



Age Matters!

*Age-related barriers to service access and the
realisation of rights
for children, adolescents and youth*

Final Report - October 2016

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Disclaimer:

Please note that this is work in progress. The information presented in the report, tables and website is based on a thorough review of published literature, reports to the CRC and reviews of various legislative documents in the countries covered by the Report. In most cases, the information provided has been reviewed for accuracy by the UNICEF Country Offices. Some of these reviews are still pending (e.g. for Russia, Turkey, Albania and Kosovo under UNSCR 1244). In some cases, legislation changes and/or there may be discrepancies among different sources. This was noted whenever possible. However, neither UNICEF nor the YPL can be held responsible for the information presented in this Report and/or the Age Matters! tables and websites. If you find any data in this report to be erroneous or changed, please write to: agematters@youthpolicy.org.

Please note: This report includes information on Kosovo under UNSCR 1244. In some instances, for reasons of conciseness, the term of “Kosovo” is used with the understanding that it refers to Kosovo under UNSCR 1244.

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1 Introduction

In more than half of countries around the world, the legal age of majority is 18 years while the global average age of criminal responsibility is 12.1 years. In nearly a quarter of countries around the world, women's marriageable age is younger than that of men, and yet girls often lack the ability to make independent health choices before 18. Voting age is almost universally 18 years, but the average global age to stand as a candidate is 22.2 years. In short: Legal minimum age legislation is contentious, contextual and contradictory.

Yet, minimum age definitions directly influence the realities of children, adolescents and young people: when they can make independent health choices, be tried and held in adult courts and prisons, access financial credit for business, be heard in judicial proceedings, or consent to marriage.

In setting minimum ages, States undertake a balancing act between the need to protect and the desire to empower. How do States balance the empowerment of children whilst ensuring their safety and protection? Where does a set minimum age impede rights rather than promote? How are the evolving capacities of the child considered against the call for specific age definitions in law? Some of these questions are taken up in the forthcoming "General Comment on the implementation of the rights of the child during adolescence" of the Committee on the Rights of the Child (CRC), which advocates for few specific minimum ages as well as for the removal of other age limits entirely.

Before the new General Comment is approved – expected for Fall 2016 – this report takes stock of existing age-related legal provisions for children, adolescents and youth in more than 70 domains. It does so for 22 countries and territories of the CEE/CIS region. The review is based on national legislation and reporting to the CRC.

It has been commissioned by the UNICEF Regional Office for CEE/CIS, in the context of the increased focus on adolescence as a distinct area of programming and attention within UNICEF. This focus has provided a renewed impetus to explore the ways in which minimum ages impact on the abilities of children to realise their rights, make decisions, express opinions, access services and be protected.

In the CEE/CIS region specifically, adolescents' access to health services is frequently contested. At the same time, rates of substance abuse and HIV infection are high in some countries of the region. In other countries, children and in particular girls, are vulnerable to exploitation.

This report illustrates how national minimum age legislation in the region and contradictions therein may weaken the realisation of both protective as well as emancipatory principles of the Convention on the Rights of Child. It highlights inconsistencies, points to areas of potential reform, and introduces topics for future research. One definitive area for future reports – which can already be stated at the beginning of this report – is the need to look into how minimum age legislation shapes the realities of young people across CEE/CIS and beyond. Mapping legal barriers is merely a first step.

2 Context: A renewed focus on adolescents

UNICEF is mandated by the United Nations General Assembly to advocate for the protection of children's rights, to help meet their basic needs and expand their opportunities to reach their full potential. UNICEF and its mandate are built on the foundations of the UN Convention on the Rights of the Child (henceforth the Convention). Agreed by the United Nations General Assembly in November 1989, it is the “most rapidly and widely ratified international human rights treaty in history”¹ with 196 State Parties (including observer states of Palestine and the Holy See) signing up to the Convention². In 2015, South Sudan³ and Somalia⁴ began the process of ratification, leaving the United States as the only country to have not ratified the Convention.

The Convention clearly defines a child as “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier” (Art.1). UNICEF’s mandate, hence, clearly includes all children up to the age of 18. While the attention used to be more on the first years of childhood, this has changed. Provocatively put, “we do not want to save children in their first decade of life only to lose them in the second.”⁵ The renewed focus is placed on those in the second decade of their life: Adolescents.

Academic research discusses adolescence as a life stage, and as “one of the most rapid phases of human development, during which biological maturity precedes psychosocial maturity.”⁶ As this life stage is characterised by so many changes – physiological, psychological, social, as well as legal – there is no internationally shared definition of adolescence.⁷ In the UN, adolescence most commonly refers to those aged 10-19, and thus

¹ <http://www.unicef.org/crc/>

² https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-11&chapter=4&lang=en

³ <https://www.crin.org/en/library/news-archive/south-sudan-ratification-uncrc>

⁴ <http://www.un.org/apps/news/story.asp?NewsID=49845#>

⁵ UNICEF, 2011, *The State of World’s Children. Adolescence*. p iii

⁶ UNICEF Regional Office for CEE/CIS, 2014, *Second Decade, Second Chance – Theory of Change*.

⁷ Moreover, there are frequent overlaps between the international and national definitions of children, adolescents and youth. Neither at an international level, nor in many domestic contexts, do coherent definitions exist. For example, the United Nations define children as those below 18, adolescents as those aged 10-19 and youth as those aged 15-24 years, the African Youth Charter uses 15-35 years for youth, and the EU Youth Strategy 15-29 years. More generally, youth as a

in the above mentioned second decade. Within the UN this is broken down into “older adolescents” of 15-19 years of age and “younger adolescents”, which includes those aged 10-14.⁸ Currently, the focus within UNICEF – and its fundamental mission – is “to promote the rights of every child below the age of 18 in all aspects of the organization – in programmes, in advocacy and in operations.”⁹

In programming, adolescents are specifically referred to within the “Health” and “HIV & AIDS” outcomes of the seven priorities areas of the global UNICEF Strategic Plan 2014-2017.¹⁰ Also the spheres of “Social Inclusion” and “Child Protection” would likely have a direct impact on the lives of adolescents, particularly in relation to juvenile justice, exploitation and abuse, protection in humanitarian crises (especially relevant in CEE/CIS with the influx of Syrian refugees across the region – many of whom are children and adolescents), as well as in human rights, participation, governance, and social protection. The global approach to programming for adolescents is that they are, “not only entitled to the same rights [as children] but should be provided with the same level of opportunity to enjoy these rights.”¹¹

A second key document, the *Accelerating Programming on Adolescents 2014-2017*¹² responds to the growth of country-level programming in the past 20 years and outlines four priority areas: nurturing adolescent health and wellbeing; building the assets and skills of adolescents; protecting adolescent girls and boys from violence; and integrating programming for adolescents in complex contexts. The strategy is designed to “consolidate existing investments in and accelerate the visibility of adolescents throughout the organization” and envisages this through evidence and research, dialogue and advocacy, partnerships and technological innovations. The aim of the strategy is to complement the global strategy and to emphasise the specific needs of adolescents across all UNICEF programming and not as a central work area in itself. The need for such an approach is presented:

The second decade of a child’s life represents an opportunity to build upon the gains made in early childhood and to invest in programmes that contribute to healthy, safe, informed and empowered transitions to adulthood.

social category, and its specific role in the context of the future development agenda is contested. See e.g. Sukarieh, M. and Tannock, S., 2015, *Youth Rising? The politics of youth in the global economy*, Routledge.

⁸ UNICEF, 2011, [The State of World’s Children. Adolescence](#). pp. 6

⁹ UNICEF, 2014b, [Accelerating Programming on Adolescents 2014-2017](#).

¹⁰ UNICEF, 2014a, [UNICEF Strategic Plan 2014-2017](#). The remaining five priority areas are water, sanitation and hygiene; nutrition; education; child protection; and social inclusion.

¹¹ UNICEF, 2014b, [Accelerating Programming on Adolescents 2014-2017](#).

¹² UNICEF, 2014b, [Accelerating Programming on Adolescents 2014-2017](#).

To further this, a theory of change (ToC) for adolescent programming across the CEE/CIS region has been developed as part of the Regional Knowledge Leadership Area (RKLA) 10, which is the central framework for all those working on and with adolescents in UNICEF in the CEE/CIS region. The title “Second Decade, Second Chance” challenges UNICEF to consider the lives and realities for adolescents as they move away from childhood – which has been the main focus of UNICEF in the past.

Considering the legislative environment in regards to the ages at which children and adolescents can enjoy rights, access services, and engage in certain behaviours is key to understanding the vulnerabilities that exist across the region. This concern is also shared in other regions, for example in a recent report for UNICEF Latin America and the Caribbean (LAC), where the author Vanessa Sedletzki argues that “the question of legal minimum ages is particularly relevant for adolescents’ rights – and for policy and programming approaches supporting their realization.”¹³

UNICEF’s activities in the field of adolescents are furthermore embedded in a renewed focus on “adolescence” and “youth” in the wider UN and development context.¹⁴ Between these two terms, “youth” has experienced a larger upsurge in attention. Youth is a less legally defined social category than children, but a popular topic at a global level with the establishment of the UN Secretary General’s Envoy on Youth, the adoption of the System-Wide Action Plan on Youth, the hosting of the First Global Forum on Youth Policies, the establishment of the Global Initiative on Youth Policies, and the development of specific youth strategies by UNDP (2014)¹⁵, UNAIDS (2012)¹⁶ and UNFPA (2009)¹⁷. Additionally, children and youth organisations have been involved in the formulation process of the Sustainable Development Goals through the UN Major Group for Children and Youth, and are now part of many initiatives to promote the Global Goals and their realisation.¹⁸

Youth-focused policies by international agencies have been complemented by numerous high-level national development strategies in the field of youth, such as DfID (2016)¹⁹, USAID (2012)²⁰, and the German Federal Ministry for Economic Cooperation and Development

¹³ Sedletzki, Vanessa, 2016, [Legal Minimum ages and the realisation of adolescents’ rights. A review of the situation in Latin America and the Caribbean](#). UNICEF Latin America and Caribbean Regional Office. p.7.

¹⁴ For example, the first International Youth Year took place in 1985.

¹⁵ United Nations Development Programme, 2014, [UNDP Youth Strategy 2014-2017](#).

¹⁶ The youth strategy by UNAIDS was innovatively crowd-sourced through an online platform, engaging thousands of youth worldwide, with young people subsequently involved in delivering programmes to tackle AIDS at a national level. See UNAIDS, 2012, [Crowd Out Aids – Strategy recommendations for collaborating with a new generation of leaders for the AIDS response](#).

¹⁷ UNFPA, 2009, [UNFPA Strategy on Adolescents and Youth](#).

¹⁸ See e.g. <http://childreneyouth.org/>, <http://sdsnyouth.org/knowyourgoals/> and <http://sdgyouthactionmapper.org/>

¹⁹ Government of the United Kingdom, 2016, [Putting young people at the heart of development: The Department for International Development’s Youth Agenda](#).

²⁰ USAID, 2012, [Youth in Development – Realizing the demographic opportunity](#).

(2011)²¹. At the European level, both the European Union and the Council of Europe have been key actors in the field of youth, jointly running the Youth Partnership since 1998.²² In the CEE/CIS region out of 22 countries, 20 countries have a youth policy, one is unclear (Montenegro), and one country has no youth policy (Bosnia & Herzegovina).

While adolescents are affected by child and youth initiatives, both as actors and as targets of policies and programmes, they are seldom specifically mentioned. There thus is a lack of visibility of adolescents in much programming and policy-making.

A challenge that is common to the definitions of adolescents as well as youth – and even that of children – is that the legal distinction between a child (below the age of 18) and an adult (someone with full majority), is not as clearly drawn as it may seem at first glance: children acquire rights in various policy fields, such as health, education, criminal policy, prior to being fully recognised as an adult. These key controversies in the debate on minimum age legislation is the main focus of this report.

3 Minimum Ages: The international debate

Debates on age-related barriers to accessing rights and services for adolescents are not new. For example, an early publication on adolescent health²³ shows that such debates were occurring even before the Convention on the Rights of the Child was adopted by the UN General Assembly in 1989. Since the Convention entered into force in 1990, it has been an important point of reference for minimum age legislation. It has been a definitive instrument in the debate and for the understanding of childhood.

The Convention has been responsible for widespread consensus on the ban to impose life imprisonment or death penalty on children (Art. 37), and the prohibition to participate in hostilities for children under the age of 15 years (Art. 38). The latter, together with the definition of the child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” (Art. 1), are the two exceptional cases in the Convention that mention a specific age.

Other articles call for the introduction of minimum ages in additional fields without specifying what that age should be, e.g. Article 32 requires an age for the admission to employment, Article 40 imposes an obligation to establish a minimum age below which children cannot be held criminally responsible. More generally, Article 37 requires that when children are deprived of their liberty, the needs of their age must be taken into account.

²¹ Government of Germany, 2011, [Young people in German development policy – a contribution to the implementation of the rights of children and youth](#).

²² See e.g. <http://pjp-eu.coe.int/en/web/youth-partnership>

²³ See e.g. Packman, J.; Zuckerman, R. J. 1987. *Laws and Policies affecting adolescent health*. WHO. Geneva.

For these and additional fields, the Committee on the Rights of the Child (CRC), which monitors the implementation of the Convention, has made suggestions on specific minimum ages in its general comments, which also draws on other international agreements:

- In General Comment No. 10 the CRC recommends that the absolute minimum age of **criminal responsibility** should be 12 years, with encouragement for States to continue to raise it.²⁴
- In General Comment No. 4 the Committee recommends that States increase the minimum age for **marriage** with and without parental consent to 18 years, while allowing for exceptional circumstances, in which a mature and capable child over the age of 16 may marry.²⁵ General Comment No. 4 also entails the recommendation to set a minimum age for sexual consent, which should be equal for boys and girls, yet, without specifying at what age this should be set.
- Additionally, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) calls for a minimum age of 18 for (compulsory) **recruitment into the armed forces** or direct **participation in hostilities**, and for a minimum age of 16 for **voluntary enlistment**.²⁶

For **admission to employment**, not the CRC but the International Labour Organisation (ILO) has called for minimum age legislation:

- In ILO Convention No. 138, 1973, the minimum age for admission to hazardous labour is set at 18, with a minimum age of 15 for general work – provided that it is not lower than the age at which compulsory education is completed. Light work is allowed earlier, at the age of 13 – and in countries in development, at the age of 12.²⁷

Additionally, the Committee requests State Parties to provide information on age-related legislation in their periodical reports.²⁸ This request for information on minimum legal ages should not be mistaken for a call for a specific age: “[T]he Committee is simply seeking information on how domestic law defines the child”, argue Hodgkin and Newell.²⁹ While an earlier version of the guidelines for State Parties reports (2nd revised edition from 2010)

²⁴ CRC General Comment 10 <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf> Art. 32

²⁵ CRC, General Comment No.4 on adolescent health and development in the context of the Convention on the Rights of the Child, CRC/GC/2003/4, para. 20

²⁶ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, article 2.

²⁷ ILO Convention C138 on Minimum Ages, 1973

²⁸ CRC/C/58

²⁹ Hodgkin R.; Newell, P. 2007. Implementation Handbook for the Convention on the Rights of the Child. UNICEF: Geneva., pp. 5

entailed a very long list of minimum ages on which the Committee expected reporting,³⁰ this list has been dramatically shortened in the latest guidelines from 2015 (3rd revision). Instead, there is a call to report on all fundamental rights of the Convention in the light of the principles of non-discrimination (Art. 2); best interests of the child (Art. 3); the right to life, survival and development (Art. 6); and respect for the views of the child (Art. 12). The new guidelines only specifically call for information on the minimum ages for: the admission to employment, marriage (boys and girls), criminal responsibility, voluntary enlistment into national forces, military conscription, and admission to military schools.

Hence, only in few cases is there specific guidance from the CRC at which certain legal minimum ages should be set – or if they should be set at all. This question is highly contested, not only in the Committee, but in and between States. Three prominent arguments in the debate are shortly presented below.

3.1 Rationales of minimum age legislation

The CRC calls upon States to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse” (Art. 19). More generally, signatory States “shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention” (Art. 2 and 4). Therefore, they have to be guided by the principles of non-discrimination (Art. 2); best interests of the child (Art. 3); respect for the views of the child (Art. 12), and take into account the evolving capacities of the child (Art.5).

These principles are overlapping and mutually supportive, and the principles themselves share widespread recognition. Yet, it is a “delicate balance between children’s right to be protected and the recognition that they also have evolving capacities and should therefore

³⁰ These were “differences between national legislation and the Convention on the definition of the child; the minimum legal age defined by the national legislation for the following: Legal and medical counselling without parental consent; Medical treatment or surgery without parental consent; End of compulsory education; Admission to employment or work, including hazardous work, part-time and full-time work; Marriage; Sexual consent; Voluntary enlistment in the armed forces; Conscription into the armed forces; Participation in hostilities; Criminal responsibility; Deprivation of liberty, including by arrest, detention and imprisonment, inter alia in the areas of administration of justice, asylum seeking and placement of children in welfare and health institutions; Capital punishment and life imprisonment; Giving testimony in court, in civil and criminal cases; Lodging complaints and seeking redress before a court or other relevant authority without parental consent; Participating in administrative and judicial proceedings affecting the child; Giving consent to change of identity, including change of name, modification of family relations, adoption, guardianship; Having access to information concerning the biological family; Legal capacity to inherit, to conduct property transactions; To create and join associations; Choosing a religion or attending religious school teaching; Consumption of alcohol and other controlled substances. How the minimum age for employment relates to the age of completion of compulsory schooling, how it affects the right of the child to education, and how relevant international instruments are taken into account. In cases where there is a difference in the legislation between girls and boys, including in relation to marriage and sexual consent, the extent to which Article 2 of the Convention has been given consideration. In cases where the criteria of puberty is used under criminal law, the extent to which this provision is differently applied to girls and boys, and whether the principles and provisions of the Convention are taken into consideration.”

have progressive autonomy in making decisions about their lives.”³¹ It is exactly this balance that often makes age-related legislation so contested. Below we discuss the foundational principles, beginning first with the principle of non-discrimination, followed by the best interests of the child, combined alongside the notions of protection and autonomy, and lastly, respect for the views of the child and evolving capacities.

3.1.1 Non-discrimination and equity

Non-discrimination is key where differences are made between sexes, e.g. when boys and girls are subject to different marriageable ages. Such regulations are easy to identify and have repeatedly been criticised by the CRC. It is a key and widely respected principle.

More generally, the establishment of legal minimum ages in legislation may serve as “an important tool for equity.”³² In a recent report for UNICEF LAC, the author Vanessa Sedletzki argues,

available evidence shows that adolescents in situations or at risk of exclusion are the most vulnerable to having their rights violated and be exposed to risky situations. Child marriage disproportionately affects adolescents in rural areas, including indigenous girls. Children most at risk of dropping out of school or entering to employment at an early age are those from the most marginalized backgrounds. Adolescents from disadvantaged backgrounds may be more vulnerable to sexual abuse and to sexual exploitation in exchange for gifts or out of pressure from peers and families. Similarly, children in contact with the justice system are disproportionately from excluded groups, typically because the justice system tends to be harsher on them.

Setting non-discriminatory equal minimum ages thus has an important function in realising all adolescents’ rights. However, the principle of non-discrimination was not always respected in CEE/CIS, where many countries used to to have marriageable ages that were younger for girls than for boys. Today, this trend has been reversed in all countries except Uzbekistan, where the marriageable age without parental consent for girls is 17, while for boys it is 18.

3.1.2 Best interests of the child: Protection vs. autonomy

A key function of the Convention is to protect children. Consequentially, protection also is a key function attributed to age-related legislation:

³¹ Sedletzki, 2016, c.o. p.13

³² Sedletzki, 2016, c.o. p.7

The primary objective of setting minimum ages in legislation is to protect adolescents from harm. Legal minimum ages aim to protect adolescents from making choices and/or from taking responsibility for actions that they do not have the capacity to understand in their entirety and comprehend the full consequences. The rationale is not to limit the exercise of adolescents' rights, but to ensure that adolescents are protected from actions that can potentially impair the current or future realization of their rights. It is not about protecting society from adolescents, but about ensuring that adolescents can develop to their full potential in a protective environment. For this reason, it is essential that the process of setting minimum ages be adolescent-centred and focused on the best interests of adolescents.³³

The above citation from Sedletzki illustrates how strong the protection argument is in minimum age legislation. Hodgkin and Newell also call for minimum age legislation that serves protective purposes to be "set as high as possible (for example, protecting children from hazardous labour, criminalization, custodial sentences or involvement in armed conflict)."³⁴ The draft General Comment No. 20 on the implementation of the rights of the child during adolescence, specifically calls for a high minimum age of 18 years for marriage, recruitment into armed forces, hazardous or exploitative work, and sale of alcohol and tobacco.³⁵

A protective approach can also aim to protect young people from harm by keeping them away from risky situations. Sedletzki claims that,

minimum ages do not seek to restrict children's ability to exercise their rights. Rather, they aim to enhance their protection. They keep children from having to make choices which consequences they do not have the experience or capacity to fully understand, or for which they risk being taken advantage of due to uneven balance of power and authority.³⁶

Although the intention of protection is recognised as useful and in many instances needed, other organisations and authors, such as the Child Rights International Network (CRIN)³⁷ as

³³ Sedletzki, 2016, c.o., p.11

³⁴ Hodgkin, R. & Newell, P., 2007, Implementation Handbook for the Convention on the Rights of the Child, http://www.unicef.org/publications/index_43110.html

³⁵ CRC/GC/20 Draft of April 22 2016 para 44

³⁶ Sedletzki, 2016, c.o., p.7

³⁷ CRIN, 2016, [Age is arbitrary. Discussion Paper on Setting Minimum Ages](#)

well as Hodgkin and Newell³⁸, point out that some minimum age legislation – while aiming for protection – can be obstacles for children to fully realise their rights:

Some ‘minimum age’ issues relate both to increased autonomy and to protection. For example, the child’s right to seek legal and medical counselling and to lodge complaints without parental consent, and to give testimony in court, may be crucial to protection from violence within the family.

Hodgkin and Newell conclude that “[i]t is not in the child’s interests that any minimum age should be defined for such purposes.” Hence, in cases where rights are primarily enabling or emancipatory, the authors suggest that fixed minimum ages may not be in the best interest of children. The draft General Comment No. 20 calls for no age barriers for access to medical advice and counselling.³⁹ Similarly CRIN calls for no minimum ages when it comes to the right to vote, access to justice, consent to non-therapeutic interventions, the right to choose one’s religion, access to information on the biological family, and access to sexual and reproductive health services.⁴⁰ But, the call for no minimum ages is not univocally shared in the child rights community.

3.1.3 Respecting views and evolving capacities of the child

Balancing the need for protection with autonomy in fixed minimum ages is complicated by the evolving capacities of children. The concept of evolving capacities is introduced in Article 5 of the Convention:

[D]irection and guidance, provided by parents or others with responsibility for the child, must take into account the capacities of the child to exercise rights on his or her own behalf. This principle – new in international law – has profound implications for the human rights of the child. It establishes that as children acquire enhanced competencies, there is a reduced need for direction and a greater capacity to take responsibility for decisions affecting their lives. The Convention recognises that children in different environments and cultures who are faced with diverse life experiences will acquire competencies at different ages, and their acquisition of competencies will vary according to circumstances. It also allows for the fact that children’s capacities can differ according to the nature of the rights to be exercised. Children, therefore, require varying degrees of

³⁸ Hodgkin R. and Newell, P., 2007, Implementation Handbook for the Convention on the Rights of the Child. UNICEF: Geneva. pp. 5

³⁹ CRC/GC/20 Draft of April 22 2016 para 43

⁴⁰ CRIN, 2016, c.o. p 3

protection, participation and opportunity for autonomous decision-making in different contexts and across different areas of decision-making.

Yet, minimum age legislation essentially relies on chronological, linear definitions of childhood and adolescence. Such chronological age definitions miss out on important differences in the individual development and experience of these phases in life,⁴¹ which may be more adequately captured by relational or social definitions of age. For example, R. Huijsmans et al.⁴², who argue for a relational approach to age, point out that “chronological age is a form of ‘state simplification.’”

An additional critique towards the chronological age definition of children and young people is that “it reflects primarily western legal traditions and traditional psychological development discourses that imply universal and monolithic qualities of childhood and youth (...). In reality, the experiences of children and young people vary widely in relation to social, political and environmental conditions, and individual characteristics.”⁴³ Such a view hence questions the viability of global minimum ages from both an individual and a cultural perspective.

Based on the arguments of children’s evolving capacities and the need for states to respect children’s civil rights, Hodgkin and Newell call for “a more flexible system [than fixed legal minimum ages], sensitive to the needs of the individual child.”⁴⁴ Other forms of legal frameworks that respect children’s right to participate in decision-making according to their evolving capacities, while providing appropriate protection are listed by Lansdown:⁴⁵

- removal of all age-limits, substituting a framework of individual assessment to determine competence to exercise any particular right
- presumption of competence, with the onus on adults to demonstrate incapacity in order to restrict a child’s rights⁴⁶
- providing age-limits but allowing a child to demonstrate competence and acquire the right at an earlier age
- providing age-limits only for those rights that are at risk of being abused or neglected by adults and introducing a presumption of competence in respect of other rights

⁴¹ See e.g. UNICEF 2011, 8f c.o.

⁴² Herein R. Huijsmans, S. George, R. Gigengack and S J T M Evers, 2014, Theorising Age and Generation in Development: A Relational Approach. *European Journal of Development Research* 1-12. Pp.3 cite Scott (1998, p. 80)

⁴³ Clark-Kazak, C.R. 2008. Towards a Working Definition and Application of Social Age in International Development Studies. *Journal of Development Studies*. Vol 45 (8). Pp 1307-1324.

⁴⁴ Hodgkin R. and Newell, P., 2007, c.o. pp. 5

⁴⁵ Lansdown, G. 2005. The evolving capacities of the Child. UNICEF & Save the Children. Innocenti Insight. Florence. Pp. 49

⁴⁶ This form of regulation could often be found for petty dealings or limited economical autonomy of children, which was in general granted but could be restricted if parents or guardians showed that children lacked the capacity.

However, the majority of age-related legal definitions still are fixed minimum ages, as the research below will show. Wherever applicable, the report also lists additional capacity requirements. One difficulty found in this research is that the laws which state that capacity tests apply, rarely outline how capacity is established. Additionally, in capacity tests, it is usually adults assessing the capacities of children. Hence, even when legislation includes a lower age than is typical but includes a capacity test, a lot of power is placed in the hands of adults. Consequently, doing away with minimum age legislation altogether is contested – even among children’s rights advocates.

Besides capacity, consent is another frequently mentioned concept in minimum age legislation, both in the form of the child’s consent, as well as parental or judicial consent. Sedletzki argues that “the establishment of a minimum age to undertake certain acts or to be responsible for certain actions is the legal recognition of the child’s ability to consent – hence the validity of this consent.”⁴⁷ Some fields where a child is considered to be able to consent, such as in adoption, minimum ages are considerable lower than in other fields, such as marriage (see below for ages in CEE/CIS).

In other fields, a child’s decision needs the consent of others – e.g. parents, guardians or judges:

When considering the notion of consent in relation to minimum ages, one crucial question is whether someone else can give consent in the name of the child. While the Convention recognizes the right of children to be heard in all matters affecting them, it also acknowledges that others will make decisions on their behalf. As the child’s legal representatives, parents and legal guardians are entitled to take a number of actions on behalf of the child.⁴⁸

The right of parents to decide for their children is thus also acknowledged. Yet, Sedletzki cautions that such “exceptions to legal minimum ages providing for the possibility for others to give consent on behalf of the adolescent usually undermine the protection legal minimum ages provide. [...] The very requirement of parental consent may put children at risk, for example with respect to marriage and in relation to sexual and reproductive health.”⁴⁹ Transferring the consent from the child to parents weakens “the protection the law offers.”⁵⁰ This point is very relevant for age-related barriers in CEE/CIS, as we will show below.

⁴⁷ Sedletzki, 2016, c.o., p.12

⁴⁸ Sedletzki, 2016, c.o., p.12

⁴⁹ Sedletzki, 2016, c.o., p.12

⁵⁰ Sedletzki, 2016, c.o., p.12

3.1.4 Setting minimum ages – aspirational or realistic?

An on-going argument, finally, is whether setting minimum ages should be aspirational or realistic. In an ideal world, where all families have sufficient resources and States provide quality education to all, the question of a relatively high minimum legal working age, for example, may be much less contested. Whereas today, where work is a reality for many children around the globe, some feel that setting a high minimum age for admission to employment denies children access to labour protection and legal avenues to contribute to household income. This issue is currently a corner stone of the debate on the draft General Comment No. 20 on Adolescents.⁵¹

While discussions on minimum age legislation are underway and minimum age setting remains contested and challenged from a number of perspectives, it is also important to take stock of the ages at which they are currently set. Such a mapping of minimum age legislation allows us to detect inconsistencies within countries, as well as the identification of regional and sub-regional trends. This is what this study provides: an overview of more than 70 age-related barriers across 6 domains in 22 countries and territories of the CEE/CIS region.

While this study is unique within the region, it is not the only initiative globally. Other current or recent research initiatives on minimum age legislation are:

- a study for UNICEF Latin America focussing on six minimum ages in all countries of the region;
- UNICEF headquarters engaging in an in-depth study on HIV/AIDS related age barriers in a selected number of countries;
- European Fundamental Rights Agency (FRA) commissioning its partners in FRANET to do an extensive review on the rights of children to protection and to participation in all European Union Member States. The study of FRA has large overlaps with this study, and some questions have been changed in both questionnaires to increase cross-regional comparability of data (see more on methodology below).
- CRIN has produced a policy paper on minimum age legislation.⁵²

These initiatives together with the forthcoming CRC Comment No. 20, which will include more recommendations on minimum ages than any prior Comment, show the peak of interest in age-related barriers. Before we turn to the presentation of minimum ages across CEE/CIS, we will shortly explain the methodology of the research below.

⁵¹ [CRC/C/GC/20](#) Advance unedited version of April 22 2016

⁵² Child Rights International Network, 2016, *Age is Arbitrary: Setting Minimum ages*, <https://www.crin.org/en/library/publications/age-arbitrary-discussion-paper-setting-minimum-ages>

4 Methodology and approach

4.1 Research process

This study is a primarily desk-based analysis of more than 70 age-related legislations of the 22 countries and territories of the CEE/CIS region. The data is based on national laws and policies, as well as State Party Reports to the CRC and CRC Concluding Observations, as well as other internationally recognised sources of data, including the Inter-Parliamentary Union, World Health Organization, and UNESCO.

Data was collected by a team of researchers between February and April 2016. Data for the three countries in the region that are members of the European Union, namely Bulgaria, Croatia and Romania, was obtained from the European Fundamental Rights Agency (FRA). In 2015-2016, FRA conducted a study in all EU Member States on minimum age legislation, with a very similar list of ages. The contribution of FRA to this report is gratefully acknowledged.

The minimum ages selected for this study were chosen in consultation with UNICEF Country Offices and experts from across the region, to better understand the policy advocacy priorities of UNICEF country offices and to be of most value for the development of regional policy and programmes.

Based on a literature review and consultations with child rights organisations and experts⁵³, a long-list of 98 different minimum ages was developed. This list was presented to UNICEF Country Offices and regional experts in a survey, in which they were asked to rank the priority areas for this research according to their importance with regards to three perspectives:⁵⁴

- **Rights perspective:** Which of the age definitions have an important impact on the realisation of rights of children and adolescents?
- **Service access perspective:** Which of the definitions act as important bottlenecks for service access for children and adolescents?
- **Policy perspective:** Which of the definitions below are most relevant with regards to policy on children, adolescents and youth?

⁵³ Particular mention goes to Gerison Lansdown and Peter Newell, as well as staff from CRIN and the European Agency for Fundamental Rights that are undertaking similar research within the child rights field.

⁵⁴ Both the survey and the long-list can be found in the Annex.

The survey yielded 26 responses from 14 countries out of the 22 country offices.⁵⁵ The results of the survey informed the development of the final set of minimum ages for research, together with questions related to data availability.⁵⁶ Additionally, data points were added as they emerged as important ages throughout the research, for example, legal emancipation through marriage. The final list was agreed in collaboration with the UNICEF Regional Office for CEE/CIS. The table below shows the age-related barriers included in this report.

Table 4.A Overview of ages included in the research

| | |
|--|--|
| Civil legal rights | MA of consent for heterosexual sexual relationships - male |
| Age of majority | MA of consent for homosexual sexual relationships - male |
| Legal emancipation through marriage | MA of consent for homosexual sexual relationships - female |
| Legal emancipation through employment | MA of consent for heterosexual sexual relationships - female |
| MA of criminal responsibility (MACR) | Economic participation and education |
| MA for child offenders to be legally detained with adults | Minimum legal full-time working age |
| MA for deprivation of liberty of for arrest, detention or imprisonment | Minimum legal part-time working age |
| MA for capital punishment | Admission to hazardous employment |
| MA to seek redress in court | MA for access to minimum wage |
| MA to be heard in court | MA for inheriting |
| MA for consent to foster care | MA to dispose of own income / petty dealings |
| MA for can consent to adoption | Start age of compulsory education |
| MA for consent to change of name | End of mandatory schooling / Minimum school leaving age |
| MA for consent to guardianship etc. | Age requirements concerning the right to special education support services (for children with disabilities) |
| MA for access to information on biological origins | Health |
| Political participation | MA to seek independent medical advice |
| MA for voting in federal or national elections | MA to get medical treatment or surgery |
| MA for candidacy in upper house (if applicable) | MA for (confidential) testing and treatment for sexually transmitted diseases |
| MA for candidacy in lower house | MA for medical advice on contraception |
| Official age range of youth | MA for abortion |
| MA for forming a children association | Minimum legal drinking age |
| MA for joining a children association | Minimum legal smoking age |
| MA for forming a youth association | MA to access to harm reduction services |
| MA for joining a youth association | Safety and security |
| MA for choosing a religious community | MA to join the military voluntarily |
| Social participation – marriage and consent | Age of compulsory military service / drafting |
| MA for heterosexual marriage without approval male | MA to participate in hostilities |
| MA for heterosexual marriage without approval female | MA to purchase and/or hold a firearm |

⁵⁵ Responses received from Albania, Armenia, Belarus, Bulgaria, Bosnia & Herzegovina, Kazakhstan, Kosovo, Kyrgyzstan, Moldova, Montenegro, Romania, Tajikistan, Turkey and Uzbekistan.

⁵⁶ Some fields for which we originally sought to gather data for all countries, but where data proved very hard to find, are not included in this report. Such fields are for example the independent access of children to social transfers.

| | |
|--|---|
| MA for heterosexual marriage with approval male | MA for providing consent for the use of their personal data |
| MA for heterosexual marriage with approval female | MA at which images and personal data of children can be disclosed in TV, press, web, social media |
| MA for homosexual marriage without approval – male | MA for close door rules |
| MA for homosexual marriage without approval – female | Vulnerable groups |
| MA for homosexual marriage with approval – female | MA for access to shelters for homeless persons |
| MA for homosexual marriage with approval - male | Special / diverting age requirements for unaccompanied refugee children / adolescents |

MA: Minimum Age. In blue, thematic sections.

The ages are grouped into six domains, based on the emerging priorities for child and adolescent development as used in the [Youth Development Index](#) and the [Youth Wellbeing Index](#) – both internationally recognised benchmarks for children and adolescents’ outcomes that focus on national policies and programmes around specific thematic areas. These areas are: 1) civic and legal rights, 2) political participation, 3) social participation, 4) economic participation and education, 5) health, 6) safety and security, and ICT:⁵⁷

- 1) **Civic and legal rights** contains data on adolescents’ access to justice and in the criminal system, as well as the official age of majority and exceptions to this rule. It also presents various ages at which children have to be consulted in matters affecting them.
- 2) **Political participation** relates to children’s rights to participate in political life (ex. in dedicated children or youth organisations, general elections).
- 3) **Social participation** centres on minimum marriageable age and the age at which adolescents can consent to sexual activities.
- 4) **Economic participation and education** are merged, as they are closely related. The age until which school is mandatory has a strong connection to the age at which children can be legally employed. Other important age-related legislation in this field concerns the age at which children can become economically active on their own behalf and inherit.
- 5) **Health** relates to legislation that determines adolescents access to services and treatment. In this field we also look at minimum ages at which children can access alcohol and tobacco legally.
- 6) **Safety, security and ICT** presents data on the protection of children from involvement in conflicts, their protection in legal proceedings and their rights in the digital sphere.

⁵⁷ An additional domain was added to pay tribute to UNICEF’s mandate on vulnerable groups, however, data in this field was particularly difficult to obtain. Therefore, this domain does not have its own sub-section in chapter 5, which discusses the highlights from the research.

After the initial desk-based research – mostly based on national legislation and CRC reporting – data sets for individual countries were reviewed by UNICEF Country Offices with comments or corrections incorporated into the final data tables. This was particularly important where national legislation was challenging to source, where the State Reports to the CRC Committee were submitted many years ago, or where different trustworthy sources offered competing information. The reviews by UNICEF Country Offices has greatly contributed to increasing accuracy and timeliness of the data and is gratefully acknowledged.

An additional challenge for this research was, that it was frequently difficult to establish whether a certain minimum age legislation does not exist in a given country, or whether the team of researchers was simply unable to find the applicable legislation. This concern was shared by researchers from FRA, who experienced similar difficulties.

Most importantly, the collation of national legislation and policies provides an overview of structural age-related barriers and empowerments, but is insufficient in understanding how far these are known, implemented, realised or respected by children, state agencies and other actors. For example, while legislation may be present for the minimum age of consent for sexual activity, young people may not respect it, the state may not provide adequate juvenile justice systems, and society may consider underage marriage an acceptable practice. In this report, neither the implementation nor the enforcement of minimum ages are explored as these go beyond the remit of this research. As a future research piece, this would provide a more thorough insight into the outcomes and experiences of children and adolescents.

4.2 Presentation

The core of the research is to provide information on national legal frameworks regarding specific age requirements. The primary source of data is national legislation and policies, with additional sources utilised when necessary. In the full data sets, snippets from the relevant source are provided together with the name and the date. The full data sets and individual country data are currently available on request. The online visualisation for UNICEF with interactive mappings and downloadable sources is under construction. In addition to the (minimum) age, a notation system is used to capture additional information, such as:

- Specific requirements and criteria where consent of parents/legal guardians and/or representatives or a judicial decision is required;
- Gender specific provisions are included wherever distinctions are made between boys and girls;

- Where no specific age requirements or specific criteria are set, but legislation is found that provides a right or ability in general terms;
- Exceptions to the general rule for specific age requirements, or additions for similar, but not directly related, minimum ages.

When no specific minimum age legislation could be found for a specified sub-category, it is assumed then that the minimum age is the same as the overarching category. This is the case for emancipation through marriage or employment (assumed to be the same as age of majority, if not specified otherwise), part-time work (same as full-time work), forming or joining a child / youth organisation (treated as the same unless specified differently for each) and for minimum wages, which are deemed to apply starting with the general age of employment. The notation system can be seen in the table below.

Table 4.B Notation system

| Notation | Definition |
|----------|---|
| 10 | Fixed minimum age |
| 10+ | Lower minimum age set but the child needs to prove capacity |
| 0+ | No lower minimum age set. Only the capacity of the child is considered. |
| 10* | Lower minimum age set but with additional parental consent or court approval required. |
| < | Indicates “younger than” |
| > | Indicates “older than” |
| n.a. | Is used where a certain minimum age is not applicable. This is the case for upper house candidacy age, which does not exist in countries with unicameral systems, and in the case of an age for drafting in countries without military service. |
| == | Is used when no specific minimum age legislation could be found for specified cases and the assumption is, that the minimum age is the same as the overarching category. This is the case for emancipation through marriage or employment (assumed to be the same as age of majority, if not specified otherwise), part-time work (same as full-time work), forming or joining a child / youth organisation (treated as same unless specified differently for each) and for minimum wages, which are deemed to apply starting with the general age of employment. |
| xx | Indicates that a right or practice does not exist. For example, in the case of capital punishment, same-sex marriage, or the right to information on the biological family. |
| () | Exceptions to the general rule relating to the same minimum age data point. |
| [] | Additional information on a minimum age for a similar, but not the same, data point. |
| Unclear | Cases where there are excerpts from legislation or policy but the specific age is unclear. |
| n.d. | Where no data could be found. |

In the next sections, the findings from the desk-based review are analysed with the most relevant, striking or contradictory minimum ages highlighted that impact on children and adolescents’ ability to claim their rights, access services, and engage in behaviours of their choosing. At the end of each section you will find a table with all the minimum ages set in the 22 countries.

5 Civil and legal rights

The domain of civil and legal rights has some of the lowest minimum ages in the sample of this survey – for the right of the child to be heard in legal decisions affecting the child – as well as highly set age barriers, for example when it comes to capital punishment. Provisions are made that children are neither detained with adults nor subject to capital punishment. Yet, the age at which children are deemed to be criminally responsible, even if only for serious crimes, is well below 18 in all CEE/CIS countries. Moreover, numerous contradictions exist surrounding the acquisition of legal majority based on capacity versus fixed legal minimum ages in other fields, such as political rights or making independent health choices.

5.1 Age of majority

A key minimum age for children and adolescents' development is the age of majority, which is the age at which one acquires (nearly) all adult rights. Across the region, the age of majority is universally set at 18 years. However, this general age of majority is subject to a number of exceptions which usually take the form of 'emancipation'. Emancipation may be partial (e.g. only for legal or economic affairs) or full. Emancipation before the general age of majority nearly always requires the consent of parents, a legal guardian, or court. While emancipation typically means that parents are relieved from some or all of their parental duties towards the child, it does not necessarily mean that an emancipated person under the age of 18 can no longer benefit from child protection by the state (e.g. in the juvenile justice system), yet specific rules differ between countries.

In Turkey, a child from the age of 15 years "may become adult by his/her own will or under parent's consent subject to court decision."⁵⁸ In Azerbaijan a similar exception exists, however no minimum age has been set.

Nearly all countries in the region allow legal emancipation through (heterosexual) marriage, if marriage takes place before the age of 18. Yet, to marry at a younger age is often dependent on parental, guardian or judicial consent, or capacity assessment (see details in section on marriage). At 15 years, Belarus has set the youngest age of emancipation through marriage, below the "absolute minimum age" recommended by the CRC and CEDAW Committees. In the Central Asian sub-region, the age is mostly 17 years, and in the Balkans and South Eastern Europe, it is mostly 16 years. Furthermore, six CIS countries - Armenia, Azerbaijan, Belarus, Kyrgyzstan, Russia, Uzbekistan – as well as Georgia and Ukraine, allow emancipation through employment providing the adolescent has parental, guardian or judicial approval.

⁵⁸ Government of Turkey, 2005, [Child Protection Law](#).

The map below shows the number of years by which emancipation can be achieved prior to general majority at the age of 18, either through marriage or employment.

Map 5 I. Difference between general majority and earlier emancipation



Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional.

The ability to acquire emancipation earlier than the majority age presents numerous contradictions. Take the examples of political participation and health legislation. Even if majority is attained earlier, one still may not be entitled to vote, as voting is tied to a minimum age and not majority. Similarly, a female may acquire full legal emancipation through marriage, but not be able to consent to sexual and reproductive health choices without parental approval. Such contradictions between earlier emancipation and set minimum ages in other policy fields undermine the empowerment of adolescents.

Additionally, hardly any information could be found on emancipation through child birth, despite searching for this data specifically. In an overwhelming majority of countries, children who become parents will still depend on their parents or legal guardians for legal affairs. The only exception found is Bosnia and Herzegovina, where in the Federation and Brcko District, legal capacity can also be obtained if a minor aged 16 or older becomes a parent. This applies to both mothers and fathers.⁵⁹

5.2 Juvenile justice

The area of juvenile justice is one where the CRC has made a rare, specific, minimum age requirement with the prohibition of the capital punishment or life imprisonment for those

⁵⁹ See Article 157 FBiH Family Law and Article 139 BD Family Law.

under 18 years. Article 37 further outlines a range of provisions for dealing with children and adolescents in conflict with the law and protects them from torture, requires separate custody from adults as well as maintained family contact, guarantees access to legal assistance, and recognises that adolescence is a time of development, meaning that any deprivation of liberty must take “into account the needs of persons of his or her age.”⁶⁰

In terms of protection, all countries across the region have legislated to ensure that children are not detained with adults until at least 18 years. Until the age of 18, they are deemed juvenile offenders for whom special rules apply. Interestingly, children in conflict with the law is the only policy field in which the age group between 12 to 14 to 18 years is specifically mentioned and addressed with special policy and regulations.

In order to protect children further, a number of countries including Serbia and Montenegro go beyond this minimum standard by making provision for young people up to the age of 25 – and even 27 years in Kosovo (UNSCR 1244) – to stay in juvenile institutions to complete education or training programmes, if they have been convicted before the age of 18.

Six countries in the region continue to use capital punishment, but all countries prohibit its use with children under 18 years. There has been considerable reform in the last 20 years, abolishing the use of the death penalty entirely – particularly as countries become integrated in the European Union and Council of Europe, which both require abolition as part of membership.

5.3 Minimum age of criminal responsibility

The minimum age of criminal responsibility (MACR) is an area of global concern and another field in which the CRC has made specific age recommendations. In General Comment No. 10, the CRC recommends the age of 12 as absolute minimum and encourages States to continue to raise it towards 18 years.⁶¹ In the forthcoming General Comment on Adolescents, it reconfirms both the concern about States seeking to lower the age of criminal responsibility and the encouragement to progressively raise it. Many States make distinctions between a general age of criminal responsibility, but allow exceptions to criminalise children at a lower age for particularly serious crimes.

This research asks specifically for the lowest age at which children can be subjected to criminal proceedings, even if only for a specified number of crimes. This lowest MACR is broadly set at 14 years across the region. Two countries have set ages lower than this: in Turkey it is 12 years and in Uzbekistan it is 13 years. No data has been gathered on the general minimum age of responsibility, which may be higher in some countries.

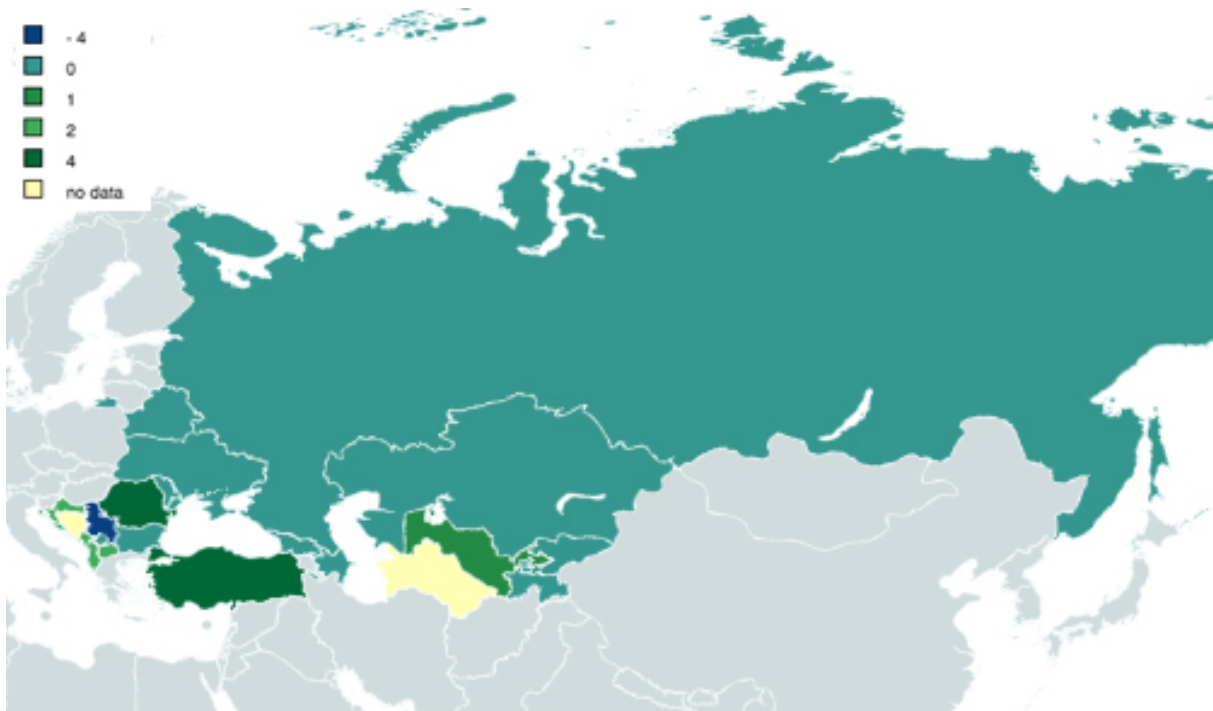
⁶⁰ This research did not look at access to justice for children in a larger perspective, which would have e.g. also included children’s access to free legal aid etc. CRIN has previously done research on access to justice for children in nearly all countries world wide. It is available here <https://www.crin.org/en/home/law/access>.

⁶¹ CRC General Comment 10 <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf> Art. 32

The MACR across the region compares well to the global average of 12.1 years. Yet, it falls far behind the suggestion of the CRC to raise it to 18 years. This would require all countries across the region to increase their current minimum age. A conflicting argument can arise when considering the age of criminal responsibility: if children are *accountable* for crimes, why aren't they considered *responsible* for making independent choices in other areas? Conversely, if the age of responsibility is increased, does this undermine child empowerment in other areas? The CRC Committee is clear: "The Committee emphasises that the right to exercise increasing levels of responsibility does not obviate States' obligations to guarantee protection."⁶²

Also interesting in this regard is that the age at which children may independently address a court, not as a defendant but as plaintiff, is not always set at the same age. The difference can be seen in the map below.

Map 5 II. Difference between MACR and MA to seek redress in court



Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional.

In only one country is the age to seek redress court lower than the minimum age of criminal responsibility, in Serbia. In the majority of countries both ages are aligned except: Turkey (6 years); Armenia and Romania (4 years); Albania, Croatia, Macedonia, Montenegro (each 2 years); Uzbekistan (1 year). In these countries, children can be treated as criminals before they can become plaintiffs.

⁶² CRC/GC/20 Draft of April 22 2016, para 19.

5.4 The views and consent of the child

An area in which children acquire rights at an early age is to be heard in cases affecting them. Article 8 of the Convention mandates States to “respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.” Across the CEE/CIS, the age at which a child’s consent is required for adoption, foster care, change of name or modification of family relations, is most frequently set at 10 years. Two countries, Turkey and Ukraine, have set no minimum age and instead emphasise the capacity of the child as a guiding criteria. This is a positive area, where children have the right to have their opinions heard and respected in decisions that affect their lives. This stands in contrast to other fields, particularly health, which has higher ages for when children can make independent decisions or contribute to processes that affect them.

One notable exception is the right of adopted children to obtain information concerning their biological origins. In ten countries, there is no right to access information and biological information is considered secret regardless of age (see Table 5.1 below). Two countries have set the age at 18 years, while Bosnia & Herzegovina, Montenegro, Tajikistan and Uzbekistan allow adolescents to access information from between 14-16 years. Although this research did not look specifically for information on children conceived by in vitro fertilisation with donor sperm or egg cells, it may be assumed that similar rules apply.

Box 5.1 Key findings for civil and legal rights

- The simple age of majority across the region is uniformly 18 years.
- Across the region the lowest possible minimum age of criminal responsibility is most often set at 14 years. Two countries have set ages lower than this: in Turkey it is 12 years and in Uzbekistan it is 13 years. It is not below the absolute minimum of 12, but well below the age of 18, which is suggested in the forthcoming General Comment on Adolescents.
- All countries across the region have legislated to ensure that children are not detained with adults until at least 18 years.
- Six countries in the region continue to use capital punishment, but all countries prohibit its use with children under 18 years.
- Across the CEE/CIS, the age at which a child’s consent is required for adoption, foster care, change of name or modification of family relations, is most frequently set at 10 years.

Box 5.2 Policy implications and open questions on civil and legal rights

- Acquiring emancipation through marriage or employment may not entitle an individual to vote in an election, or independently consent to medical treatment. Such inconsistencies between minimum age legislation in different policy fields are contradictory and can weaken both protective and emancipatory rights of children. They constitute an area for future advocacy work.
- In most countries the criminal justice system is the only policy field in which adolescents (the 12/13/14 to 18 year olds) are treated as a distinct group. Adolescents are thus visible when they are in conflict with the law, but not in a positive policy formulation.
- It may be questioned whether it is reasonable that different minimum ages exist for children within the justice system for being a defendant or a plaintiff.
- The criminalisation of providing information on the biological origins of an adopted child, as is the case in ten CEE/CIS countries, contradicts the child's right to know one's identity encoded in the Convention (Art. 7 and 8).

Table 5.A Civil and legal rights across the region

| Country | Region | Age of majority | Legal emancipation through marriage | Legal emancipation through employment | Number of years by which emancipation can happen prior to majority | MA of criminal responsibility (MACR) | MA for child offenders to be legally detained with adults | MA for deprivation of liberty of for arrest, detention or imprisonment | MA for capital punishment | MA to seek redress in court | Difference between MACR and seek redress | MA to be heard in court | MA for consent to foster care | MA for can consent to adoption | MA for consent to change of name | MA for consent to guardianship etc. | MA for access to information on biological origins |
|----------------------|-----------------|-----------------|-------------------------------------|---------------------------------------|--|--------------------------------------|---|--|---------------------------|-----------------------------|--|-------------------------|-------------------------------|--------------------------------|----------------------------------|-------------------------------------|--|
| Belarus | Eastern Europe | 18 | 15 | 16* | -3 | 14 | 18 | 14 | 18 | 14 | 0 | 10 | 10 | 10 | 10 | 14 | xx |
| Bulgaria | | 18 | 16* | == | -2 | 14 | 18 | 8 | n.a. | 14* | 0 | 10 (0+) | unclear | 14 | n.d. | 14 | 16 |
| Moldova | | 18 | 16* | 16 | -2 | 14 | 18 | 14 | n.a. | 14 | 0 | 10 | 0+ | 10 | 10 | 10 | 18 |
| Romania | | 18 | 16* | 14 | -4 | 14+ | 18 | 14 | n.a. | 18 | 4 | 10 | 14 | 10 | 18 | 14 | 18 |
| Russia | | 18 | 16 | 16* | -2 | 14 | 18 | 14 | 18 | 14 | 0 | 10 | 10 | 10 | 10 | 10 | xx |
| Ukraine | | 18 | 16 | 16* | -2 | 14 | 18 | 14 | n.a. | 14 | 0 | n.d. | 0+ | 0+ [7] | 7* [14*] | 10 [14] | 14 |
| Albania | Southern Europe | 18 | 16 | n.d. | -2 | 14 | 18 | 14 | n.a. | 16 | 2 | 10+ | 12 | 12 (10) | 12 | 12 [10] | 0+ |
| Bosnia & Herzegovina | | 18 [14*] | 16 [16] | == | -4 | 14 | 18 | 14 [16] | n.a. | 14+(0+) | 0 | 0+ | n.d. | 10 | 10 | 16 | 7, >18* |
| Croatia | | 18 | 16* (<16*) | == | -2 | 14 | 18 | 14 | n.a. | 16 | 2 | 12 | n.d. | 12 | n.d. | <18* | 18 |
| Kosovo | | 18 | 16 | == | -2 | 14 | 18 | 14 | n.a. | 14 | 0 | <18 | n.d. | 14+ | 10 | 14 | 18 |
| Macedonia | | 18 | 16 | == | -2 | 14 | 18 | 14 | n.a. | 16 | 2 | 0+ | xx | 12 | 10 | 16 [15] | n.d. |
| Montenegro | | 18 | 16 | == | -2 | 14 | 18 | 14 [16] | n.a. | 16 | 2 | 0+ | 10+ | 0+ | 10+ | 15+ | 15+ |
| Serbia | | 18 (16*) | 16 | == | -2 | 14 | 18 | 14 | n.a. | 10 | -4 | 10 | 10+ | 10+ | 10+ [15+] | 15+ | 16 |
| Armenia | Caucasus | 18 | 16* | 16* | -2 | 14 | 18 | 14 | n.a. | 18 (>18+) | 4 | 10 | 10 | 10 | 10 | n.d. | xx |
| Azerbaijan | | 18 (0*) | 17* | 16* | -2 | 14 | 18 | 14 | n.a. | 14 | 0 | 10 | 10 | 10 [14] | 10 | 10 | xx |
| Georgia | | 18 | 17* | 16* | -2 | 14 | 18 | 14 [14] | n.a. | 14 | 0 | 10 | 10 | 10 | 10 | 10 | xx |
| Turkey | | 18 (15*) | 16 | == | -3 | 12 | 18 | 12 | n.a. | 18 (15*) | 6 | 0+ | n.d. | 0+ | n.d. | n.d. | n.d. |
| Kazakhstan | Central Asia | 18 | 16 | 16* | -2 | 14 | 18 | 14 | 18 | 14 | 0 | 10 | 10 | 10 | 10 | 10 | xx |
| Kyrgyzstan | | 18 | 17 | 16* | -2 | 14 | 18 | 14 | n.a. | 14 | 0 | 10 | 10 | 10 | 10 | 10 | xx |
| Tajikistan | | 18 | 17 | 16+ | -2 | 14 | 18 | 14 | 18 | 14 | 0 | 10 | unclear | 10 | 10 | 10 | xx |
| Turkmenistan | | 18 | 17 | == | -1 | 14 | 18 | 14 | n.a. | unclear | n.d. | 10 | n.d. | 10 | 10 | 10 | xx |
| Uzbekistan | | 18 | 16 | 16* | -2 | 13 | 18 | 13 | n.a. | 14 (18) | 1 | 0+ | 10 | 10 | 10 | 10 | xx |

Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional. MA: Minimum Age

6 Political participation

In this domain, the minimum ages for participation within political systems and organisations are explored. The presentation below highlights findings on voting and candidacy ages, as well as association rights of children, and lastly definitions of youth, which also shows that a definition of adolescents is absent in most countries.

All countries in the region have set a minimum age at which a person is legally allowed to vote and be a candidate in federal or national elections. This includes the lower house and the upper house where applicable. While globally there is a near universal adoption of 18 as the voting age, there is significant disparity in the region when it comes to standing as a candidate. Child and adolescent participation is considered in the ability to join and form their own organisations with minimum ages set for participation in over half of the countries across the region. Lastly we have a look at the definitions of youth and – where it exists – adolescence across the region.

6.1 Voting and candidacy age

All countries have set a minimum age of 18 years to vote in national elections. This is one of the few ages where there are no exceptions across the region, though these may exist for sub-national level elections, which were not explored in this research. Despite the ability of children in some countries to acquire legal capacity before the age of 18 through marriage, employment or parental consent, the age at which an individual can vote is fixed rather than dependent of majority or capacity. Hence, there can be cases in which children acquire other civil and legal rights, but not the right to take part in elections.

In 14 out of the 22 countries in the region, there is a higher minimum age for candidacy than for voting, as the table below shows.

Table 6.A Minimum candidacy age in national elections across CEE/CIS

| Country | Region | Minimum candidacy age in national elections | Country | Region | Minimum candidacy age in national elections |
|----------------------|-----------------|---|---|--------------|---|
| Belarus | Eastern Europe | 21 | Armenia | Caucasus | 25 |
| Bulgaria | | 21 | Azerbaijan | | 25 |
| Moldova | | 18 | Georgia | | 21 |
| Romania | | 23 | <i>Turkey</i> | | 30 |
| <i>Russia</i> | | 21 | Kazakhstan | Central Asia | 25 |
| Ukraine | | 21 | Kyrgyzstan | | 21 |
| <i>Albania</i> | Southern Europe | 18 | Tajikistan | | 25 |
| Bosnia & Herzegovina | | 18 | Turkmenistan | | 25 |
| Croatia | | 18 | Uzbekistan | | 25 |
| <i>Kosovo</i> | | 18 | Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional. MA: Minimum Age. | | |
| Macedonia | | 18 | | | |
| Montenegro | | 18 | | | |
| Serbia | | 18 | | | |

Candidacy age is one of the highest age restrictions for individuals, with the age affecting those with full legal capacity rather than children. Higher minimum ages for candidacy are found in the Central Asian countries of Kazakhstan, Tajikistan, Turkmenistan and Uzbekistan. Turkey has the highest candidacy age of 30 years for the elected upper house. This is an interesting sub-regional pattern, with the lower ages coming mostly from the more geographically western countries, and the higher ages from the geographically more eastern countries within the region, with Turkey as outlier.



There exists no international standard on the minimum age of voting or standing for election as a candidate. Article 25 (b) of the [International Covenant on Civil and Political Rights](#)⁶³ provides the right, “to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage”. However, the [Declaration on Criteria for Free and Fair Elections](#)⁶⁴ by the Inter-Parliamentary Council deliberately makes no reference to minimum ages:

The criteria for participation in government shall be determined in accordance with national constitutions and laws and shall not be inconsistent with the State's international obligations.

Most countries in the region have gone through a period of electoral reform in the past 25 years, predominately after gaining independence from the Soviet Union or Yugoslavia. Candidacy age was often set in the adoption of independent constitutions, such as in Belarus (1994), Tajikistan (1994) and Azerbaijan (1995). However, there is a clear gap between the age at which individuals are deemed competent to vote in elections and their ability to stand as a candidate. While in nearly all cases individuals gain full civil and legal competence upon reaching the age of 18, candidacy age remains an exception with a significantly higher age for attainment – in some cases considerably into adulthood.

Political participation therefore remains a civil right that is acquired in adulthood rather than childhood. Historically, electoral reform has been an iterative process, with civil rights continually extended from wealthy men, to all men, and to later enfranchise women, minorities and younger people. More recently, numerous campaigns – such as in the United Kingdom – have succeeded in lowering voting and candidacy ages, for example, in the Scottish referendum and for the lower house, respectively. This is an area where it is feasible to expect reform in the years ahead.

6.2 Participation in children’s, adolescent’s and youth organisations

Another key field of participation rights is the right to assemble in and organise their own organisations. This could be either the participation in organisations that have been founded by adults or the formation of dedicated organisations by and for young people. In some countries, while distinctions are made between children and youth organisations, specific adolescent organisations have not been mentioned anywhere across the region.

Dedicated laws on forming and joining children or youth organisations could not be sourced for all countries. For youth organisations, information was found for 15 countries; for

⁶³ Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Entry into force 23 March 1976, in accordance with Article 49.

⁶⁴ Adopted by the Inter-Parliamentary Council at its 154th session in Paris on 26 March 1994.

children's associations, only 8 countries. Among them, many countries make a distinction between membership and being a founding or steering member of an organisation. For example, in Ukraine, the age for joining a children's association is 6, whereas for founding an organisation, the minimum age is 15.

For youth organisations, the most frequent minimum age for participation is 14 years. Fourteen also is the age which is frequently the minimum for criminal responsibility and the ability to engage in petty dealings and personal legal matters.

In three countries, children need parental or guardian consent to join (Bulgaria, Macedonia and Armenia) or form (Armenia, Macedonia and Kyrgyzstan) a youth organisation. In three other countries (Albania, Serbia and Turkey), children need to prove capacity when forming a youth organisation. In Russia and Tajikistan, youth organisations can only be formed by those over 18 year olds. In several countries, special rules apply for membership in political parties. Political parties can only be formed at the age of 18 in Kyrgyzstan, and joined at the age of 16 in Kazakhstan and 18 in Ukraine.

The restrictions on children to politically participate is contrary to the younger ages at which children have the right to be heard in judicial proceedings, the ages at which their consent is required for the decisions affecting their lives, and the ages at which they may participate in economic and social practices.

6.3 Definition of adolescents and youth

Besides legal minimum ages, childhood, youth and adolescence may also be defined in policies for the respective groups. At the outset of this research, we showed that no universally agreed definitions exist for neither youth nor adolescents. This is also confirmed in the CEE/CIS region, where we frequently find definitions of youth, usually in dedicated youth policies or laws. However, national definitions vary and often differ from the global ones.

Table 6.B Definitions of youth

| Country | Region | Official age range of youth | Country | Region | Official age range of youth |
|----------------------|----------------|--|---------------|--------------|-----------------------------|
| Belarus | Eastern Europe | 14-31 [14-18] | Armenia | Caucasus | 16-30 |
| Bulgaria | | 15-29 | Azerbaijan | | 14-29 |
| Moldova | | 16-30 | Georgia | | 14-29 |
| Romania | | 18-26 | <i>Turkey</i> | | <i>14-29</i> |
| <i>Russia</i> | | <i>14-30</i> | Kazakhstan | Central Asia | 14-29 |
| Ukraine | | 14-35 | Kyrgyzstan | | 14-28 |
| <i>Albania</i> | <i>15-29</i> | Tajikistan | 14-30 | | |
| Bosnia & Herzegovina | 15-30 | Turkmenistan | 14-30 | | |
| Croatia | 15-30 | Uzbekistan | 14-30 | | |
| <i>Kosovo</i> | <i>15-24</i> | Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional. | | | |
| Macedonia | 15-29 | | | | |
| Montenegro | 15-29 | | | | |
| Serbia | 15-30 | | | | |

Additionally, for adolescents who are at the core of this research, national definitions or policies could hardly be found. The only exception is Belarus, with a distinct definition of teenagers as those aged 14-18 (Belarus Family Code, 1999, Article 179). Elsewhere, adolescents are typically only treated as a distinct group in the justice system, in which the term of “juvenile” is typically used, as outlined above. Also interestingly, Romania is the only country with a definition of youth starting only at the age of 18. For all other countries, the definitions of youth also include children below the age of 18.

While the right to choose one’s confession is also among the fundamental civil rights and the freedom of conscience and religion is part the Convention (Article 14), very little information could be found for the CEE/CIS region with regards to specific ages at which children could independently decide about their religion.

Box 6.1 Key findings for political participation

- While a minimum age for voting in elections is standard across the region, the age at which an individual may stand as a candidate varies significantly. 14 out of the 22 countries in the region set a higher minimum age for candidacy ranging from 18-30 years.
- Candidacy age has the highest minimum age across all of those included in this study. The countries with the higher candidacy ages were in the Central Asia sub-region, with Turkey having the highest age.
- The right to stand for election as a candidate is predominately acquired as an adult and not as a child, and uses fixed minimum ages – despite the ability in nearly all CEE/CIS countries to acquire legal emancipation earlier than 18 years old.
- The ability to join a child or youth organisation is often not set lower than 14 years, which is in line with other judicial and legal rights and responsibilities. Forming an organisation is often dependent on parental consent or capacity, with only three countries allowing children to independently form associations.

Box 6.2 Policy implications and open questions on political participation

- Acquiring majority earlier through marriage or employment may not entitle an individual to vote in an election. Resolving such inconsistencies may be a point for future advocacy work.
- The question at what age children can independently decide about their religion could be a subject for further research in the region.

Table 6.C Political rights across the region

| Country | Region | MA for voting in federal or national elections | MA for candidacy in upper house | MA for candidacy in lower house | Official age range of youth | MA for forming a children association | MA for joining a children association | MA for forming a youth association | MA for joining a youth association | MA for choosing a religious community |
|----------------------|-----------------|--|---------------------------------|---------------------------------|-----------------------------|---------------------------------------|---------------------------------------|------------------------------------|------------------------------------|---------------------------------------|
| Belarus | Eastern Europe | 18 | 30 | 21 | 14-31 [14-18] | == | == | 16 | 16 (>16*) | unclear |
| Bulgaria | | 18 | -- | 21 | 15-29 | == | == | 15 | <15* | 14* |
| Moldova | | 18 | -- | 18 | 16-30 | n.d. | 10 | n.d. | 14 | unclear |
| Romania | | 18 | 33 | 23 | 18-26 | n.d. | n.d. | n.d. | n.d. | 16 (14*) |
| <i>Russia</i> | | <i>18</i> | <i>30</i> | <i>21</i> | <i>14-30</i> | <i>18</i> | <i>8</i> | <i>18</i> | <i>14</i> | <i>unclear</i> |
| Ukraine | | 18 | -- | 21 | 14-35 | 15 | 6 | 15 | 14 [18] | unclear |
| <i>Albania</i> | Southern Europe | <i>18</i> | -- | <i>18</i> | <i>15-29</i> | == | == | <i>14+</i> | <i>14</i> | <i>12</i> |
| Bosnia & Herzegovina | | 18 | 18 | 18 | 15-30 | n.d. | nod | n.d. | n.d. | unclear |
| Croatia | | 18 | -- | 18 | 15-30 | == | == | 15 | 15 | unclear 0+ |
| <i>Kosovo</i> | | <i>18</i> | -- | <i>18</i> | <i>15-24</i> | <i>unclear</i> | <i>n.d.</i> | <i>n.d.</i> | <i>n.d.</i> | <i>unclear</i> |
| Macedonia | | 18 | -- | 18 | 15-29 | n.d. | n.d. | 15* | 14* | 10* |
| Montenegro | | 18 | -- | 18 | 15-29 | 14+ | unclear | unclear | unclear | unclear |
| Serbia | | 18 | -- | 18 | 15-30 | n.d. | n.d. | 14+ | 14* | 0+ |
| Armenia | Caucasus | 18 | -- | 25 | 16-30 | == | == | 14* | >14* | 18 |
| Azerbaijan | | 18 | -- | 25 | 14-29 | == | == | 16 | 16 | 18 |
| Georgia | | 18 | -- | 21 | 14-29 | == | 7* | 26 [18] | n.d. | unclear |
| <i>Turkey</i> | | <i>18</i> | -- | <i>30</i> | <i>14-29</i> | <i>n.d.</i> | <i>12+</i> | <i>15+</i> | <i>15-18</i> | <i>18</i> |
| Kazakhstan | Central Asia | 18 | 30 | 25 | 14-29 | 6 | 6 | varies | varies [16] | unclear |
| Kyrgyzstan | | 18 | -- | 21 | 14-28 | unclear | == | 14* [18] | unclear | unclear |
| Tajikistan | | 18 | 35 | 25 | 14-30 | 18 | 8 | 18 | 14 | 18 |
| Turkmenistan | | 18 | -- | 25 | 14-30 | 16 | 8 | 16 | 14 | unclear |
| Uzbekistan | | 18 | 25 | 25 | 14-30 | unclear | n.d. | n.d. | [18] | unclear |

Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional. MA: Minimum Age.

7 Social participation

The legislation regarding social participation varies significantly across the region, particularly in the spheres of marriage and sexual relationships. The region spans countries that permit same-sex marriage and those that punish homosexual acts with imprisonment, but there are clear trends and similarities amongst countries in the same geographic sub-region. Child marriage is a global challenge and is a complex area of legislation with numerous exceptions and criteria. Broadly, the CEE/CIS region is in line with international standards in terms of heterosexual marriage and equality between the sexes in most countries, with only a couple notable exceptions that permit marriage lower than the recommended minimum.

7.1 Marriageable ages

The Convention does not reference marriage, but outlines protections of children from sexual abuse (Article 19) and sexual exploitation – specifically regarding sexual coercion, sexual exploitation and use of children in pornography (Article 34). While the Convention on the Elimination of All Forms of Discrimination against Women makes specific reference to child marriage and seeks a national legal minimum age for marriage (Article 16.2), it is the joint General Comment/Recommendations⁶⁵ of the CRC and CEDAW Committee that makes clear the international standard on child marriage:

A minimum legal age of marriage for girls and boys is established, with or without parental consent, at 18 years. When exceptions to marriage at an earlier age are allowed in exceptional circumstances, the absolute minimum age is not below 16 years.

Most countries around the world have laws that set a minimum age of marriage, usually at age 18, with many providing exceptions upon parental consent, authorisation of the court, or for customary and religious practices. According to a recent mapping of minimum marriageable ages in law by the World Policy Analysis Centre, 93 countries legally allow girls to marry before the age of 18 with parental consent. The World Policy Analysis Centre found that 54 countries allow for girls to marry between one and three years younger than boys.⁶⁶ This can be seen as an example of legal frameworks that reinforce, rather than challenge, gender inequalities. Within the CEE/CIS region such a regulation can only be found in one country, Uzbekistan, where the minimum marriageable age without parental or judicial

⁶⁵ Joint general recommendation/general comment no. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, CEDAW/C/GC/31-CRC/C/GC/18,2014, para. 54 (f),

⁶⁶ Cited from <http://www.girlsnotbrides.org/child-marriage-law/> based on World Policy Analysis Centre, Changing Children's Chances: New Findings on Child Policy Worldwide, 2013

consent for girls is 17, while for males it is 18.⁶⁷ In the remainder of the CEE/CIS region, almost all countries have set the equal legal minimum age for heterosexual marriage at 18 years for both boys and girls, except Turkey, where it is 17. In the majority of countries this age can be lowered, either by parental or judicial consent, often but not always with the explicit requirement of proving a child's capacity. Only one country discriminates between boys and girls in marriage with consent: Albania. Here, a female's marriageable age can be lowered to 16 with the consent of her parents or the court, while it remains at 18 for males.

Most frequently, the age at which children can marry with consent is set at 16 years with 13 countries, particularly those from the Balkans and Europe, setting this as the minimum. Six countries, mostly from Central Asia, allow marriage in exceptional cases at the age of 17 years. Among these countries, the reasons for which exceptions – lowering the marriageable age – are made differ. For example, in Kazakhstan courts may give permission for earlier marriage when a child is born to the couple or the intending wife is pregnant. Whereas the courts may grant permission at the request of the intending spouses in Kyrgyzstan, Tajikistan and Turkmenistan. In four countries, all of them in Southern Europe, Bosnia and Herzegovina, Kosovo (under UNSCR 1244), Macedonia and Serbia the child that intends to marry also needs to demonstrate capacity.

In the region, Ukraine and Belarus are the only countries to permit marriages under the age of 16 years. In Ukraine, males and females are allowed to marry at 14 years: "Upon application of a person that has attained 14 years, a court may grant him/her the right to marry if it is found that such a marriage satisfies his/her interests."⁶⁸ In Belarus, boys' and girls' marriageable ages may be lowered to 15 "in exceptional cases, due to pregnancy, childbirth, and in the case of acquisition of a minor full capacity before reaching adulthood" and needs to be approved by local authorities.⁶⁹ In these two countries, marriageable ages are below the "absolute minimum age" recommended by the CRC and CEDAW Committees. Despite the fact that the legal marriageable is mostly set at 18, child marriage is practiced – most frequently in Moldova, Georgia and Turkey within the CEE/CIS region.⁷⁰ However, according to a UNICEF report, the number of child brides is relatively low in global standards: 4% of all child brides live in CEE/CIS region.⁷¹ Within the group of women aged 20-49, 14% had married before they were 18 years old.

A majority of countries do not have any specific legislation on same-sex marriage, often meaning that same-sex marriage is not possible. According to ILGA, the only country in the

⁶⁷ On the other hand, for example Georgia has in 2015 changed its family law to raise the marriageable age from 16 to 18, in the transition period marriage is possible at the age of 17.

⁶⁸ Family Code of Ukraine 2002 Article 23

⁶⁹ Belarus Civil Code 1998, Article 20

⁷⁰ [http://www.unicef.org/protection/CEECIS\(2\).pdf](http://www.unicef.org/protection/CEECIS(2).pdf)

⁷¹ United Nations Children's Fund, [Ending Child Marriage: Progress and prospects](#), UNICEF, New York, 2014

region to specifically permit same-sex civil unions is Croatia.⁷² Interestingly, in Croatia, the only country where civil unions between homo-sexual partners are allowed, there are no exceptions to lower the marriageable age, they are not allowed under the age of 18.

7.2 Consent and equality

In the region, the age of consent was rarely explicitly stated as a positive age at which children are permitted to engage in sexual activity, but mostly defined in criminal legislation as the minimum age at which sexual activities between or with a minor would not automatically lead to prosecution. The only anomaly in this category is Belarus, which sets a higher age of consent to sexual activity than the minimum age of heterosexual marriage with consent. Across the region, the age of consent is equal amongst males and females for heterosexual and homosexual sexual relations – though rarely distinguished in legislation – except for the specific cases where male homosexual acts remain illegal, such as in Uzbekistan and Turkmenistan.

Box 7.1 Key findings for social participation

- All countries in the region have set a legal minimum age for independently entering into a heterosexual marriage, with nearly all countries setting it at 18 years old. The only exceptions are Uzbekistan, where it is set at 17 years for females, and Turkey where it is 17 for both sexes.
- 11 countries have set the minimum age for heterosexual marriage with additional consent at 16 years old and 6 States have set it at 17 years. This follows sub-regional patterns.
- Ukraine and Belarus are the only countries in the region to permit heterosexual marriage below the “absolute minimum age” recommended by the CRC and CEDAW Committees.
- There is broad equality for men and women in the marriageable ages and the age of consent. The only exceptions are Albania (with consent) and Uzbekistan (with and without consent) that permit females to marry earlier than men.
- Homosexual acts and marriage are mostly not legislated for specifically, which means in most cases that homosexual marriage is not possible, as marriage is defined as between man and woman. In Uzbekistan and Turkmenistan male homosexual acts are explicitly illegal. In Croatia civil unions are explicitly legal, but not allowed under the age of 18.

⁷² http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2015.pdf

Box 7.2 Policy implications and open questions on social participation

- Different marriageable ages between girls and boys present an equity problem and clearly call for advocacy action. Equally, the marriage ages with consent below the recognised international standard of 16 should be addressed in future advocacy work.
- The large number of exceptions to marriageable ages across the region potentially also constitute an equity problem, given that is often the most marginalised groups that marry earlier.
- Gay, lesbian and transgender adolescents clearly are a vulnerable group in most, if not all countries of the region. Their status ranks from criminalisation to legal invisibility and societal discrimination.

Table 7.A Marriageable ages and minimum age of consent across the region

| Country | Region | Minimum marriageable age | | | | | | | | | | MA of consent to sexual relationships | | | |
|----------------------|-----------------|----------------------------|--------|--------------|------------|--|--------|----------------------------|--------|--------------|--------|---------------------------------------|--------|----------|--------|
| | | Different sex | | | | | | Same sex | | | | Different sex | | Same sex | |
| | | Without approval / consent | | With consent | | Number of years by which the marriageable age can be lowered through external approval | | Without approval / consent | | With consent | | | | | |
| | | male | female | male | female | male | female | male | female | male | female | male | female | male | female |
| Belarus | Eastern Europe | 18 | 18 | 15+ | 15+ | -3 | -3 | == | == | == | == | 16 | 16 | 16 | 16 |
| Bulgaria | | 18 | 18 | 16* | 16* | -2 | -2 | == | == | == | == | 14 | 14 | 14 | 14 |
| Moldova | | 18 | 18 | 16* | 16* | -2 | -2 | == | == | == | == | 16 | 16 | 16 | 16 |
| Romania | | 18 | 18 | 16* | 16* | -2 | -2 | xx | xx | xx | xx | 15 | 15 | 15 | 15 |
| Russia | | 18 | 18 | 16* | 16* | -2 | -2 | == | == | == | == | 16 | 16 | 16 | 16 |
| Ukraine | | 18 | 18 | 14* | 14* | -4 | -4 | == | == | == | == | 16 | 16 | 16 | 16 |
| Albania | Southern Europe | 18 | 18 | 18 | 16* | 0 | -2 | == | == | == | == | 14 | 14 | 14 | 14 |
| Bosnia & Herzegovina | | 18 | 18 | 16+* | 16+* | -2 | -2 | == | == | == | == | 14 | 14 | 14 | 14 |
| Croatia | | 18 | 18 | 16* (>16*) | 16* (>16*) | -2 | -2 | 18 | 18 | 18 | 18 | 15 | 15 | 15 | 15 |
| Kosovo | | 18 | 18 | 16+* | 16+* | -2 | -2 | == | == | == | == | 16 | 16 | 16 | 16 |
| Macedonia | | 18 | 18 | 16+* | 16+* | -2 | -2 | == | == | == | == | 14 | 14 | 14 | 14 |
| Montenegro | | 18 | 18 | 16* | 16* | -2 | -2 | == | == | == | == | 14 | 14 | 14 | 14 |
| Serbia | | 18 | 18 | 16+* | 16+* | -2 | -2 | == | == | == | == | 14 | 14 | 14 | 14 |
| Armenia | Caucasus | 18 | 18 | 16* | 16* | -2 | -2 | == | == | == | == | 16 | 16 | 16 | 16 |
| Azerbaijan | | 18 | 18 | 17* | 17* | -1 | -1 | == | == | == | == | 16 | 16 | 16 | 16 |
| Georgia | | 18 | 18 | 17* | 17* | -1 | -1 | == | == | == | == | 16 | 16 | 16 | 16 |
| Turkey | | 17 | 17 | 16* | 16* | -1 | -1 | == | == | == | == | 15 | 15 | 15 | 15 |
| Kazakhstan | Central Asia | 18 | 18 | 16* | 16* | -2 | -2 | xx | xx | xx | xx | 16 | 16 | 16 | 16 |
| Kyrgyzstan | | 18 | 18 | 17* | 17* | -1 | -1 | == | == | == | == | 16 | 16 | 16 | 16 |
| Tajikistan | | 18 | 18 | 17* | 17* | -1 | -1 | == | == | == | == | 16 | 16 | 16 | 16 |
| Turkmenistan | | 18 | 18 | 17* | 17* | -1 | -1 | xx | == | xx | == | 16 | 16 | xx | 16 |
| Uzbekistan | | 18 | 17 | 17* | 16* | -1 | -1 | xx | == | xx | == | 16 | 16 | xx | 16 |

Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional. MA: Minimum Age.

8 Economic participation and education

The domains of economic participation and education are considered together due to their overlapping areas. This is particularly visible when considering the minimum legal full-time working age and the end of mandatory schooling, which shows considerable contradictions within national legislation. When it comes to economic rights, the CEE/CIS region demonstrates legislative commitment to protecting children from hazardous work and equal access to minimum wage schemes. Across the region, all States have set legal minimum ages for the start and end of compulsory education, with countries using an 8-10 year educational curriculum. This goes beyond the required minimum of primary education as stipulated in the CRC and the Millennium Development Goals.

8.1 Employment

Article 32 of the CRC asks States to, “provide for a minimum age or minimum ages for admission to employment.” All countries have set a minimum age for admission into full-time employment, with the lowest age being 14 years old in Turkey. In nine countries, the legal minimum age at which a child can independently enter full-time employment is 16 years, with six countries providing the ability for work below that age with the parental or guardian consent. In seven countries, the minimum age is 15 years, with Serbia mandating that the capacity or ability of the child should be considered.

Map 8 I. Admission to Employment in CEE/CIS

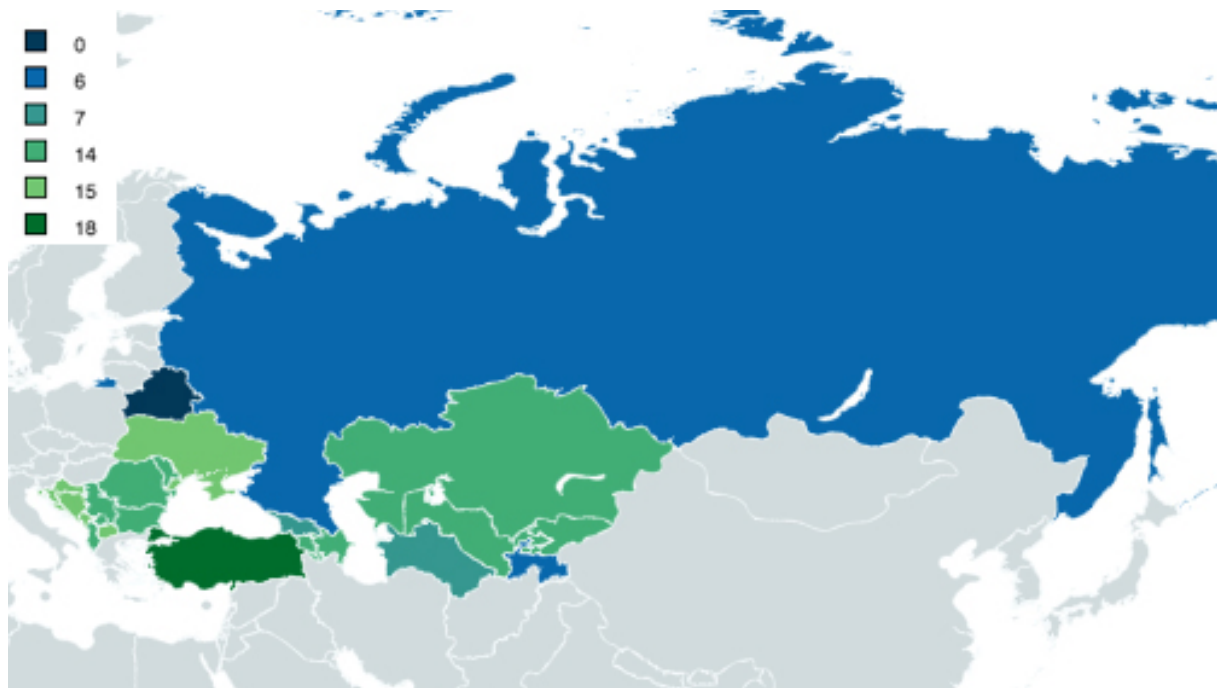


Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional.

Economic rights for children and adolescents are relatively strong across the region. All countries set a minimum age of 18 years for admission into hazardous working environments, with many countries providing clear criteria in legislation. Furthermore, the legislation across the region suggests that children and young people are recipients of a minimum wage scheme at an equal level to other members of the workforce. Only Croatia differentiates its minimum wages according to age. A lower minimum wage is applicable for workers under the age of 35.

The research on economic rights also showed that children can often make independent decisions over own income, savings and petty dealings before the age of 18. The most frequently set age barrier in this regard is 14 years (see map below).

Map 8 II. The right to make small economic transactions



Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional.

This area of partial economic emancipation is the only policy field in which laws frequently stipulate that children have the right to make their own decisions, unless parents prove that a child is incapable. Hence, in this area a younger age is set, with the onus on adults to prove incapacity, rather than the onus of the child to prove capacity.

Children usually gain the right to inheritance when born, and in some cases even when conceived. This however does not mean that they can automatically dispose of their inheritance independently prior to achieving majority. Inheritance is typically not included in the list of petty dealings.

8.2 Employment versus education

Across the region, the variation is small in terms of admission to employment, however numerous contradictions can be found when considered against the end of mandatory schooling. Eleven countries across the region have a *lower* minimum age for full-time work than the age at which mandatory schooling ends. These countries were predominately CIS or former Soviet Union countries. This suggests that children could be leaving school to gain employment.

The table below compares the minimum age for full-time work and the end of mandatory schooling:

Table 8.A Comparing admission to employment and end of compulsory schooling

| Country | Region | Minimum legal full-time working age | End of mandatory schooling / Minimum school leaving age | Country | Region | Minimum legal full-time working age | End of mandatory schooling / Minimum school leaving age |
|----------------------|-----------------|-------------------------------------|---|---------------|--------------|-------------------------------------|---|
| Belarus | Eastern Europe | 14* | 17 | Armenia | Caucasus | 16 | 16 |
| Bulgaria | | 18 (15*) | 16 | Azerbaijan | | 15 (>15*) | 17 |
| Moldova | | 16 (15*) | 18 | Georgia | | 16 (<14*) | 15 |
| Romania | | 16 (15*) | 17 | <i>Turkey</i> | | 15 (14*) | 14 |
| <i>Russia</i> | | 15 | 18 (15+) | Kazakhstan | Central Asia | 16 | 18 |
| Ukraine | | 16 (15+) | 17 | Kyrgyzstan | | 16 (15*) | 15 |
| <i>Albania</i> | Southern Europe | 16 | 16 (19) | Tajikistan | | 15 | 16 |
| Bosnia & Herzegovina | | 15 | 15 | Turkmenistan | | 16 (15*) | 18 |
| Croatia | | 15 | 15 | Uzbekistan | | 16 | 14 |
| <i>Kosovo</i> | | 15 | 15 | | | | |
| Macedonia | | 15* | 16 | | | | |
| Montenegro | | 15+ | 15 | | | | |
| Serbia | | 15+ | 14 | | | | |

Source: YPL for UNICEF, data for Bulgaria, Croatia and Romania from FRA, purple coloured highlights for countries with lower age for admission to employment than end of compulsory education, orange highlights for countries with lower end of compulsory education than admission to employment.

In the development of the forthcoming “General Comment on Adolescence”, there is considerable debate between those advocating stronger protections for children against labour exploitation and those – at times the children themselves – that see employment as a positive aspect in a child’s life that should not be subject to a minimum legal age. Paragraph 89 highlights the “important developmental role” of work for children providing that “it is not a worst form of child labour and does not interfere with compulsory education.” This is particularly relevant for households facing poverty, where children can provide an economic contribution to the family. Paragraph 90 notes that “general bans on work for adolescent who have reached the minimum working age, which must be above compulsory school age, are counterproductive.” This is also the case in another five countries across the region (orange highlights).

The age for starting education is broadly uniform across the region, and supports Article 28 of the CRC, which makes primary education compulsory for all. In 2015, this was extended through Goal 4.1 of the [Sustainable Development Goals](#), which sets the ambition of all children completing primary and secondary education by 2030. During this period, it is possible that States will increase the mandatory schooling period and increase the legal full-time age for employment.

Little information could be found regarding the available support for children with special educational needs.

Box 8.1 Key findings for economy and education

- All countries have set a minimum age for admission into full-time employment with the age varying from 14-16 years.
- Nine countries have set a minimum age for full-time working that is *lower* than the age for the mandatory end of schooling.
- Economic rights for children are protected across the region, particularly in regards to hazardous working, limits on hours and types of work, and equal access to minimum wage schemes.
- For petty dealings and independent decision-making for own income and property, 14 years is the common minimum age across the region but has numerous exceptions for consent and capacity.

Box 8.2 Policy implications and open questions on economy and education

- Two areas could not be fully explored in this research. Firstly, the independent access of children to cash and in-kind social transfers constitutes a field for further research. It can be assumed that there are also age-related barriers associated with access to social transfers, both determining the time at which potential child benefits end and access to other benefits begin.
- Secondly, children with special needs constitute a vulnerable group for whom access to education is usually formally granted. But, the question is whether further legal mechanisms, ensuring that necessary support services are available are also in place.
- Across the region the majority of countries has not synchronised school leaving ages with the admission to employment. This is a further area for advocacy work.
- In a broader perspective on different formats of age-related barriers, it could be worth while to explore why in the field of economic activity, the mechanisms of proving (in)capacity of the child are in reverse to all other policy fields, with the onus on the adult proving incapacity of the child.

Table 8.B Economic rights and education across the region

| Country | Region | Minimum legal full-time working age | Minimum legal part-time working age | Admission to hazardous employment | MA for access to minimum wage | MA for inheriting | MA to dispose of own income / petty dealings | Start age of compulsory education | End of mandatory schooling / Minimum school leaving age | Age requirements concerning the right to special education support services (for children with disabilities) |
|----------------------|-----------------|-------------------------------------|-------------------------------------|-----------------------------------|-------------------------------|-------------------|--|-----------------------------------|---|--|
| Belarus | Eastern Europe | 14* | == | 18 | == | 0 | 0-14 [14-18] | 6 | 17 | >3 |
| Bulgaria | | 18 (15*) | 15 | 18 | == | 0 | 14 | 5 | 16 | n.d. |
| Moldova | | 16 (15*) | == | 18 | == | 0 | 14 | 7 | 18 | unclear |
| Romania | | 16 (15*) | == | 18 | == | unclear | 14 | 6 | 17 | 8 |
| Russia | | 15 | 0-13*, 14* | 18 | == | n.d. | 6+, 14-18* | 6,5 | 18 (15+) | unclear |
| Ukraine | | 16 (15+) | 14* | 18 | == | n.d. | 15* (15) | 6 | 17 | n.d. |
| Albania | Southern Europe | 16 | 14 | 18 | == | 0 | 14 | 6 | 16 (19) | 6 |
| Bosnia & Herzegovina | | 15 | == | 18 | == | 0 | 15 (14) | 6 | 15 | n.d. |
| Croatia | | 15 | == | unclear | == | unclear | 15 | 5 | 15 | n.d. |
| Kosovo | | 15 | == | 18 | == [35] | 0 | 14+,15+ [16, 18] | 6 | 15 | 6 |
| Macedonia | | 15* | == | 18 | == | 0 | 15+ | 6 | 16 | 6 |
| Montenegro | | 15+ | == | 18 | == | 0 | 15 (14+) | 6 | 15 | 6 |
| Serbia | | 15+ | == | 18 | == | 0+ | 14+,15 | 5,5 | 14 | 5,5 |
| Armenia | Caucasus | 16 | 14* | 18 | == | 0 | 14-18 | 6 | 16 | unclear |
| Azerbaijan | | 15 (<15*) | 15 | 18 | == | 0 | 14 | 6 [3] | 17 | 6 |
| Georgia | | 16 (<14*) | 14 | 18 | == | 0 | 7* | 6 | 15 | 6 |
| Turkey | | 15 (14*) | == | 18 | == | 0 | [18] | 6 | 18 | unclear |
| Kazakhstan | Central Asia | 16 | 0-15* | 18 | == | 0 | 14* | 6 (7) | 18 | 6 (7) |
| Kyrgyzstan | | 16 (15*) | 14* | 18 | == | 0 | 14* | 6 (7) | 15 | unclear |
| Tajikistan | | 15 | 14* | 18 | == | 0 | 6+,14-18* | 7 | 16 | unclear |
| Turkmenistan | | 16 (15*) | 0-14* | 18 | == | 0 | 7* | 6 | 18 | Unclear |
| Uzbekistan | | 16 | 15* | 18 | == | 0 | 14* | 6-7 | 14 | 6-7 |

Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional. MA: Minimum Age

9 The right to health

In the area of health, the legal minimum ages at which children and adolescents can access services, and are allowed to give independent informed consent to medical interventions and treatment, are higher than in many of the other domains. This includes sexual and reproductive and mental health services. This is most strikingly seen in the limited and restricted ability of children and adolescents to consent to medical treatment, access confidential advice, and request an abortion independently. The field of health has numerous consent and capacity criteria and contrasts significantly with rights afforded to children in other areas. The legal drinking and smoking age are fixed and consistent across the region, but access to harm reduction services requires considerably more research to understand the services available to children and adolescents.

9.1 The health rights agenda in the Convention

Article 24 of the Convention includes general provisions relating to health, such as the “provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care.” It focuses specifically on infant and child mortality, disease and malnutrition, and hygiene and sanitation. In this regard, the Convention is more focused on child health than adolescent health. More relevant to adolescents are the articles referring to access to information and education, pre-natal and post-natal care, as well as “preventive health care, guidance for parents and family planning education and services.” Overall, the focus on health care in the earlier years of childhood is often translated into a lack of specific recommendations related to ages at which children should be heard in decisions affecting their health.

It is therefore welcome that the forthcoming General Comment on Adolescents goes further than the CRC and “urges States to adopt or integrate a comprehensive gender-sensitive sexual and reproductive health policy for adolescents.” It notes that:

All adolescents must have access to confidential adolescent-responsive and non-discriminatory reproductive and sexual health information and services, available both on and off-line, including family planning, contraception, counselling, pre-conception care, maternal care, menstrual hygiene, sexually transmitted infections, diagnosis and treatment, and contraception, as well as safe abortion services.

Furthermore, the draft General Comment No. 20 calls for the decriminalisation of abortion and the provision of access to safe abortions that provide support in the “best interests of pregnant adolescents.”

Another important theme within the health field and in the Convention is the protection of children against health risks of drugs and substances. However, guidance is lacking with regards to provisions for children/adolescents who have drug addictions.

9.2 Medical advice and treatment

Two key questions in the field of health are: a) the access to confidential health advice, and b) the consent to treatment. On the latter, the forthcoming General Comment No. 20 recommends,

States introduce a minimum age at which children have the right to consent to or refuse services. In addition, it would welcome recognition that any child below that minimum age, and able to demonstrate sufficient understanding, can also give or refuse consent. In all cases, whether or not the consent of the parent or guardian is required for a medical treatment or procedure, the voluntary and informed assent of the adolescent should be obtained.⁷³

Across the CEE/CIS region, the ability of children and adolescents to independently consent to medical treatment varies significantly (see table at the end of the section for details). In seven countries, children under the age of 18 cannot make independent health choices, always needing parental or guardian approval (Bulgaria, Romania, Macedonia, Armenia, Azerbaijan, Turkey and Tajikistan). In two countries, the age is 18 for consent to complex procedures with possible adverse consequences for the child, but lower otherwise. These two countries are Kazakhstan, where the general age for independent health decisions is 16, and Russia, where children that show competence can receive independent treatment at the age of 15. Georgia and Turkmenistan specify that emancipated minors can make independent health choices, even though the general age to make complex independent medical decisions is set higher. Hence, in these two countries, the right to independent health decisions is tied to majority (which can be attained earlier), rather than a fixed minimum age.

The lowest age at which a child can make independent health choices are in Belarus and Uzbekistan, at 14 years. In Croatia, Kyrgyzstan and Moldova, the age is set at 16. In Montenegro and Serbia, the age is set at 15 with the additional need for the child to prove capacity. Overall there is no clear regional pattern, except that all Central Asian countries do not allow children to make independent health choices.

Regarding access to independent medical advice, the picture is even more bleak (see map below). The forthcoming General Comment No. 20 suggests all age barriers to be dropped

⁷³ Draft CRC GC No. 20 (c.o.), para. 43

for health advice: “The right to counselling and advice is distinct from the right to give medical consent and should not be subject to any age limit.”⁷⁴ Yet, for those countries of the region for which data is available, the average age to access medical advice is above 15, and it would be higher if not for the notable exception of Serbia. The Serbian Law on Patients’ Rights ensures that confidential counselling is provided to any child that is capable for reasoning, irrespective of age and without parental consent if that is in the best interest of the child.⁷⁵ It is the only law of this type in the region.

Apart from Serbia, access to independent medical advice is often as high as for medical interventions (see map below).

Map 9 I. Access to medical advice



Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional.

It is largely the same countries that have set high age barriers: Romania, Macedonia, Armenia, Azerbaijan, Georgia (excluding reproductive health services, see below), Kazakhstan and Turkmenistan. The lowest minimum ages are again found in Belarus and Uzbekistan. They are joined by Ukraine, which is the only country in which the age to access medical advice is significantly lower, 14 years, than it is for medical interventions, 18 years.

9.3 Sexual, reproductive health and abortion in CEE/CIS

For adolescents, another key area within the health domain are sexual and reproductive health services. In the CEE/CIS region, abortion is legal in all countries and all countries have

⁷⁴ Draft CRC GC No. 20 (c.o.), para. 43

⁷⁵ Information provided by the UNICEF Country Office of Serbia.

set a minimum legal age for abortion with the exception of Azerbaijan and Moldova. The lowest age is 14 years in both Georgia and Ukraine. Georgia is a particularly unique example as it not only has the lowest minimum age for abortions, but that it also does not require parental consent. The Georgia Law on Patient Health Rights (last amended in 2015) stipulates in Article 40 that,

[i]nformation about a minor's health status may be withheld from parents or legal representatives when ... a minor patient aged 14 to 18 who, in the opinion of a medical care provider, can evaluate his/her health condition correctly and who referred to the doctor for treatment of sexually transmitted diseases or drug addiction, or for taking advice on non-surgical methods of contraception or for artificial termination of pregnancy.

In seven other countries (see the table at the end of the section for details), the age is 18 years, meaning that children are prohibited from having an abortion. The majority of these countries are from the Central Asian sub-region. Six countries have set the age at either 15 or 16 years, and seven countries have set a minimum age but require parental consent, consent by the father, proof of capacity, or the permission of a court or parents. An interesting regulation is found in Bosnia, where "requests for the termination of pregnancy of a minor pregnant woman must be submitted by one of the parents or the guardian on her behalf if she has not reached the age of 16 or does not earn a living through work."⁷⁶ Thus, a minor must be 16 years to have an abortion without parental consent or she must be employed. If she is not employed, she cannot take this decision independently below the age of 16. Additionally, a child between 14-16 years can refuse an abortion, even if her parents want one, but will not be allowed to have one if her parents do not consent: "Despite a request by parents, the termination of pregnancy of a person who has reached the age of 14 cannot be carried out without her own consent."

The age at which children can access independent medical advice on contraception is less clear, with five countries being unclear and no data found for a further five countries. Where minimum ages are set, they vary across the region from 10 years in Armenia to 18 years in Kazakhstan, Macedonia and Moldova. The lack of availability of independent family planning advice contrasts with the lower age of consent across the region. Furthermore, there is often a marriageable age that is often lower than 18 years, meaning that a married individual may not be able to accept contraception advice or have access to abortions without consent or additional proven capacity.

Where information on independent access to confidential testing and treatment of sexually transmitted infections (STI) could be obtained, it is usually aligned with other minimum ages

⁷⁶ CRC State Report by Bosnia and Herzegovina CRC/C/11/Add.28, 2004, para 230, 231

in the health domain, with the exception of Armenia, where STI testing is possible at the age of 14.

9.4 Substance use and remedies

Also within the health domain is the legal access to substances such as tobacco and alcohol, as well as the access to harm reduction services. The forthcoming CRC General Comment No. 20 recommends that “in view of the degree of risk and harm associated” with the consumption of alcohol and tobacco the minimum age limit should be 18 years” (Para. 44). Nearly all countries in the region comply with this recommendation, with only Bosnia and Herzegovina allowing smoking at the age of 15. Kazakhstan has set an even higher legal drinking age at 21, and in Uzbekistan, both alcohol and tobacco may only be sold to those above the age of 20. On the access to harm reduction services, little information could be found.

Overall, the health domain is especially contrasting to the area of civil participation, where in many countries children may consent to adoption, fostering or name change from the age of 10 years. With few exceptions, children are predominately held criminally responsible from the age of 14 years and yet may not consent to personal medical treatment. This is a widespread inconsistency in the presumed capacity of the child to understand their circumstances and make informed decisions. In this regard, health services remain paternalistic and focused on the protection of children, and have not seen the reforms that other fields, such as social work or juvenile justice, have received in recent decades.

It should be noted that the data collected refers mostly to medical services for bodily conditions and does not specify whether or not they are also applicable to mental health issues. In mental health, capacity is generally a contested theme, even for adults. Questions on forced hospitalization for mental health problems were not part of this research, but constitute an area for further research.

Box 9.1 Key findings for health

- Abortion is legal in all countries throughout the CEE/CIS region and all countries have set a minimum legal age for abortion with the exception of Azerbaijan and Moldova. The lowest minimum age of 14 years could be found in Georgia and Ukraine.
- The age at which children can access independent medical advice is on average 15 years, in those countries for which data was available.
- The minimum ages for accessing services in the area of health is higher than in other domains, such as civic and social participation. This highlights an inconsistency in the presumed capacity of the child.
- The right of children and adolescents to independently consent to medical treatment varies significantly across the region, with seven countries setting the minimum age at 18 years.
- The ages to protect children from tobacco and alcohol through a ban on selling these products to children is consistently high in the region. As suggested in the forthcoming General Comment No. 20, the minimum age is set at 18, with only one exception.

Box 9.2 Policy implications and open questions on health

- Overall, the high age barriers within the health domain constitute obstacles for children to access medical advice and treatment independently and confidentially. This clearly is an area for future advocacy work.
- The high age barriers in accessing sexual and reproductive health services in particular are contrary to the often lower age of consent to sexual relationships and even marriage at younger ages.
- The access of children to harm reduction services as well as the specificities of mental health services for children constitute an area for future research.

Table 9.A Health rights across the region

| Country | Region | MA to seek independent medical advice | MA to get medical treatment or surgery | MA for (confidential) testing and treatment for sexually transmitted diseases | MA for medical advice on contraception | MA for abortion | Minimum legal drinking age | Minimum legal smoking age | MA to access to harm reduction services |
|----------------------|-----------------|---------------------------------------|--|---|--|-----------------|----------------------------|---------------------------|---|
| Belarus | Eastern Europe | 14 | 14 [14*] | 14 | 14 | 18* | 18 | 18 | n.d. |
| Bulgaria | | 16 | <18* | 16 | unclear | 18 | 18 | 18 | n.d. |
| Moldova | | 16 (18) | 16 | 16 (18) | 16? | 16? | 18 | 18 | unclear |
| Romania | | 18 | 18 | 16 | 16 | 16 | 18 | 18 | n.d. |
| Russia | | 15 | 15+ (18) | 15 | 15 | 15 | 18 | 18 | 16 |
| Ukraine | | 14 | 18 (14+) | 14 | n.d. | <14+ | 18 | 18 | unclear |
| Albania | Southern Europe | n.d. | n.d. | n.d. | n.d. | 16* | 18 | 18 | n.d. |
| Bosnia & Herzegovina | | n.d. | n.d. | n.d. | n.d. | 16 (<16*) | 18 | 15 | n.d. |
| Croatia | | 16 | 16 (<18*) | 18 | unclear | 16 | 18 | 18 | n.d. |
| Kosovo | | n.d. | unclear | unclear | n.d. | 16+*, 18. | n.d. | 18 | Unclear |
| Macedonia | | 18 | 18 | unclear | 14 (12+) | 18 | 18 | 18 | 16 [18] |
| Montenegro | | n.d. | 15+ | unclear | unclear | 18 | 18 | 18 | n.d. |
| Serbia | | 0+ | 15+ | 15+ | 15+ | 16 | 18 | 18 | n.d. |
| Armenia | Caucasus | 18 | 18 | 14 (>14*) | 10 | >18* | 18 | 18 | n.d. |
| Azerbaijan | | 18 | 18 | 18 [16] | unclear | 18 | 18 | 18 | n.d. |
| Georgia | | 18 (14+) | 18 (14+) | 14+ | 14+ | 14+ | 18 | 18 | 14+ |
| Turkey | | unclear | 18 | n.d. | n.d. | 18 (<18*) | 18 | n.d. | n.d. |
| Kazakhstan | Central Asia | 18 | 18 [16*] | 18 | 18 | 18 | 21 | 18 | <18* |
| Kyrgyzstan | | unclear [<16] | 16 | 16 | 16 | 16 | 18 | 18 | n.d. |
| Tajikistan | | 16 | 18 | unclear | 15 | 18 | 18 | 18 | 10 |
| Turkmenistan | | 18 (17*) | 18 (17*) | 18 (17*) | unclear | 18 | 18 | 18 | <18* |
| Uzbekistan | | 14 | 14 | n.d. | n.d. | 18 | 20 | 20 | n.d. |

Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional. MA: Minimum Age.

10 Safety, security & ICT

One core concern of the Convention is the protection of children and adolescents from harm, violence, war and hostilities. This domain focuses particularly on child and adolescent engagement with the military through joining voluntarily, conscription, and participation in hostile environments. All countries comply with the Convention and Optional Protocol, though scope remains to increase the minimum age for voluntary joining the military. Of growing concern is the protection and autonomy of children and adolescents in the digital sphere. This study thus also sets out to explore digital rights of children. However, information on digital rights proved to be very difficult to source. They form an area in which more comparative information on national legislation would be particularly useful.

10.1 Military engagement

The Convention has been an important instrument in protecting children from armed hostilities, particularly as child soldiers. Article 38 notes:

States Parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities.

Furthermore, States shall “refrain from recruiting any person who has not attained the age of 15 years into their armed forces.” All eligible States across the CEE/CIS region have signed the CRC Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which increases the provisions and protections that States must adopt. Kosovo (under UNSCR 1244) is the only non-UN member and has therefore not signed. UNICEF notes that under the Protocol,

States are required to “take all feasible measures” to ensure that members of their armed forces under the age of 18 do not take a direct part in hostilities. States must also raise the minimum age for voluntary recruitment into the armed forces from 15 years but does not require a minimum age of 18.⁷⁷

Across the region, four countries have a minimum age below 18 years for adolescents voluntarily joining the military: Azerbaijan, Ukraine, and Uzbekistan have set the age at 17 years, while Moldova has the lowest age at 16 years. These countries are therefore compliant with the Optional Protocol, though could further raise the age to 18 years. The forthcoming General Comment on Adolescents recommends that “States should raise the

⁷⁷ http://www.unicef.org/crc/index_protocols.html

age of military recruitment and training by armed forces, non-State armed groups and security companies to 18 years.” An overview can be found in the map below.

Map 10 I. Age at which children can join the military voluntarily



Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional.

Additionally, a majority of countries have compulsory military service, with eight countries not mandating conscription for young people. Ukraine recently reintroduced military service due to the on-going regional conflict⁷⁸. All countries meet the minimum requirement in the CRC for children to be protected from participation in hostilities with a legal minimum age set – predominately 18 years. Even where adolescents may join the military at 17 years, they may not participate in hostilities until they have reached 18 years, as is the case of Turkmenistan, Ukraine and Uzbekistan (see the table at the end of the section for details).

10.2 Digital rights and privacy

Throughout the region, the digital rights of children and adolescents are unclear. In terms of consent for the use of personal data, use of images and personal media in the media, and the privacy of children in court proceedings, the legislation was either unclear or no data could be found.

The rights of children in a digital age were subject to discussion by the CRC Committee in 2014 with a series of recommendations⁷⁹ to States and other actors, particularly in terms of

⁷⁸ <http://www.independent.co.uk/news/world/europe/ukraine-crisis-military-conscription-to-be-reintroduced-by-interim-government-9313234.html>

⁷⁹ Committee on the Rights of the Child, 2014, [Report of the 2014 Day of General Discussion: Digital media and children's rights](#).

child privacy, protection, and education. While there are significant positives to digital inclusion and accessibility, such as access to information, services and communities, the General Comment on Adolescents notes that,

While the digital environment offers huge opportunities for adolescents, it can also expose adolescents to online fraud, severe and growing incidence of cyberbullying, grooming for sexual exploitation, and targeting by armed groups... States are urged to ensure the active engagement of adolescents in the design and implementation of initiatives aimed at fostering online safety.

Moldova and Azerbaijan are the only countries to have a specific reference to a child's consent to use of personal data, but in most countries legislation is generic and does not refer directly to children or adolescents. No country in the region has a known minimum age at which images and personal data of children can be disclosed.

Box 10.1 Key findings for safety, security and ICT

- Across the region, five countries have a minimum age between 15-17 years for adolescents joining the military voluntarily. Four countries, Azerbaijan, Turkmenistan, Ukraine, and Uzbekistan, have set this age at 17 years, while Moldova has the lowest age at 16 years.
- A majority of countries have compulsory military service, with only five countries not mandating conscription for young people.
- All countries meet the minimum requirement in the CRC for children to be protected from participation in hostilities with a legal minimum age set – predominately of 18 years.
- Moldova and Azerbaijan are the only countries to have a specific reference to a child's consent for use of personal data, but in most countries legislation is generic and does not refer directly to children or adolescents. No country in the region has set a minimum age at which images and personal data of children can be disclosed.

Box 10.2 Policy implications and open questions on safety, security and ICT

- Information on digital rights proved to be very difficult to source, but it appears that with regards to children's rights to their own images and data in the digital sphere, there are gaps within the existing legislation. This is an area for both future research providing comparative information on national legislation, and future advocacy work.

Table 10.A Safety, security and ICT across the region

| Country | Region | MA to join the military voluntarily | Age of compulsory military service / drafting | MA to participate in hostilities | MA to purchase and/or hold a firearm | MA for providing consent for the use of their personal data | MA at which images and personal data of children can be disclosed in TV, Press, Web. Social Media | MA for close door rules |
|----------------------|-----------------|-------------------------------------|---|----------------------------------|--------------------------------------|---|---|-------------------------|
| Belarus | Eastern Europe | 18 [19] | 18 | 18 | 18 | unclear | unclear | <16 |
| Bulgaria | | 18 | -- | n.d. | n.d. | 18 (14*) | unclear | n.d. |
| Moldova | | 16 | 18 | 18 | 21 | 18 | unclear | <18 |
| Romania | | n.d. | -- | n.d. | n.d. | 18 | 16 (14*) | unclear |
| Russia | | 18 | 18 | 18 | 21 | 18 | 14 | unclear |
| Ukraine | | 17 | 18 | 18 | 21 (25) | n.d. | 18 | n.d. |
| Albania | Southern Europe | 19 | -- | 19 | n.d. | unclear | n.d. | <18 |
| Bosnia & Herzegovina | | 18 | -- | 18 | 18 | n.d. | unclear | <18 |
| Croatia | | 18 | -- | n.d. | n.d. | 18 | unclear | n.d. |
| Kosovo | | -- | -- | -- | 21 (16) | unclear | n.d. | <18 (>18) |
| Macedonia | | 18 | -- | 18 | 18 (<18) | n.d. | Unclear (<16+) | 18 |
| Montenegro | | 18 | 18+ | 18 | 14+ | 18 | 18 | 18 |
| Serbia | 18 | -- | 18 | 18 | 15 | n.d. | 18 | |
| Armenia | Caucasus | 18 | 18 | 15 | 18 | n.d. | n.d. | unclear |
| Azerbaijan | | 17 | 18 | 15 | 18 | 18 | n.d. | unclear |
| Georgia | | 18 | 18 | 18 | n.d. | n.d. | unclear | <18 |
| Turkey | | 18 | 20 (15+) | 18 | n.d. | nd. | n.d. | 18 |
| Kazakhstan | Central Asia | 19 | 18 | 18 | 18 | 10 | unclear | <18 |
| Kyrgyzstan | | 18 | 18 | 18 | 18 | n.d. | unclear | unclear |
| Tajikistan | | 18 (20) | 18 | 18 | 21 | n.d. | n.d. | unclear |
| Turkmenistan | | 18 | 18 | 18 | 18* | n.d. | n.d. | Unclear |
| Uzbekistan | | 17 | 18 | 18 | n.d. | n.d. | n.d. | <18 |

Source: YPL for UNICEF. Data on Albania, Kosovo, Russia and Turkey is to be verified. The EU Agency for Fundamental Rights (FRA) has kindly provided information on Bulgaria, Croatia, Romania collected by their interdisciplinary research network FRANET. This data is provisional. MA: Minimum Age.

11 Concluding thoughts on legal age barriers in CEE/CIS

Minimum age legislation is receiving increasing attention with the Child Rights International Network (CRIN), the EU Fundamental Rights Agency (FRA) and UNICEF all conducting research and analysis. The forthcoming General Comment on Adolescents will go further than the CRC and advocate for specific minimum ages in some areas, as well as the removal of minimum age limits entirely in others. The ages at which children and adolescents can claim rights, access services and independently make choices is receiving considerable attention and renewed impetus in 2016.

This report takes stock of existing age-related legal provisions for children, adolescents and youth across the 22 countries and territories of the CEE/CIS region. Based primarily on national laws and policies, as well as State Party Reports to the CRC and CRC Concluding Observations, this research has focused on more than 70 domains. With this in mind, the research has centred on the importance of specific ages in three perspectives regarding children and adolescents: the realisation of their rights; the barriers to accessing services; the relevance for wider policy affecting their lives.

The report presents data in a number of globally recognised domains: civic and legal rights; political participation; social participation; economic participation and education; health; safety, security and ICT. While key findings and policy implications for the thematic sections can be found in each section, this conclusion links the findings to the overall work of UNICEF RO CEE/CIS and UNICEF globally.

In recent UNICEF programmatic and strategic documents⁸⁰, adolescents are specifically mentioned in the health domain, including HIV & AIDS and nurturing adolescent wellbeing; in the area of social inclusion and child protection, including juvenile justice, exploitation and abuse, and protection in humanitarian crises; and to build assets and skills of adolescents. With regards to these areas, this report offers significant findings.

First, the health domain is most striking for its high minimum ages, and the area in which legal age barriers are clearly obstacles for access to services. With regards to balancing children's right to both protection and participation, in the health domain, it appears that protective considerations outweigh children's right to participate and consent to matters affecting them. Additionally, this is an area where we saw most inconsistencies between policy fields, e.g. a young woman aged 17 could be married, assume legal emancipation, but require parental consent for contraception. Legal reform that removes inconsistencies and enables adolescents to independently receive medical advice, including on sexual and

⁸⁰ UNICEF, 2014a, [UNICEF Strategic Plan 2014-2017](#) c.o. and UNICEF, 2014b, *Accelerating Programming on Adolescents 2014-2017* c.o.

reproductive health services, should be a priority, not the least to create legal opportunities for young people to access medical and counselling services provided through the health care system, including by youth-friendly services that UNICEF supports in the region.

Second, within the field of social inclusion and child protection, it is promising to see that across the region a child's consent is required for adoption, foster care, change of name or modification of family relations, often even at the age of 10 years. Children are also protected from the death penalty and from being imprisoned with adults. Additionally, all countries meet the minimum requirement in the CRC for children to be protected from participation in hostilities, with a legal minimum age set – predominately of 18 years. On the other hand, there are contradictions between the often rather low minimum age of criminal responsibility and the older ages at which children can address courts as plaintiffs. Moreover, adolescents' digital security and privacy remain areas that receive little legislative attention.

Third, with regards to adolescents' development of skills, the research showed that eleven countries have set a minimum age for full-time working that is lower than the age for the mandatory end of schooling. Postively, all countries ensure children are protected from hazardous work, and in most cases they are entitled to equal minimum wage agreements. Fourth, another key finding of this report is that adolescents are rarely visible in legal or policy terms – with the main exception of juvenile offenders. This report supports the argument that more action is needed, not only to “consolidate existing investments in and accelerate the visibility of adolescents throughout the organization”⁸¹, but also to make adolescents visible as a group at large.

The lack of visibility of adolescents in policy and programming is also an argument of the forthcoming CRC General Comment No. 20. One way in which adolescents can make themselves heard is through participation. In this regard, however, this research is not encouraging, as it shows that access to formal political participation (which is only one of many forms of participation), including participation in children's and youth' organisations, is restricted mostly to adults. In particular, candidacy ages are high – up to the age of 30 years in Turkey.

With regards to other recommendations by the CRC General Comment No. 20, it may be said that most countries are found in compliance with the GC because they have set these minimum ages at the recommended age of 18 for marriage, access to alcohol and tobacco, admission to hazardous employment, and the participation in hostilities and armed forces. However, marriageable ages in particular are subject to numerous exceptions, e.g. with Ukraine and Belarus permitting heterosexual marriage below the “absolute minimum age”

⁸¹ UNICEF, 2014b, *Accelerating Programming on Adolescents 2014-2017 c.o.*

recommended by the CRC and CEDAW Committees. In terms of equality across sexuality, only Croatia recognises and permits homosexual civil partnerships.

This is another finding of the report – the broad view that across policy domains, minimum ages clearly show a lack in uniformity. Minimum ages are riddled with with exceptions, additions, and considerations. This makes it more complicated to fully understand, monitor, and improve the situation for children and adolescents – not least for them as individuals attempting to understand the laws for themselves. And yet, numerous child rights advocates lobby for less strict minimum ages in several domains, allowing for flexible mechanisms that take into account children’s different capacities at a given age. Hence, not all exceptions and considerations are necessarily bad – but equally, some are also problematic for equity reasons.

A nuanced review of the minimum ages debate, in the light of the different principles of child rights – protection, participation, equity, evolving capacity – and including a greater degree of analysis (e.g. different modes by which capacity is established), could be suitable next step to build upon this mapping. Together with this piece of research, it could act as a starting point for UNICEF CEE/CIS to consider the legal minimum ages that impact on the rights, decisions and choices of children and adolescents. It could act as a strong foundation for further research, analysis and advocacy across the CEE/CIS region, within UNICEF globally, and throughout the child rights movement.

At the end of this report, it may also be said that the exploration of some questions on particularly vulnerable groups – which were originally included in this research – sadly yielded little results. They have therefore not been portrayed here. The original aim was to also incorporate data on children’s access to shelters for homeless people, as well as on special requirements for refugee children. Excluded from the research at an earlier stage – due to capacity limitations – was the detailed exploration of rules applicable to children that become mothers. All three groups, the homeless, refugees, and teenage mothers, belong to particularly vulnerable adolescent populations across the region and globally. But, in depth research into legal age barriers of such specific groups – as well as for children with special educational needs – would necessitate more resources.

However, it may be that for these groups, as potentially also in other domains, legal barriers are only one among many obstacles in realising rights and accessing services for adolescents. Therefore, while this study focuses on legal restrictions, and is proud to present data on so many countries and such diverse policy fields, its authors are also fully aware of its limitations. It is a desk-based, legislative review only. It is beyond the scope of this research to explore the reality for children, adolescents and youth – both where their rights may be violated, such as through early marriage, or where there are emancipatory practices below the legal age, such as doctors and NGOs providing contraception advice to young people

unofficially. The next step of future research on age barriers should thus explore with children, adolescents and youth, how legal age barriers – together with customary, societal, political, psychological, or other barriers – discourage them from or enable them to realise their rights. Thereby, future research can contribute to UNICEF’s global approach to programming for children and adolescents, where they are “not only entitled to the same rights but should be provided with the same level of opportunity to enjoy these rights.”⁸²

⁸² UNICEF, 2014b, [Accelerating Programming on Adolescents 2014-2017](#).