

## CHILDREN'S PARTICIPATION MONITOR

ANALYSIS OF HOW CHILDREN'S PARTICIPATION WAS ADDRESSED BY THE UN COMMITTEE ON THE RIGHTS OF THE CHILD DURING ITS 74TH SESSION

(16 JANUARY-3 FEBRUARY 2017)

### 1. CHILDREN'S PARTICIPATION IN THE DIALOGUE AND THE CONCLUDING OBSERVATIONS

During the 74th session, the UN Committee on the Rights of the Child (Committee) reviewed the following States: **Barbados, Central African Republic, Democratic Republic of Congo, Estonia, Georgia, Malawi, Saint Vincent and the Grenadines and Serbia**. The table below includes 2 sections that highlight 1) how the Committee has brought up the issue of children's participation with the abovementioned States and 2) what it has recommended as necessary actions to be undertaken. The first section compiles the specific questions and comments on children's participation that were made by the Committee to the State delegations during the constructive dialogues (list of Committee members [here](#)); the second section includes the references to children's participation that can be found in the Concluding Observations (Cobs). Webcast of the dialogues and Cobs can be found [here](#).

Country	Committee comments and questions during the dialogue <sup>1</sup>	Reference to children's participation in the Cob's	
		As a general principle / Respect for the views of the child	Other clusters

<sup>1</sup> This is a list of questions raised by the Committee members based on the internal notes taken by Child Rights Connect. Some questions might not have been captured.

<p><i>Barbados</i></p>	<p><b><u>Kirsten Sandberg:</u></b></p> <ul style="list-style-type: none"> <li>✓ What is the position of the child in society? Is he/she respected within the family? Are there positive attitudes towards children? Are children viewed as independent or are they seen as property of their parents?</li> <li>✓ In regards to student councils, what is their mandate? How do you ensure that children's views are considered within schools?</li> <li>✓ In regards to administrative and judiciary proceedings, are children heard by judges or in adoption procedures? Are judges and personnel trained?</li> </ul>	<p>In the first part the Committee welcomes the progress made by the State with the establishment of student councils, but raises its concerns about the lack of legislation granting the exercise of the right to be heard. On the following paragraphs, it <b>recommends to ensure the effective implementation</b> of the right to be heard by developing toolkits for public consultation including children and conducting awareness raising activities to promote child participation.</p>	<p>The Committee refers to child participation in the <b>General measures of implementation</b> when referring to <b>budget allocation</b>: <i>“Ensure transparent and participatory budgeting through public dialogue, <b>especially with children</b> and for proper accountability of local authorities”</i></p>
<p><i>Democratic Republic of Congo</i></p>	<p><b><u>Jose Rodriguez Reyes</u></b></p> <ul style="list-style-type: none"> <li>✓ In regards to children participation in civil society through associations in rural areas. Are children's views taken into consideration?</li> </ul> <p><b><u>Wanderlino Nogueira Nieto</u></b></p> <ul style="list-style-type: none"> <li>✓ Are there any restrictions of freedom of expression in your country?</li> <li>✓ In regards to school libraries, are there specific measures to ensure that children have access to proper information?</li> </ul>	<p>The Committee refers to the low level of comprehension of the right to be heard in the country, and draws the State's attention to GC 12. It explains the importance of children's rights to freely express their views and <b>recommends</b> the State to <b>conduct</b> programmes and awareness-raising activities within community, schools and families, focusing on marginalized groups of children.</p>	<p>No mention in other clusters</p>

<p><i>Central African Republic</i></p>	<p><b><u>Hatem Kotrane:</u></b></p> <ul style="list-style-type: none"> <li>✓ What opportunities are available for children to have their voices heard?</li> <li>✓ While referring to freedom of expression and peaceful assembly children need to be involved in the process of reconstruction of the country. Nevertheless, no specific text guarantees children the exercise of these rights. If a person under 18 is not allowed to assembly, what additional measures are you intending to take to create opportunities for children to exchange their views? Children clubs? Is the state willing to support these clubs?</li> <li>✓ In regards to freedom of expression and religion, are there communication means whereby young people and adolescents can express their views and opinions?</li> </ul> <p><b><u>Jorge Cardona</u></b></p> <ul style="list-style-type: none"> <li>✓ Recommends the State to change national legislation to allow children to assembly and makes references to the right to participation and to be heard.</li> </ul>	<p>The Committee welcomes the progress made by the State in regards to child participation but raises its concerns about traditional attitudes that limit children from expressing their views. The Committee <b>encourages</b> the State party <b>to conduct</b> programmes and awareness-raising activities <b>to promote</b> the meaningful participation of all children within the family, community and schools.</p>	<p>The Committee refers to child participation in the cluster on <b>social protection measures</b> on the following subsections:</p> <ul style="list-style-type: none"> <li>i. Children of minority groups: the committee emphasizes on pigmy children and recommends the State to develop a national action plan to decrease the infant mortality and malnutrition rates of pigmy children, with the <b>participation</b> of pigmy communities.</li> <li>ii. Children in street situation: after its recommendations to enhance their protection the Committee reminds the State its responsibility to <i>“ensure that any measure respects the child’s best interests and due consideration is given to their autonomous views in accordance with their age and maturity”</i></li> </ul>
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<p><i>Estonia</i></p>	<p><b>Peter Gurán:</b></p> <ul style="list-style-type: none"> <li>✓ What are the practices and programs to support specialized school councils and child parliaments?</li> <li>✓ Recommends that the right to be heard is systematized through an electronic system to document children’s opinions.</li> <li>✓ The rights to be heard of the child should be an obligation for people working with children, for the parents and caregivers.</li> </ul> <p><b>Sara Oviedo:</b></p> <ul style="list-style-type: none"> <li>✓ What participatory mechanism are you planning to put in place to guarantee that all adolescents can vote in the upcoming elections?</li> </ul>	<p>In the first part, it raises its concerns about reports from children feeling that their opinion has no influence at the national level. On the following paragraphs, it <b>recommends to ensure the effective implementation</b> of the right to be heard by <b>developing</b> toolkits for public consultation including children and <b>conducting</b> awareness raising activities to promote child participation.</p>	<p>The Committee refers to child participation in the <b>General measures of implementation</b> when referring to <b>budget allocation</b>: “Ensure transparent and participatory budgeting through public dialogue, <b>especially with children and non-governmental organizations working for children’s rights</b> and proper accountability of the authorities at the municipal and State levels”</p>
<p><i>Georgia</i></p>	<p><b>Peter Gurán:</b></p> <ul style="list-style-type: none"> <li>✓ In cases of adoption or alternative care, does national law require the view of the child?</li> <li>✓ Do you plan to fully harmonize national legislation in regards to the right to be heard?</li> <li>✓ How the view of the child is respected especially within family?</li> <li>✓ Raised his concerns about the lack of a systematic implementation of article 12, particularly in the education sector.</li> </ul>	<p>The Committee welcomes the progress made by the State by establishing child friendly court rooms and <b>encourages</b> the State to <b>strengthen</b> methods ensuring that children’s views are given due consideration at all levels, through <i>inter alia</i>, :</p> <ul style="list-style-type: none"> <li>▪ Refinement of appropriate legislation</li> <li>▪ Continuous training of professionals</li> <li>▪ Support of various forms of children’s meaningful participation</li> <li>▪ Collaboration with civil society organization, to increase opportunities for children’s participation, including in the media</li> </ul>	<p>No mention in other clusters</p>

<p><i>Malawi</i></p>	<p><b><u>Sara Oviedo:</u></b></p> <ul style="list-style-type: none"> <li>✓ Recommends the State that the respect of the opinion of the children is integrated in the national legislative framework.</li> <li>✓ What measures is the State taking to increase the legitimacy of the Youth Parliament, and what is the budget allocation for this?</li> <li>✓ What are concrete mechanism put in place to ensure the views of children are considered in judicial and administrative procedures?</li> <li>✓ What structures do you have in place for participation at school? Are children allowed to express their opinion?</li> <li>✓ How do you incorporate children’s views in public policies?</li> <li>✓ What measures do you put in place to ensure participation of children with disabilities and children living in rural areas?</li> </ul>	<p>The Committee welcomes the legislative and policy progress made by the State to ensure children’s views are heard and <b>encourages</b> the State to <b>strengthen</b> the Youth Parliament and the existing structures for child participation, and to <b>systematically include</b> children’s views in laws, policies and programmes.</p>	<p>The Committee refers to child participation in the cluster of <b>disability, basic health and welfare</b>, subsection of adolescent health when referring to abortions: <i>“ensure that the views of the child are <b>always heard and given due consideration</b> in abortion decisions”</i>.</p>
<p><i>Saint Vincent and the Grenadines</i></p>	<p><b><u>Hynd Ayoubi</u></b></p> <ul style="list-style-type: none"> <li>✓ Are they any child friendly methods to hear what the child has to say in cases of incest and sexual abuse?</li> </ul> <p><b><u>Olga Khazova</u></b></p> <ul style="list-style-type: none"> <li>✓ In cases of adoptions, is the child’s opinion relevant during the process? Does it matter at all for the final decision?</li> </ul>	<p>The Committee welcomes that the right to be heard was included in national laws and acts, as well as the future implementation of the National Youth Parliament. However, expresses its concerns about the lack of protocols to ensure that children’s views are respected in judiciary and administrative proceedings and the absence of systematic consultations with children for decision-making processes at national level.</p> <p>The Committee <b>recommends to inform</b> children about their right to be heard, <b>ensure</b> that children’s views are given due weight on judicial and administrative procedures, <b>allocate sufficient</b> resources for the functioning of the National Youth</p>	<p>The Committee referred to child participation in the following clusters and subsections:</p> <p><b>b) a) General implementation measures</b></p> <ul style="list-style-type: none"> <li>i. Budget allocation: <i>“Ensure transparent and participatory budgeting through public dialogue, especially with children”</i></li> </ul> <p><b>c) Disability, basic health and welfare</b></p> <ul style="list-style-type: none"> <li>i. Nutrition: <i>“Ensure active participation of children in developing, implementing and monitoring policies and plans on food and nutrition security”</i></li> <li>ii. Adolescent health: <i>“Ensure that their views are always heard and given due consideration in abortion-related decisions.</i></li> </ul>

		<p>Parliament and <b>ensure</b> the participation of all children in this council.</p>	<p><i>iii.</i> Impact of climate change on the rights of the child: “Ensure that the special vulnerabilities and needs of children, as well as their views, are taken into account in developing policies or programmes addressing the issues of climate change and disaster risk management”</p> <p><b>d) Special protection measures</b></p> <p><i>i.</i> Children in street situations: ensure that intervention “<i>are provided with full respect for the child’s best interests and giving due weight to their autonomous views in accordance with their age and maturity</i>”</p>
<p>Serbia</p>	<p><b>Gehad Madi:</b></p> <p>✓ In regards to the right to be heard particularly in court procedures, he raised his concerns about how the child’s opinion is not taken into account, particularly if the child is under 10 years. He also raised that premises are not generally child friendly and there is a lack of trained personnel.</p> <p>✓ At what age the child can express his/her opinion particularly in family cases? Is the judge required by law to ask for the child’s opinion?</p> <p><b>Kirsten Sandberg</b></p> <p>✓ What measures do you have in place to ensure the functioning of student parliaments? Are they functional now? Are they seen as important?</p>	<p>The Committee noted the positive efforts of the State to ensure respect for the views of the child, however, it raises its concerns on certain traditional practices and cultural attitudes that impede the full realisation of the rights of children to express their views freely, especially children in alternative care and children with disabilities.</p> <p>The Committee <b>encourages</b> the State to <b>ensure</b> that children’s views are given due consideration, in all relevant administrative and judicial procedures. And <b>further encourages</b> the State to work in collaboration with relevant stakeholders to disseminate the Convention and <b>to strengthen</b> the creation of <b>meaningful spaces</b> through which children can influence public policy.</p>	<p>The Committee referred to child participation in the following clusters and subsections:</p> <p><b>General implementation measures</b></p> <p><i>i.</i> Budget allocation: “<i>Ensure transparent and participatory budgeting through public dialogue, <b>especially with children</b>, and for proper accountability of the authorities, including at the local level</i>”</p> <p><b>Family environment and alternative care:</b></p> <p><i>ii.</i> Children deprived of a family environment:</p> <p>- “<i>Ensure that the best interests of the child are respected when deciding on necessary and appropriate medical treatment and that the</i></p>

	<p>✓ In regards to participation in the local communities, what are the tasks of the youth offices? What age you consider as youth? How do these offices work? What do they do to promote participation of children under 18 at the local level?</p> <p><b><u>Hynd Ayoubi</u></b></p> <p>✓ In regards to rights and freedoms of children, what are the measures to improve freedom of expression of children and promote and guarantee freedom of assembly? What measures are in place to fully guarantee this?</p>		<p><i>views of children are heard and taken into account”</i></p> <p><i>- “Ensure that support, particularly reintegration with family or placement in alternative care, are provided with full respect for the child’s best interests and giving due weight to their views in accordance with their age and maturity”.</i></p>
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## 2. ANALYSIS

The Committee raised questions and issued recommendations on children's participation within the cluster General principles, under Respect of the views of the child (Art. 12), for all the 8 States reviewed during the 74<sup>th</sup> session.

During the dialogue with States, Committee members referred to children's participation either as respect of the views of the child, the right to be heard, and some of them linked it to freedom of expression, association and peaceful assembly, and the right of information. However, the Committee did not refer to the children's views provided by children themselves, as it did during the sessions of Mauritius and the UK when it said that "the Committee heard from children" that an issue was a concern for them.

In the Concluding Observations (Cobs), the Committee systematically referred to its General Comment No. 12 when introducing its recommendations on this topic and the Cobs of Georgia, Saint Vincent and Serbia were particularly elaborated regarding children's participation.

In the Cobs of 5 out of the 8 States reviewed (Barbados, CAR, Estonia, Malawi, Saint Vincent and Serbia), children's participation was linked to other clusters:

- budget allocations,
- minority groups,
- children in street situation,
- adolescents' health,
- nutrition,
- climate change,
- alternative care.

The General Comment No. 19 was mentioned in all the recommendations related to budget allocations, but only to 4 of the 8 States (Barbados, Estonia, Georgia and Saint Vincent) the Committee specifically recommended the meaningful participation of children in the different stages of the budgeting process.

The Committee referred specifically to "children's opinions" only in its Cobs to Estonia (General principles) as follows: "*the Committee is concerned at reports that children in the State party frequently feel that their opinion has no influence at the national level*". This was a similar, although less detailed, recommendation to the one that the Committee addressed to the UK in October 2016 ("*Many children feel that they are not listened to by their social workers, reviewing officers, paid carers, judges, personnel working with children in conflict with the law or other professionals in matters affecting them, including in family proceedings*").

In the UK Cobs, the Committee also mentioned children's opinion by noting "*increasing demands from children for a right to vote from the age of 16 years and that, in Scotland, voting age has been extended to 16 and 17 year olds for local and Scottish Parliament elections*".

For the 74<sup>th</sup> session, some recommendations were formulated in the same way in different Cobs, such as the one on abortion: "Ensure that their views are always heard and given due consideration in abortion-related decisions" (both in Malawi and Saint Vincent). However, the question raised by the Rapporteur during the dialogue with Malawi was more specific and related to cases of incest and sexual abuse ("*Are there any child friendly methods to hear what the child has to say in cases of incest and sexual abuse?*").



Finally, the Cobs that included urgent issues (Georgia, Malawi and DRC) did not identify children's participation as one of the subjects requiring the State to adopt urgent measures – as it was the case for other General measures and General principles.