youth rights

The expected result of the EGYR is to contribute to a coherent strategy of the YFJ on youth rights.

The European debate on youth rights reached a highpoint 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". 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".

The view of the parliamentary assembly was also mirrored by the Declaration of the World Youth Conference 27th August 2010 Guanajuato, which recommended to discuss an international legal framework that recognises the specific rights of young people.

The next important advocacy step will be contributing to the Draft Declaration and related implementation actions of the Ministerial Conference on Youth of the Council of Europe that will take place in St Petersburg on 23–25th September 2012

("Young people's access to rights: development of innovative youth policies").

What are youth rights?

When talking about youth rights, the Expert Group refers to the full enjoyment of fundamental rights and freedoms by young people. This includes the access to the existing human rights but may also entail, where needed, the creation of new rights and freedoms.

In most countries there are several advocacy groups claiming that structural inequality in society is so big that levelling the playing field requires positive discrimination such as ethnic or gender quotas. This is a common rhetoric also familiar within the European Youth Forum. Ensuring equality of opportunity is the core business for any advocacy organization and Youth Rights are certainly about equality of opportunity.

When compiling the book "The state of youth rights in Europe", the YFJ asked its members to define what youth rights they thought were important. The answers were quite similar and can be divided into the following main categories: autonomy, education, participation, employment and social protection, freedom of expression, 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.

Except for mobility, the European Social Charter or the European Convention on Human Rights somehow covers them all. However, looking at case law from the European court of Human Rights it is evident that these rights are far from granted to youth and that the cases, which are brought up in, the court more often than not deal with juvenile justice i.e. cases where layers are already involved. Therefore, it is reasonable to assume that many cases of youth discrimination never even reach a local court.

The Ibero-American organisation of youth has written a convention on the rights of youth that entered into force on March 1st 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 there has not been a necessity to define many new youth rights. Most of the paragraphs in those texts are not specifically related to youth but are common human rights. Indeed what is important to note is that youth rights are not specific rights needed by young people but the need for specific protection to ensure young people access to their rights. However, there might be groups of rights such as those concerning students or volunteers that are not yet established and that perhaps should be included under the collective heading of youth rights.

Recommendations

The European Youth Forum should become a member of the group of INGO's with a right to make collective complaints to the European Social Committee. This way the YFJ could start tackling rights violations through the use of the European Social Charter. This should be coupled with a campaign to have European states ratify the revised European Social Charter.

Moreover, the European Youth Forum should employ an ombudsperson for youth rights.

In combination these two recommendations would sharpen advocacy work and generate practice in youth rights violations.

Next steps

The group is still suffering from a lack of case laws from national courts documenting human rights violations involving young people. We need a good overview on what's happening in Europe and especially concerning systemic violations of human rights of youth (i.e. higher unemployment rates or HIV/AIDS infections among young people than the population average).

A survey among YFJ membership has been conducted to gather comparable information. The Expert Group is analysing the inputs in order to create a common understanding of youth rights, and to identify the interest and motivation of the member organisations. A similar version of the survey will also be circulated among external actors such as the network of Child Ombudsmen.

The Expert group will present a detailed report to the membership next summer, including an in depth analysis of the case law, good and bad practices and their implications for the life of young people. A second part of the report will deal with the results of the survey. In addition, the report will identify the pros and cons of the different instruments supporting the implementation of youth rights.

ANNEX 3

MAPPING AGE LIMITS

EXERCISE

In the framework of the European Youth Forum commitment in the field of recognition and protection of Youth Rights, we have devoted a month of focus on a comparative data study. The aim of the project was to gather data on age limits or requirements in accessing youth rights in order to draw a clear picture of the differences between European countries and the gaps that exist within the rights of youth. This involved a data collection survey released to National Youth Council members of the European Youth Forum and an analysis of the information relieved. The survey regarded age limits of various rights and duties in different European countries. We sent this survey to 33 National Youth Councils and received a total of 22 replies. However, only 10 of these gave complete information, so there was additional research needed to complete the spreadsheet of data. The data collection was successful overall and served to show some insight into youth rights and age limits.

The conclusions of the study revealed some interesting differences and discrepancies in Europe.

First, there is a distinct difference between the age of criminal responsibility and the age to vote in nearly all the European countries. The age of criminal responsibility, defined as the age at which a youth may be charged as an adult in trial and receive adult punishment under the law, has a wide range. For example, in the United Kingdom, the age of criminal responsibility is 10 years old. On the other hand, voting age remains at a standard of 18 years old for all European countries except for Austria, who keeps the voting age at 16. The discrepancy between these two age limits can be huge. With the case of the United Kingdom, there is an 8 year gap, meaning that youth may be tried 8 years before they are able to vote. The difference between age limits shows that a young citizen may be considered an adult in the criminal sense before he or she is considered an adult in the political sense, which is unfair to the youth population.

The second conclusion **involved purchase of selective items**. There are specific age limits in most countries regarding purchase of alcohol and tobacco, but very little legislation regarding the purchase of contraceptives. This could lead to questions of whether or not there is a need for age restrictions on contraceptive purchases. Only five European countries were found to have these age limits. They were Armenia (16), Azerbaijan (18), Cyprus (18), Denmark (15), and Moldova (18). Furthermore, the five countries with age limits for purchase of contraceptives have matched it to the age of consent, which could potentially serve as a standard for future legislation on contraceptive purchase.

Family age limits were also very interesting to analyze because of the variety of legislation. Comparing the age of consent, age to obtain a marriage license, age to make decisions about adoption and age to make decisions about abortion revealed a wide range of age limits. For example, in Switzerland, a person can adopt at age 35 if single, or after they have been married for 5 years. So, that means that if an 18 year old gets married they may adopt at age 23. Thus, they can make decisions about adoption 12 years before a single person has the same opportunity. Our conclusions about this topic were that family decisions cannot be legislated on a European standard because of the sensitive subject matter. Nonetheless, national government can potentially make these decisions standardized within a single country. Also, there are

questions about whether or not marriage should be a factor in the age limit to adopt.

The final study involved the **age to work and the ages to gain access to other social and economic rights**. In some countries in Europe there are young age limits to begin working without parent permission, they ranged from 12 to 18. On the other hand, there are higher age limits that are closer to 18 to obtain a driver's license, travel without an adult, access financial facilities, and receive social benefits. So, even if youth can work full time at the age of 16 and financially support themselves, as they can in Lithuania, they still cannot drive to work, own a home to live in, receive unemployment or any other social benefits until two years after they have begun working. As a result, the age gap keeps young people from being completely socially autonomous. This disparity in legislation is preventing youth from becoming self-reliant from the legal age to work, in both the social and economic types of autonomy.

Similar to the **topic of social autonomy is the subject of minimum wage for youth**.

While this is not directly related to the study of age limits, there has been some legislation in minimum wage in countries like the UK and Greece that are effecting youth autonomy. In these countries there is a lower minimum wage for younger workers. For example, in the UK, the minimum wage is being increased to £6.19 per hour. Yet, if you are age 16 or 17 the minimum wage is frozen at £3.68 and for youth

age 18–20 the minimum wage is £4.98. The idea of the government is to increase youth employment opportunities by allowing employers to pay younger workers less. However, many argue that this could be considered age discrimination and a limit on social and economic autonomy for young citizens.

In Greece, minimum wages are being cut by 22 percent, with minimum wages for those under 25 being cut by 32 percent. The rationale behind these cuts is to reform the struggling economy in Greece, but this dramatic legislation will have an adverse effect on the youth population in Greece. There are already protests and anger toward the minimum wage cuts in general, but youth will be especially hurt by a 32 percent cut in wages. Again, this is a step away from youth autonomy and this type of legislation is hindering young people.

Furthermore, Greece and the UK are not the only countries that have age-specific rules for minimum wage. Belgium, Czech Republic, France, Ireland, Malta, the Netherlands, and Slovakia all have various age barriers in achieving a full minimum wage for labor.¹ This is a problem that is not realized by many national governments and should be addressed to ensure the equal rights of the young work force.

[September 2012]

1. Resource for list of countries: <http://www.eurofound.europa.eu/eiro/2005/07/study/tn0507101s.htm>

