

# European and External Relations Committee

## The EU referendum and its implications for Scotland

Written submission from Together (Scottish Alliance for Children's Rights)

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### 1. Introduction

Together (Scottish Alliance for Children's Rights) welcomes the opportunity to respond to the call for evidence on the EU referendum and its implications for Scotland. This submission specifically focuses on the impact that the UK's exit from the EU is likely to have on the rights of children and young people, and the subsequent considerations that need to be taken into account in discussions between the Scottish and UK Governments, and the EU. It draws from the UN Convention on the Rights of the Child (UNCRC), which was ratified by the UK in 1991 and given further legal effect in Scotland through the Children & Young People (Scotland) Act 2014.

Together's key messages to the European and External Relations Committee are that:

- Children and young people must be meaningfully involved in all future discussions and debates around the UK's exit from the EU.
- Every effort must be made to safeguard the opportunities and protections that EU membership currently provides to children and young people.
- A child rights impact assessment should be undertaken on any decisions made by the Scottish Government to ensure there is an informed and systematic approach to considering children's rights.

### 2. Children and young people's views

Article 12 of the UNCRC gives children and young people the right to be heard and taken seriously in decisions that affect them. The UN Committee on the Rights of the Child recognises this as one of the fundamental values of the UNCRC<sup>1</sup> and emphasises that the concept of participation 'should not only be a momentary act, but the starting point for an intense exchange between children and adults on the development of policies, programmes and measures in all relevant contexts of children's lives'<sup>2</sup>.

Although 16 and 17 year olds in Scotland were able to vote in the 2014 independence referendum and the 2016 Scottish Parliament elections, they were denied the right to vote in the EU referendum. This is despite the fact that the EU referendum was widely recognised as one of the

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<sup>1</sup> Para. 2. UN Committee on the Rights of the Child (2009) General Comment No. 12: the right of the child to be heard [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f12&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f12&Lang=en)

<sup>2</sup> Para. 13. UN Committee on the Rights of the Child (2009) General Comment No. 12: the right of the child to be heard [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f12&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f12&Lang=en)

most important decisions to be made by the UK in recent times and will have far-reaching implications for children and young people. Over a million children and young people across Scotland will have to live with the consequences of the referendum, having had no influence on its outcome.

It is clear that the overall vote for the UK to leave the EU went against the views of the majority of children and young people. Throughout the UK, it has been estimated that 73% of voters aged 18-24 voted to remain in the EU<sup>3</sup>. In Scotland, only 11% of the 72,744 responses from young people aged 12-25 to the Scottish Youth Parliament's recent Lead the Way Manifesto wanted to leave the EU<sup>4</sup>.

Prior to the referendum, very little effort was made by either the Remain or Leave campaigns to engage children and young people in the debate or to explain what consequences the result may have on their lives. Both campaigns were dominated by discussions on the economy, trade, immigration and sovereignty rather than offering a vision of the kind of country we want to live in and the values we want to show to our children. The UN Committee on the Elimination of Racial Discrimination has recently raised its deep concerns that the referendum campaign was marked by 'divisive, anti-immigrant and xenophobic rhetoric' and that many politicians and prominent political figures 'not only failed to condemn it, but also created and entrenched prejudices, thereby emboldening individuals to carry out acts of intimidation and hate towards ethnic or ethno-religious minority communities and people who are visibly different'<sup>5</sup>. The impact of this rhetoric on children and young people cannot be underestimated.

It is essential that children and young people's rights are central to any further discussions relating to Scotland's place in Europe. As such, Together has already written to the First Minister to recommend that she appoint an expert on children's rights to her EU Advisory Panel. We have also endorsed calls from the Scottish Youth Parliament to ensure that children and young people are actively consulted and involved in the work of the Panel. We welcome the Equality and External Relations Committee's pledge to take a flexible approach to its inquiry work. In line with Article 12 of the UNCRC, we would like to encourage the Committee to specifically consider the impact that the UK's exit from the EU would have on children and young people in Scotland, and actively seek the views and experiences of children and young people to inform all aspects of this inquiry.

### **3. Opportunities and protection offered by EU membership**

Almost all EU laws or policies affect children and young people's rights. At a constitutional level, the EU has taken a lead in providing legislative protection of children's rights far in advance of those offered in UK or Scots law<sup>6</sup>. All EU member states have ratified the UNCRC, which gives it an

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<sup>3</sup> Source: Lord Ashcroft Polls (24 June 2016) [lordashcroftpolls.com/2016/06/how-the-united-kingdom-voted-and-why/#more-14746](http://lordashcroftpolls.com/2016/06/how-the-united-kingdom-voted-and-why/#more-14746)

<sup>4</sup> Scottish Youth Parliament (2016) Lead the Way [www.syp.org.uk/manifesto](http://www.syp.org.uk/manifesto)

<sup>5</sup> Para. 15 Committee on the Elimination of Racial Discrimination (2016) Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom of Great Britain and Northern Ireland [tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GBR/CERD\\_C\\_GBR\\_CO\\_21-23\\_24985\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GBR/CERD_C_GBR_CO_21-23_24985_E.pdf)

<sup>6</sup> European Parliament (2012) EU Framework of Law for Children's Rights [http://www.europarl.europa.eu/RegData/etudes/note/join/2012/462445/IPOL-LIBE\\_NT%282012%29462445\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2012/462445/IPOL-LIBE_NT%282012%29462445_EN.pdf)

important standing at a European level and helps to ensure the standards and principles of the UNCRC inform all policies and actions.

In the year 2000, the Charter of Fundamental Rights of the European Union enshrined some political, social, and economic rights for EU citizens and residents into EU law<sup>7</sup>. It protects a number of children's rights which are not covered by the Council of Europe or the European Convention on Human Rights<sup>8</sup> such as the right to receive free compulsory education (Article 14(2)), the prohibition of discrimination on the grounds of age (Article 21), and a specific article for children which echoes – and enhances – the general principles of the UNCRC (Article 24).

In 2009, the Treaty on European Union was agreed which explicitly requires the EU to promote the protection of the rights of the child (Article 3)<sup>9</sup>. This has led to the adoption of the directives on combating child sexual abuse, child sexual exploitation and child pornography<sup>10</sup>, and on preventing and combating trafficking in human beings<sup>11</sup>, including provisions addressing specific needs of child victims. This Directive has been translated into legislative action in Scotland through the Human Trafficking and Exploitation Act (Scotland) 2015<sup>12</sup>. However, concerns remain that leaving the EU may mean that child victims of trafficking or pornography will not be adequately protected<sup>13</sup>.

At a policy level, the Council of the European Union adopted the 'EU Guidelines for the promotion and protection of the rights of the child' in 2007<sup>14</sup>. This was followed by the Europe 2020 Strategy which sets out a vision for Europe where children have a better education, access to the services and to the resources they need to grow up and thrive<sup>15</sup>. This was articulated through the 'EU Agenda for the Rights of the Child' which commits EU institutions and Member States to promote, protect and fulfil the rights of children in all relevant EU policies<sup>16</sup>. As well as presenting general principles to further the implementation of the UNCRC, the Agenda focussed on a number of concrete actions in areas such as child-friendly justice, protecting children in vulnerable situations and tackling violence against children. Most recently, children's rights have gained greater prominence within the

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7 EU Charter of Fundamental Rights [http://ec.europa.eu/justice/fundamental-rights/charter/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm)

8 European Convention on Human Rights [www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf)

9 Treaty on European Union <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2016:202:TOC>

10 Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating sexual abuse and sexual exploitation of children, and child pornography <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Ajl0064>

11 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>

12 Human Trafficking and Exploitation Act (Scotland) 2015 [www.legislation.gov.uk/asp/2015/12/contents/enacted](http://www.legislation.gov.uk/asp/2015/12/contents/enacted)

13 European Children's Rights Unit (2016) The Impact of Brexit on Child Protection [www.liverpool.ac.uk/media/livacuk/law/news/BREXIT,BRIEFING,3,Child,Protection.pdf](http://www.liverpool.ac.uk/media/livacuk/law/news/BREXIT,BRIEFING,3,Child,Protection.pdf)

14 EU Guidelines for the promotion and protection of the rights of the child (2007) [www.consilium.europa.eu/uedocs/cmsUpload/16031.07.pdf](http://www.consilium.europa.eu/uedocs/cmsUpload/16031.07.pdf)

15 Europe 2020 strategy (2010) [http://ec.europa.eu/europe2020/index\\_en.htm](http://ec.europa.eu/europe2020/index_en.htm)

16 EU Agenda for the Rights of the Child (2011) [http://ec.europa.eu/justice/fundamental-rights/rights-child/eu-agenda/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/eu-agenda/index_en.htm)

European Parliament through the establishment of the Intergroup on Children's Rights<sup>17</sup> – an accountability mechanism lacking at both the Scottish and UK Parliaments.

The EU has brought tangible benefits to children and young people living in Scotland and more widely across the UK. For example: The European Structural Funds 2007-2013 programme saw an estimated £350 million being distributed across Scotland through support for more than 800 projects<sup>18</sup>. This included projects to improve employment and training opportunities for young people, with a particular focus on those furthest away from the job market, projects to support children and young people with mental health problems, children affected by substance abuse problems and children involved in the juvenile justice system. The 2014-2020 funding allocation has been complemented by the Commission's adoption of a comprehensive 'Investing in Children' strategy to support Member States in addressing poverty and social exclusion through a range of early-years interventions<sup>19 20</sup>.

In terms of education, the European Investment Bank has donated £4 billion towards Britain's education sector over the past ten years, and over 200,000 UK students and 20,000 UK University staff have spent time abroad through the Erasmus+ exchange programme. This initiative dramatically enhances young people's employability and opportunities. Leaving the EU may seriously affect children and young people's access to education and related opportunities<sup>21</sup>.

Children's rights are also indirectly affected by EU laws relating to the environment (ensuring clean beaches for children to play on) through to employment regulations (ensuring parental leave and working hour restrictions). There is concern that the UK's exit from the EU may have a negative effect on the protections offered to working parents through EU law around parental leave, the health and safety of pregnant and breastfeeding workers, and the thresholds of healthy working hours<sup>22</sup>.

It is clear that the EU offers myriad rights and protections for children and young people. Each and every one of these must be highlighted and protected in discussions around Scotland's place in Europe.

#### **4. Child rights impact assessment**

In line with the duties enshrined in the Children and Young People (Scotland) Act 2014, Together urges the Scottish Government to undertake a Child Rights and Wellbeing Impact Assessment (CRWIA) on any decisions made by the Scottish Government in relations to Scotland's future in Europe. This would provide a valuable tool to support the scrutiny of evidence presented to the European and External Affairs Committee, and to inform the deliberations of the Advisory Panel. It

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<sup>17</sup> See [www.childrightsmanifesto.eu](http://www.childrightsmanifesto.eu)

<sup>18</sup> See [www.gov.scot/Topics/Business-Industry/support/17404](http://www.gov.scot/Topics/Business-Industry/support/17404)

<sup>19</sup> See [www.gov.scot/Topics/Business-Industry/support/17404/EuropeanStructuralFunds](http://www.gov.scot/Topics/Business-Industry/support/17404/EuropeanStructuralFunds)

<sup>20</sup> See <http://ec.europa.eu/social/main.jsp?catId=1060>

<sup>21</sup> European Children's Rights Unit (2016) The Impact of Brexit on Education  
[www.liverpool.ac.uk/media/livacuk/law/news/BREXIT,BRIEFING,4-Education.pdf](http://www.liverpool.ac.uk/media/livacuk/law/news/BREXIT,BRIEFING,4-Education.pdf)

<sup>22</sup> European Children's Rights Unit (2016) The Impact of Brexit on Employment  
[www.liverpool.ac.uk/media/livacuk/law/news/BREXIT,BRIEFING,5-Employment.pdf](http://www.liverpool.ac.uk/media/livacuk/law/news/BREXIT,BRIEFING,5-Employment.pdf)

would ensure that an informed and uniform approach is taken to considering children and young people's rights in relation to Scotland's place in Europe. The Scottish Government model provides a suitable template for such an assessment and would ensure that children and young people's views are meaningfully considered and taken into account<sup>23</sup>. The CRWIA should be conducted as an ongoing process to inform discussions and decisions rather than as a one-off exercise. Together would be happy to support the Scottish Government or the European and External Relations Committee in conducting such an assessment.

## **5. About Together (Scottish Alliance for Children's Rights)**

Together (Scottish Alliance for Children's Rights) is an alliance of children's organisations that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) in Scotland. We have over 300 members including large international and national non-governmental organisations through to volunteer-led playgroups and after school clubs. We have a strong working relationship with the children's sector in Brussels through our active membership of Eurochild (a network of organisations working in and across Europe to promote the rights and well-being of children and young people). We also work closely with equivalent organisations across England, Wales and Northern Ireland, and chair the Rights of the Child UK (ROCK) coalition. Together consults widely with its membership through seminars, meetings and other ongoing communications. Every year, we research and publish an annual State of Children's Rights report to set out the progress made to implement the UNCRC in Scotland. We worked closely with the UN Committee on the Rights of the Child in relation to its 2016 examination of the UK and its resulting recommendations to the UK and devolved governments, which reflect very many of the concerns of Together's members.

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<sup>23</sup> See [www.gov.scot/Topics/People/Young-People/families/rights/child-rights-wellbeing-impact-assessment](http://www.gov.scot/Topics/People/Young-People/families/rights/child-rights-wellbeing-impact-assessment)