

INNOCENTI RESEARCH CENTRE

The General Measures of the UN Convention on the Rights of the Child: Implementation in Europe and the Central Asian Republic

KEY FINDINGS

Law reform and implementation of the CRC

All of the countries studied have made substantial changes in their legislation to better protect the rights of children. Some countries have chosen a **comprehensive** approach, which means that in the creation of new law have incorporated many or most of the rights and principles covered by the CRC in national law. Others have preferred a **sectoral** approach in which takes place a gradual review and modification of existing laws in particular areas such as family law, juvenile justice, and others.

Many of the new constitutions adopted by countries in Central and Eastern Europe over the past 15 years contain relatively generous provisions concerning the rights of the child.

Two major challenges still remain in the law reform process: gaps in legislation and difficulties in enforcement. There has been advancement in many areas regarding children's rights. For example, legislation incorporating the principles and safeguards set out in the CRC into adoption laws, especially for inter-country adoption, and legislation recognizing the right of children to participate in legal or administrative proceedings. However, some other areas need to be strengthened, including with a view to incorporate in national legislation the general principles of the CRC, such as the "best interests" principle; the right to be protected against all forms of discrimination and the right to be heard in family matters.

National Independent Institutions for the protection of children's rights

The number of national independent institutions whose purpose is to protect and promote the rights of children has grown rapidly over the last 15 years.

The purpose of all such institutions is to promote and safeguard the rights of children, but many institutions are mandated to perform other functions as well. Among their functions, these institutions create awareness on children's rights; assess the situation of children and prepare studies and reports; in some cases they also investigate individual complains and situations affecting particular groups of children; in general, they serve as a channel for children to make their views known to public officials and society at large.

The role, structure and working method of these institutions vary considerably and continue to evolve. In some countries, the general ombudsman office has a separate unit specialized in children's rights. In others, a department for child rights has been created into the general ombudsman office but with a separate law establishing the competencies and mandate. Various countries have established child rights institutions at the regional and/or municipal level,

which can play a complementary role and promote coordination when there is also a federal/national institution.

Mechanisms for coordinating implementation of the CRC

More than half of the countries studied have established national mechanisms to coordinate implementation of the CRC. In some countries, these mechanisms function in a horizontal manner in order to facilitate articulation and collaboration among departments at similar level of public administration. Others have adopted a vertical system where the national coordinating mechanisms form part of pyramidal structures or systems that also include coordinating bodies at the regional and local levels. When multiple bodies have coordinating functions, the Committee on the Rights of the Child has expressed concern at the absence of a single mechanism with overall coordinating responsibility. However, the mandate of this mechanism has to be well defined to address all relevant areas affecting children's lives, including financing and planning, rather than only some sectors – such as social policies or child protection programmes. Another concern is the lack of sufficient resources that these coordinating bodies have in order to fulfil their mandate.

The characteristics of coordinating mechanisms vary greatly, and the mandate of many of them has grown over time. Some coordinating mechanisms are dedicated primarily or exclusively to coordination though they may have other functions, such as establishing policy, monitoring or promoting awareness on children's rights. They can also combine the functions of planning, coordination and monitoring of implementation. With regard to their establishment, some are created by law and others simply by administrative decision. In a few cases, the decisions adopted by coordinating mechanisms are binding on the participating bodies, while others are only recommendations. The power to adopt binding decisions appears to be limited to mechanisms established by law. A number of coordinating bodies have their own budget and staff, and others depend on the resources of line ministries or agencies. As for their mandate, some expressly include and emphasize implementation of the CRC, while the mandate of others is formulated in terms of child welfare or national plans, policies or laws concerning children.

Monitoring progress in the implementation of the Convention on the Rights of the Child

There is a growing use of surveys that directly involve children, including in relation to aspects of civil rights and freedoms. Historically, national surveys have focused on interviews with adults or asking questions of persons 15 to 18 years and older, and generally regarding to adult related issues, and the data of persons below the age of 15 was generally asked from parents. But in the recent past there is a new trend - one example of this new approach is *Young Voices*, a household survey carried out in 2001 that interviewed children aged 9-17 years of age in 35 countries in the region on their opinions of home, school, safety, their future and how well informed they were.

There are some gaps in the data needed for monitoring progress in the realisation of the rights of the child, particularly in the sectors of health, education, civil rights and freedoms, family environment and alternative care and special protection. Nonetheless, existing and new tools can help fill many of these gaps. For instance, the use of household surveys including interviews with children and much more analysis focused on the child as an individual can help address this challenge.