

Department of Political Science  
Major in Politics, Philosophy, Economics  
Chair in Macroeconomics

Policy making and children's rights.  
How can the quality of life of children be improved in the  
European Union?

SUPERVISOR

Prof. Massimo Ricottilli

CANDIDATE

Sara Piacentini  
070762

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## INTRODUCTION

The offset of the paper provides the reader with an overall view on the current legislation about the protection of children's rights in the European Union. The knowledge of the European Union's legal framework is of paramount importance. It is required to know the possibilities and the burdens set by the legislation in order to plan feasible and effective policies.

Secondly the research focuses on the event from which the need of new policies has arisen. The latest economic crisis which has spread in Europe has worsened the condition of life for millions of children and exposed them to life-long risks. The assessment of the needs can be done after the depiction of the consequences that the economic crisis had on the well-being of children.

The third section of the paper is constituted by the proposal of the project. The project shall be compliant with the European Union's current legislation and it shall address the needs as assessed by the analysis of the impact of the economic crisis on children. The project is constituted by a programme which intends to limit the negative effects of the economic crisis on children and to improve the quality of their lives.

Although treaties have been ratified and policies have been implemented, still an enormous number of children suffer everyday. Only in Italy, 1 million of children are deemed to live in poverty and do not receive the accurate fulfilment for their needs. The problem is that the pre-school age is not taken into account by policy and law makers, given the assumption that during such an age the care of the child is an exclusive prerogative of the parent(s). However not always the family of the baby is able to be fully in charge of his or her development. There is a legislative gap in respect to policies addressed to the development of children between 0 and 3 years old.

Therefore for the project's proposal I will focus the research in terms of target, time and space. I will take into consideration only children in pre-school age (0-3 years) from low and middle income families who reside in one of the Member States of the European Union, namely in Italy. I will refer to the city of Rome for simplicity, but the model can be reproduced in any city. I will propose a project which can help families with children during their initial development. The project is ideally part of a much wider purpose, which consists in the elaboration of a new

worldwide sustainable educational and care system for children of all ages, from 0 to 18 years old. The system shall have the interest of the children as primary concern. I strongly believe that education is the key for the future. If we provide our children with better education and care, our society will appreciate an exceptional growth. Obviously the scope is too wide to be outlined in a single research paper. Subsequently the present paper represents one suggestion, one step, toward a path of increasingly mutual collaboration between the citizens, the State and the European institutions for a better policy making in the interests of children.

## CHAPTER I

### EUROPEAN UNION'S LEGAL FRAMEWORK FOR CHILDREN'S RIGHTS

*‘The true character of a society is revealed in how it treats its children’  
Nelson Rolihlahla Mandela*

#### 1.1 INTRODUCTION

The purpose of the first chapter is to provide an overview of the legal framework with regards to children's rights. Multiple programmes and policies concerning the rights of the children have been introduced. These are centred on various issues such as health and safety, end of child labour, trafficking and prostitution, antidiscrimination, education and so on. The present chapter reviews the rights of the child at the international level and within the boundaries of the European Union (hereafter EU) after the Lisbon Treaty.

The analysis of the legislation is carried out at the international and regional level.

The findings are that the EU Member States have ratified both regional and international conventions, covering a wide range of aspects in the protection of children's rights, providing protection at the national level. However, the European Union's institutions are not legally bound to rely on the content of those conventions in their respective decision-making processes since the EU is not party to the conventions.

Finally, as the Lisbon Treaty came into force in 2009, the protection of children's rights was integrated as an objective of the EU. Consequently the EU institutions are required to take children's rights into account while deliberating on measures affecting them.

Nonetheless the EU's legal framework remains limited in comparison with international standards.

The EU's approach regarding the protection of children's rights has evolved throughout the years. The concepts of European integration and citizenship, as well as demographic change and the enlargement of the EU, have increased concern towards the rights of children. The issue of children's rights was not of high relevance to the EU agenda until the 1990s, since which children's rights have gradually been given increased consideration, due to new competences acquired by the EU in this area. Nowadays children's rights occupy the forefront of the European policies' agenda, thanks to the growing awareness of the importance of the protection of fundamental rights. After the Lisbon Treaty, children's rights were incorporated in the Treaty on

the EU. Thus, all policies of the EU must be planned and subsequently implemented in accordance with children's best interests.

The Lisbon Treaty establishes 'protection of the rights of the child' (Article 3)<sup>1</sup> as an objective among the aims of the EU. As stated by Article 24 of the Charter of Fundamental Rights of the EU, children now 'have the right to such protection and care as is necessary for their well-being.'<sup>2</sup> and their best interests must be a primary consideration in 'all actions relating to children, whether taken by public authorities or private institutions'<sup>3</sup>. The aforementioned articles and other such relevant ones will be analysed in detail subsequently.

In 2011 the Commission's Communication 'An EU Agenda for the Rights of the Child' outlined eleven actions 'to step up efforts in protecting and promoting the rights of children'<sup>4</sup> including changes to make the justice system more child-friendly. Moreover the mainstreaming of children's rights gained increasing relevance in the European Parliament legislative procedures, by the integration of child related policies into the wider application of EU law. This is of the uttermost importance since 'Political will may fall when political changes take place; therefore a mainstreaming process needs to be in place.'<sup>5</sup>

The EU and the Member States are bound to respect children's rights by virtue of both international and European Law.

## 1.2 THE RIGHTS OF THE CHILD AT THE INTERNATIONAL LEVEL

UNICEF (United Nations International Children's Emergency Fund) is the UN's specialised agency for children. It aims 'to advocate the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential'.<sup>6</sup>

The UNCRC (United Nations Convention on the Rights of the Child)<sup>7</sup> with its two Optional Protocols is the foundation of the promotion of children's rights at the international level. The Convention establishes political, civil, social and economic standards for the protection of children's rights. Its signatories are guided in developing a coherent and comprehensive

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<sup>1</sup> Treaty of Lisbon art 3

<sup>2</sup> European Charter of Fundamental Rights art 24.1

<sup>3</sup> European Charter of Fundamental Rights art 24.2

<sup>4</sup> European Commission (2011), Communication from the Commission to European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An EU Agenda for the Rights of the Child, COM(2011) 60, 14

<sup>5</sup> MAINSTREAMING CHILDREN'S RIGHTS IN EU LEGISLATION, POLICY AND BUDGET

<sup>6</sup> UNICEF mission's statement, as updated by 25<sup>th</sup> April 2003, [www.unicef.org](http://www.unicef.org)

<sup>7</sup> United Nations Convention on the Rights of the Child adopted by UN General Assembly Resolution 44/25 of 20 November 1989

framework of principles concerning child-specific rights. The child is defined as ‘every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier’.<sup>8</sup> The Convention demands policy makers to guarantee that the best interest of children are given primary consideration in all actions that may influence them. For the purpose of the present paper, the articles considered to have the most relevance are articles 3, 6, 26, 27 and 28.

### *Article 3*

*1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*

*2. State parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.*

*3. State parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.*<sup>9</sup> (author’s emphasis)

The interest of the child shall be the primary concern of the institutions (art 3.1). state parties are bound to ensure that child protection and care through legislative and administrative measures (art 3.2), ‘tak[es] into account the rights and duties of [the child’s] parents [in as far as they are] legally responsible for him or her’.<sup>10</sup> The indicated statement does not define parental responsibility clearly and the boundary between state responsibilities and familial responsibility for the care of the child are not appropriately delineated. Undoubtedly this is partially due to the impossibility of conglomerating a multitude of family patterns and dynamics under the umbrella

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<sup>8</sup> United Nations Convention on the Rights of the Child adopted by UN General Assembly Resolution 44/25 of 20 November 1989, art. 1

<sup>9</sup> United Nations Convention on the Rights of the Child adopted by UN General Assembly Resolution 44/25 of 20 November 1989, art. 3

<sup>10</sup> United Nations Convention on the Rights of the Child adopted by UN General Assembly Resolution 44/25 of 20



of one single statement. Familial customs, indeed, vary both within and across countries, not to mention societal change in which traditional nuclear families are becoming less common and nonnuclear families are castigated less and less. It would be problematic to homogenise them for the purposes of political administration. Given the difficulty of applying these statutes in a myriad of circumstances, the meaning of art 3.2 remains unclear and a legislative gap stems from it. From here, it is necessary to plug this gap with new policies centred around the protection and care of children, giving state parties the opportunity to widen their sphere of responsibility over children.

#### *Article 6*

*1. State parties recognise that every child has the inherent right to life.*

*2. State parties shall ensure to the maximum extent possible the survival and development of the child.*<sup>11</sup> (author's emphasis)

Once more, the responsibility of state parties for the development of children is emphasised but in this instance the strict meaning of development and the means by which it shall be ensured are not defined.

#### *Article 26*

*1. State parties shall recognise for every child the right to benefit from social security, including social insurance and shall take the necessary measures to achieve the full realisation of this right in accordance with their national law.*

*2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.*<sup>12</sup> (author's emphasis)

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November 1989, art. 3.2

<sup>11</sup> United Nations Convention on the Rights of the Child adopted by UN General Assembly Resolution 44/25 of 20 November 1989, art. 6

<sup>12</sup> United Nations Convention on the Rights of the Child adopted by UN General Assembly Resolution 44/25 of 20 November 1989, art. 26

The child is entitled to the right of benefits from social security. Benefits shall be decided in accordance with multiple factors, including the child's family income, and other indicators, such as the child deprivation index. However, there is no mention of how exactly the benefits shall be allocated within the children's population of each state. Recurrently there is no indication of the means by which the general principles stated in the Convention shall be implemented. Indeed, it is left to the deliberation of state parties to decide how to implement the rules set by the Convention in their national legislation.

#### *Article 27*

*1. State parties recognise the right of every child to a standard of living adequate for the child 's physical, mental, spiritual, moral and social development.*

*2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child 's development.*

*3. State parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.*

*4. State parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, State parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.<sup>13</sup>*

State parties are compelled to intervene in cases where a child is not adequately provided for by

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<sup>13</sup> United Nations Convention on the Rights of the Child adopted by UN General Assembly Resolution 44/25 of 20

the parents or otherwise those financially responsible for the child. Such intervention might include, but is not limited to, the provision of primary goods and services such as nutrition, clothing and housing. Once these primary needs are satisfied, states shall provide education programmes, for the reason that education is among the most determinant factors for every child's development. Therefore, by providing primary goods but not education and care programmes, states are, in effect, only guaranteeing the *survival* of the child but not his or her *development*.

*Article 28*

*1. State parties recognise the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:*

*(a) Make primary education compulsory and available free to all;*

*(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;*

*(c) Make higher education accessible to all on the basis of capacity by every appropriate means;*

*(d) Make educational and vocational information and guidance available and accessible to all children ;*

*(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.*

*2. State parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child 's human dignity and in conformity with the present Convention.*

*3. State parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.*<sup>14</sup>

States have reached the fundamental landmark of providing free and available primary education to all. Moreover, secondary and higher education are encouraged and accessible. However the legislation fails to take account of the delicate pre-school age, despite its inherent importance in the development of a child socially, psychologically and intellectually,<sup>15</sup> and shall indeed be protected by specific programmes.

Every EU Member State has ratified the Convention; notwithstanding the European Union is not a party.<sup>16</sup> The European Commission recently stated that the ‘standards and principles of the UNCRC must continue to guide European Union’s policies and actions that have an impact on the rights of the child.’<sup>17</sup> Additionally, the EU Court of Justice has explicitly recognised the necessity of safeguarding children’s rights and requires EU law to take due account of the UNCRC.<sup>18</sup> All the Member States have ratified the Convention including two additional Optional Protocols, the first concerning the sale of children, child pornography and child prostitution, and the second, the involvement of children in armed conflict.<sup>19</sup>

The UN has played a major role in setting rules to protect the rights of children and has had a positive influence both at the European Union’s and at the national level in the proliferation of measures oriented towards that purpose.

### **1.3 THE RIGHTS OF THE CHILD IN THE EUROPEAN UNION**

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<sup>14</sup> United Nations Convention on the Rights of the Child adopted by UN General Assembly Resolution 44/25 of 20 November 1989, art. 28

<sup>15</sup> see study by Christopher Nave, doctoral candidate at the University of California published in the journal *Social Psychological and Personality Science*.

<sup>16</sup> The UNCRC is open for signature to States only. Nonetheless, the EU could bind itself to its provisions through the conclusion of an accession Protocol or through unilateral declaration.

<sup>17</sup> European Commission (2011), Communication from the Commission to European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An EU Agenda for the Rights of the Child, COM(2011) 60, 3.

<sup>18</sup> E.g., case C-540/03, *European Parliament v Council of the European Union* [2006] ECR 5769, 37.

The Lisbon Treaty asserts the relevance of fundamental rights, including children's rights, to the European Union's agenda. The requirements outlined in Article 6 of the Treaty on the European Union (TEU) has particular significance to this issue as it compels the European Union to accede to the European Convention on Human Rights (ECHR)<sup>20</sup>. The EU has developed a set of measures for the protection of children based on the precedents set in Article 6(2) of the TEU, and other statutes from the ECHR, the UNCRC, the European Social Charter and the Charter of Fundamental Rights. These measures include legal instruments, best practices, guidance documents, policy actions and financial assistance with regard to political dialogue within and outside of the EU, covering issues such as violence, human trafficking, discrimination, poverty, labour, health and education.<sup>21</sup>

#### A. EUROPEAN SOCIAL CHARTER

The Council of Europe's aim to protect economic and social rights of children has developed various instruments. The European Social Charter<sup>22</sup> entails specific measures related to children. The most significant article in relation to the present research is art.17.

*Article 17 – The right of children and young persons to social, legal and economic protection*

*With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:*

*1. (a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;*

*(b) to protect children and young persons against negligence, violence or exploitation;*

*(c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;*

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<sup>19</sup> EU framework of law for Children's Rights, Directorate General for Internal Policies 2012.

<sup>20</sup> TEU, art.6.2

<sup>21</sup> EU framework of law for Children's Rights, Directorate General for Internal Policies 2012.

2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.<sup>23</sup>

The right to education is repeatedly stated, however again only primary and secondary education is taken into consideration, while the pre-school age is not mentioned. The state parties are, again, compelled to provide to children *‘the care, the assistance, the education (...) they need’*<sup>24</sup>. In determining the need of the child with regards to education, it is important to ascertain whether they start upon enrollment in primary school or if they originate at birth? It is also important to assess at what point intervention and assistance will be most impactful in the lives of children and families, in order not only to meet their needs but promote efficiency on a governmental level. Ultimately, the legislation does not deal with the issue of lack of resources during the pre-school period of a child’s life.

## **B. CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION**

The Charter of Fundamental Rights of the European Union was incorporated within the EU legal framework, according to Article 7 of the TEU. It is directly binding on all EU institutions and Member States. The Charter preserves the rights of the child.

### *Article 14*

#### *Right to education*

- 1. Everyone has the right to education and to have access to vocational and continuing training.*
- 2. This right includes the possibility to receive free compulsory education.*<sup>25</sup>

The right to free and compulsory education is enshrined by the Charter; once more, however, the pre-school age is not taken into consideration. The care and the development of the child before school age is not considered as a concern of the state. Implicitly the family in which the child is born is supposed to be able to take full care of the child and to correctly fulfill his interests.

### *Article 24*

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<sup>22</sup> Council of Europe, European Social Charter (revised), CETS No. 163, adopted on 3 May 1996.

<sup>23</sup> Council of Europe, European Social Charter (revised), CETS No. 163, adopted on 3 May 1996, art.17

<sup>24</sup> Council of Europe, European Social Charter (revised), CETS No. 163, adopted on 3 May 1996, art.17, 1-a

<sup>25</sup> Charter of Fundamental Rights of the European Union, (2000/C 364/01), art 14.1-2

## *The rights of the child*

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.

2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.<sup>26</sup>

Art.24.1 and .2 restate the importance of the primacy of the interest of the child over any other interest during the policy and law making process. Once more, protection and care are guaranteed to children in order to assure their well-being. Arguably the well-being of the child shall increase over time. Once the basic needs are met for the ones who are most in danger, we shall seek to improve the average well-being of all children.

The EU is compelled to act according to the Lisbon Treaty in the fulfilment of children's rights, not only with regards to international law, but also in matters of its own legislation. When adopting decisions affecting children, the best interest of the child must be the primary consideration.<sup>27</sup>

### **C. SIGNIFICATIVE PROGRAMMES**

In 2006, the European Commission released a Communication named 'Towards an EU Strategy on the Rights of the Child', in which it indicated that 'the EU's obligation to respect fundamental rights, including children's rights, implies not only a general duty to abstain from acts violating these rights, but also to take them into account wherever relevant in the conduct of its own policies under the various legal bases of the Treaties' and, taking into account Member States' own competences, 'to take specific positive action to safeguard and promote children's rights.'<sup>28</sup> The Communication acted as a policy plan to advocate children's rights in its external and internal actions, as well as encouraging EU Member States' to achieve progress and become more focused on the topic of children's rights. One of the specific objectives set by the Communication propogates the mainstreaming of children's rights within the broader scheme of

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<sup>26</sup> Charter of Fundamental Rights of the European Union, (2000/C 364/01), art 24.1-2

<sup>27</sup> Save the Children (2011), Governance Fit for Children, To what extent have the general measures of implementation of the UNCRC been realised in the EU Institutions?, 12, available at [http://europe.savethechildren.se/Global/scs/EUROPE/Our%20focus/Gov\\_for\\_children/EU\\_webb\\_final.pdf](http://europe.savethechildren.se/Global/scs/EUROPE/Our%20focus/Gov_for_children/EU_webb_final.pdf) (8 February 2012).

<sup>28</sup> European Commission, Towards an EU Strategy on the Rights of the Child, COM(2006) 367, 3.

EU actions.<sup>29</sup> Moreover, it reinforces the EU's strategy on children's rights with the purpose of maximising 'the use of existing policies and instruments while addressing urgent needs.'<sup>30</sup> In 2011 the Commission continued to advance the rights of the child through its Communication 'An EU Agenda for the Rights of the Child'.<sup>31</sup> The Agenda's purpose was to protect and promote the rights of children in all the EU policies and actions.

A significant initiative adopted by the Parliament and the Council of the EU are the Daphne Programmes I, II and III which 'aim at promoting actions to combat violence against children, young people and women', following on from the European Commission's success with its predecessor: the Daphne Initiative. Daphne I started in 2000 followed by Daphne II (2004-2008) which expanded the work of Daphne I to prevent and combat all types of violence against children, young people and women extending to EFTA/EEA and EU candidate countries. Daphne III (2007-2013) has added to the previous goals the aim to further these objectives in order to attain a high level of health protection, well-being and social cohesion.<sup>32</sup> In 2012, the European Commission proposed a budget of €17.955.000 for this programme, with attention focused on the rights of victims of violence, violence linked to harmful practices, children as victims & perpetrators of violence, perpetrator programmes and interventions, training programmes for professionals in contact with victims, and empowerment work at grass-roots level.<sup>33 34</sup>

The European Forum on the Rights of the Child is an additional initiative worthy of consideration. It consists of 'a permanent group for the promotion of children's rights in the EU's internal and external action.'<sup>35</sup> It was launched following the adoption of the Commission Communication 'Towards an EU strategy on the Rights of the Child' in 2006. The Forum performs a set of functions such as advising European institutions with regards to the mainstreaming of children's rights in EU policy. The aforementioned function of the Forum is likely to be useful for the purpose of the present research. It is the only ad hoc forum for children

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<sup>29</sup> European Commission, Towards an EU Strategy on the Rights of the Child, COM(2006) 367

<sup>30</sup> European Commission, Towards an EU Strategy on the Rights of the Child, COM(2006) 367

<sup>31</sup> European Commission (2011), Communication from the Commission to European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions An EU Agenda for the Rights of the Child, COM(2011) 60.

<sup>32</sup> European Commission Brochure (2005), The Daphne Experience. – 1997-2003, available at: [http://ec.europa.eu/justice\\_home/daphnetoolkit/files/others/daphne\\_experience/daphne\\_experience\\_en.pdf](http://ec.europa.eu/justice_home/daphnetoolkit/files/others/daphne_experience/daphne_experience_en.pdf), (6 March 2012); more information on Daphne III Funding Programme available at: [http://ec.europa.eu/justice/grants/programmes/daphne/index\\_en.htm](http://ec.europa.eu/justice/grants/programmes/daphne/index_en.htm), (6 March 2012).

<sup>33</sup> DAPHNE Annual Work Programme 2012, available at: <http://ec.europa.eu/justice/newsroom/files/daphnewp2012.en.pdf>, (6 March 2012).

<sup>34</sup> EU framework of law for Children's Rights, Directorate General for Internal Policies 2012.

<sup>35</sup> European Forum on the Rights of the Child, available at [http://ec.europa.eu/justice/fundamental-rights/rights-child/european-forum/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/european-forum/index_en.htm), (8 February 2012).



in the scheme of European institutions. It can act as a platform to spread information about children, to raise awareness concerning their issues and to start planning and proposing policies aimed at their protection and development.

#### 1.4 CONCLUSION

The results of the analysis of the European Union's legal framework with regards to the right of the child shows that in recent decades children's rights have acquired increasing importance within the European Union's social agenda.

The Lisbon Treaty enhanced the rights of the child by introducing explicit references to children's rights into both the Treaty on the European Union and the Treaty on the Functioning of the European Union. The capacity of EU institutions and of Member States has been widened so that it encapsulates the ability to advocate and promote the protection of children's rights.

The most significant events regarding the promotion of the rights of children are the Communication 'Towards a Strategy on the Rights of the Child' (2006),<sup>36</sup> the Lisbon Treaty itself (2009) and the EU Agenda for the Rights of the Child (2011).<sup>37</sup> Nonetheless they aim to develop a logical and inclusive operational attitude towards children's rights. The limited legal competence to formulate measures concerning children's rights had restricted such actions until its implementation. While both the Lisbon Treaty and the Charter of Fundamental Rights of the European Union provide further legal weight and guidance for European Union's actions in the field of children's rights, neither of these tools actually confers a general competence, or legal basis for EU institutions to act upon.

Generally the aforementioned legal instruments include broad commitments and policy objectives rather than specific legal obligations. They also lack the guidance in terms of the means by which to achieve their results. The meaning and definition of concepts such as 'need', 'well-being', 'interest' are not specified, leaving room for abuse or neglect. There is no certifiable, clear cut distinction between states' responsibilities and the duties of the family. The objectives are so broad and nonspecific that state parties are left with a considerable amount of leeway as to exact extent to which rules are adopted. The issue of pre-school care is completely

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<sup>36</sup> European Commission (2006), Commission Communication: Towards an EU strategy on the rights of the child, COM(2006) 367.

<sup>37</sup> European Commission (2011), Communication from the Commission to European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: An EU Agenda for the Rights of the Child, COM(2011) 60.

disregarded, it is not taken into consideration as a primary need to be accounted for.

Albeit the Treaty on the European Union and Charter of Fundamental Rights of the European Union highlight the necessity for the protection of children's rights, the legal scope is restricted to an obligation for the European Union to promote children's rights in its policies. The European Union therefore is faced with the challenge to layout a tight regulatory framework within which both internal and external actions can be executed to a strict and well founded legal standard.

## CHAPTER II

### EFFECTS OF THE ECONOMIC CRISIS ON CHILDREN'S WELL-BEING IN EU MEMBER STATES

*'The child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.'*  
*Convention on the Rights of the Child, 1989*

#### 2.1 INTRODUCTION

The United Nations Convention on the Rights of the Child came into force in 1990 and 195 states are parties to the Convention, including all member states of the European Union (hereinafter 'EU Member States'). Nonetheless, an abounding number of its commitments remains in abeyance. The developed countries, which are allegedly supposed to guarantee them the most, have become less capable to deliver on them. The Great Recession, which sparked from a financial blow in the United States and spread rapidly worldwide, has exposed children to the effects of economic crisis. The gap between poor and rich families has widened in most of the industrialized countries. The place of birth may determine the rights and the lifetime opportunities for the child.

Higher unemployment rates caused families to be unable to provide protection and care to which children are entitled. An increasing number of children has encountered difficulty in fulfilling the most basic material and educational needs.

Additionally, a generation of capable and educated youth risks to be trapped in a limbo of vulnerability and unmet expectations due to the Great Recession.

The socioeconomic status of children and youth varies from country to country. Few countries have significantly responded to the crisis with timely plans that have protected children from the recession's most severe consequences. Many countries have carried out partial reforms to safeguard basic need such as health, food and housing. Occasionally some government's efforts have been hampered by the burden of the requirements imposed on them by the financial

markets and by the providers of budgetary support.

The goal of the present chapter is to draw attention to the situation of children, whose condition has been eschewed in the set of actions addressing the Great Recession. If the condition of children continues to be neglected, the crisis for them will continue far beyond the economic recovery. ‘The long-term well-being of our societies is at risk.’<sup>38</sup>

Firstly general and comprehensive observations are made concerning EU Member States’ response to the Great Recession and the correlation between the economic crisis and the condition of children. Two ‘league tables’ rank the change in the poverty levels of children and the impact of the recession on youth since the beginning of the crisis. Secondly it will be explained how the financial crisis has had a direct impact on children, and how children are bearing the effects of the crisis. Ultimately comments and recommendations for future actions conclude this section of the research.

## 2.2 FISCAL POLICIES IN EU MEMBER STATES DURING THE CRISIS

It is important to have an overview of the fiscal policy attitude in EU Member States in order to understand where cuts on social spending for children stem from.

‘The Great Recession of 2008–2009 and the European debt crisis of 2010–2012 were the greatest interruption in economic growth since the Second World War.’<sup>39</sup> Unsurprisingly, countries that adopted fiscal discipline before 2007 were much better prepared for the economic crisis. These countries enacted more stimulus tools and experienced a less dramatic downfall of GDP.

States adopted a broad variety of policies, anyhow each case of harsh fiscal consolidation was due to bond-market pressure and to wide structural budget deficits.

The general trend in the Eurozone was a move towards higher spending and higher taxes from 2007 to 2012, nevertheless the fiscal-policy attitude of EU Member States heavily depended on each country’s pre-crisis situation. In countries where there was structural deficit, predictable stimulus packages were enacted, followed by a deficit reduction. Moreover, countries with safer

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<sup>38</sup> UNICEF Office of Research (2014). ‘Children of the Recession: The impact of the economic crisis on child well-being in rich countries’, Innocenti Report Card 12, UNICEF Office of Research, Florence.

<sup>39</sup> Stimulus or Austerity? Fiscal Policy in the Great Recession and European Debt Crisis - Salim Furth, The Heritage

fiscal fundamentals experienced more policy flexibility during the recession. No common ‘European austerity’ policy existed, contrary to the general perception. Thus, each country pursued a different fiscal policy.

However, as it is difficult to cluster together taxation rise and spending cuts, it is reasonable to analyse separately the effects of taxes and spending on growth rates of GDP. Figure 1 illustrates the relationship between taxation and growth, and between spending and growth, showing both total and private-sector GDP, from 2009 to 2012.

In 2008 and 2009, larger stimulus packages were implemented in countries where budget deficits and public debts had been lower in 2007.

Sweden, for example, enacted reforms during the 1990s which allowed fiscal flexibility during the crisis and consequently, at the outbreak of the crisis, taxes were lowered.

Portugal, on the other hand, had previously raised income taxes. Prior to the crisis, Portugal’s economy slowly slipped into a deep recession prompting Olivier Blanchard in 2006 to note that, ‘the Portuguese economy is in serious trouble: Productivity growth is anemic. Growth is very low. The budget deficit is large [...] in the absence of policy changes, the adjustment is likely to be long and painful [and therefore] deficit reduction is required.’<sup>40</sup> Later, in contrast with this, between 2007 and 2010 Portugal increased both spending and taxation in order to decrease public deficit. Whereas Sweden experienced a vastly higher growth rate and lower unemployment rate in comparison to Portugal who faced a lower growth rate and higher unemployment.

‘Looking at the 2007–2012 period as a whole, there was a systematic shift toward more spending and more taxes in the large European economies. Although the composition of each deficit reduction was subject to extensive policy debates, the size of the reduction was almost completely determined by the fiscal situation [...]. The increase in interest rates was highly correlated with both structural deficit and fiscal consolidation. No drastic fiscal consolidation took place that was not preceded by a significant increase in the interest rate.’<sup>41</sup>

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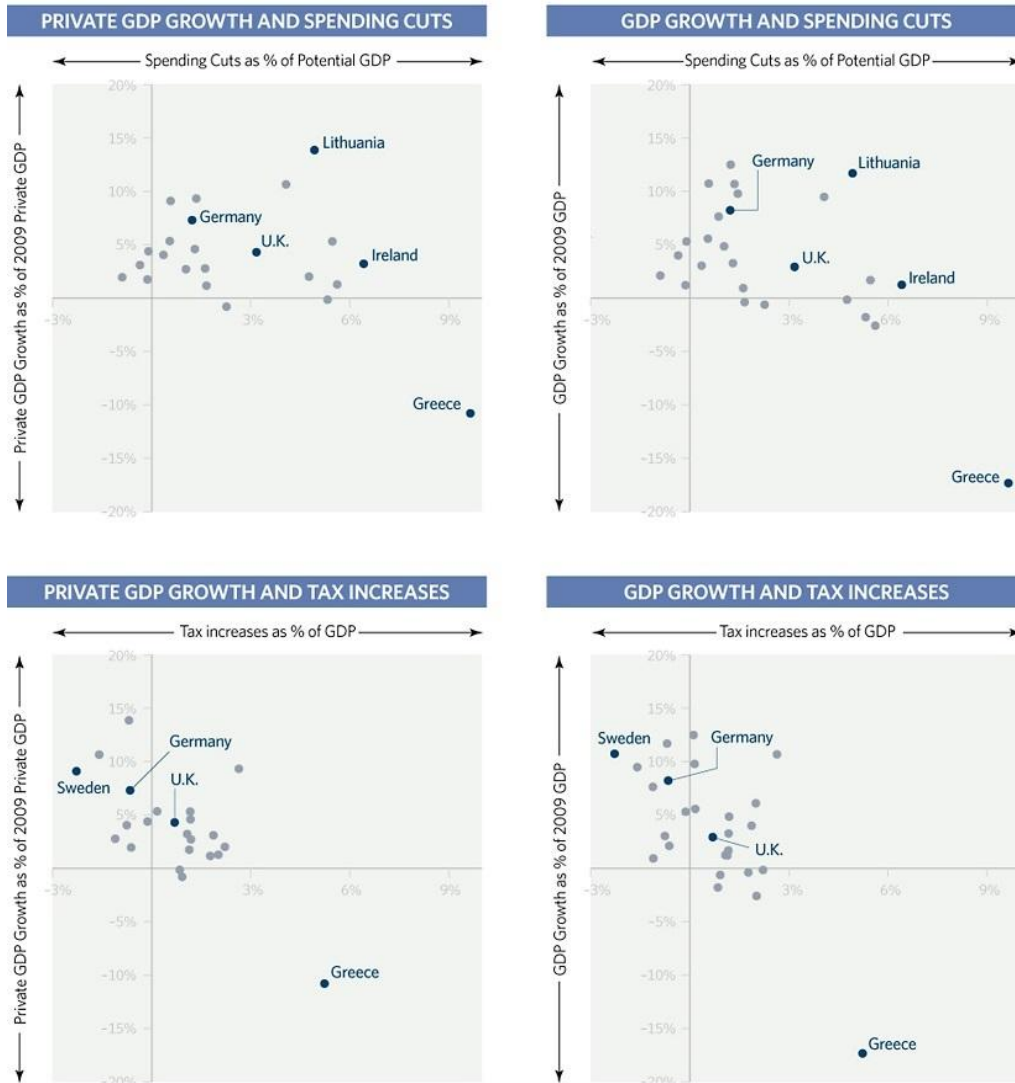
Foundation, Backgrounder #2920 on Economy, June 9, 2014.

<sup>40</sup> Olivier Blanchard, ‘Adjustment Within the Euro. The Difficult Case of Portugal,’ Portuguese Economic Journal, Vol. 6, No. 1 (April 2007), p. 5

<sup>41</sup> Stimulus or Austerity? Fiscal Policy in the Great Recession and European Debt Crisis - Salim Furth, The Heritage Foundation, Backgrounder #(why hashtag ?)2920 on Economy, June 9, 2014.

Figure 1

### Change in Taxes, Spending, and Growth, 2009–2012



**Notes:** Private GDP is GDP minus government purchases (G) Fiscal consolidation excludes interest.  
**Sources:** International Monetary Fund, "Taking Stock: A Progress Report on Fiscal Adjustment," *Fiscal Monitor*, October 2012, p. 21, Figure 15, <http://www.imf.org/external/pubs/ft/fm/2012/02/pdf/fm1202.pdf> (accessed March 29, 2014); Organisation for Economic Co-operation and Development, Stat Extracts, Annual National Accounts, 2007–2012, <http://stats.oecd.org/> (accessed November 2013); and European Commission, Eurostat, Annual National Accounts, 2007–2012, <http://epp.eurostat.ec.europa.eu/portal/page/portal/eurostat/home/> (accessed November 2013).

Between 1990 and mid-2000, output growth was decreased gradually in Germany. Then the labor market was reformed, hampering the growth of wages and making productivity catch up. In this regard, German workers became more cost-efficient and, albeit incurring in heavy financial losses during the crisis, Germany's output growth started again from the second quarter of 2009 (Q2-2009). Germany's economy was relatively strong and stable compared to other Eurozone countries.

It is wrongly assumed that most common trend of EU Member States was an expansionary fiscal policy during the first phase of the recession (2007 – 2009) followed by a contractionary one during the second phase (2010 – 2012). In reality, only a few countries adopted this archetypal trajectory, but they were very much studied as they were ‘in the spotlight’. The foremost of these countries were the UK, Spain and Greece. The majority of EU Member States, on the other hand, did not follow this trend.

In Italy, for example, the revenue rate was even increasing during the recession, instead of decreasing as it was previously thought. During the pre-crisis period, output growth was slowly increasing while a high debt was crippling the economy, being about 103,3% of GDP in 2007. The stimulus package slightly pushed up spending while revenue rate was rising as well. Then between 2009 and 2012, spending decreased while taxation kept on increasing. By the end of the 2014, Italy had higher taxation and lower spending than in the beginning of 2007. (Italian debt persisted in increasing and it was estimated to amount at 135,1% of GDP by the end of March 2015.)

Figure 2 shows the relationship between the change in revenue rate and the change in core government spending. The revenue rate ‘equals total government revenue divided by GDP, and is expected to fall slightly during recessions in countries with progressive taxation.’<sup>42</sup> The core government expenditure is not inclusive of transfer payments and interest payments.

Greece and Italy are located in the upper left quadrant: in this case, increase in taxation is paired with decrease in government spending. Many other countries, for example Germany and France, are located in the upper right quadrant, showing an increase in both taxation and government spending.

‘In Germany, both spending and the revenue rate rose more than 1 percent of GDP from 2007 to 2009, with relatively little change from 2009 to 2012. In France, spending rose almost 1 percent of GDP in 2009 and then remained roughly constant through 2012. Taxes fell slightly in 2009, but then rebounded well beyond the 2007 baseline rate by 2012. In Sweden, taxes dropped and spending rose steadily from 2007 to 2012.’<sup>43</sup>

This figure demonstrates that there was no dominant trend, rather a variety of policies adopted by the EU Member States.

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<sup>42</sup> *Ibid.*

Figure 2

### Spending and Revenue Growth Since 2007



**Notes:** Figures for 2011 are used for countries lacking 2012 data. Chart includes only those countries in which GDP fell from 2007 to 2009.  
**Sources:** Organisation for Economic Co-operation and Development, Stat Extracts, Annual National Accounts, Table 12: "Government Deficit/Surplus, Revenue, Expenditure and Main Aggregates," 1995-2012, <http://stats.oecd.org/> (accessed May-December 2013), and European Commission, Eurostat, s.v. "General Government Expenditure by Function (COFOG)," [http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search\\_database](http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database) (accessed January, 2014).

## 2.3 CORRELATION BETWEEN THE ECONOMIC CRISIS AND CHILDREN'S WELL-BEING

Innocenti Report Card 12<sup>44</sup> provides evidence that there is a strong correlation between the effects of the Great Recession on national economies and the drop in children's well-being since 2008. According to the report, 'children are suffering most, and will bear the consequences longest, in countries where the recession has hit hardest.'<sup>45</sup>

The strength of the crisis' impacts upon children is due firstly to the depth of the recession, secondly to a country's economic conditions previous to the crisis and finally to the consequence of policy responses. Undoubtedly, children are the most abiding victims of the recession. Since 2008 child poverty has increased in more than half of industrialised countries. An estimate

<sup>43</sup> *Ibid.*

<sup>44</sup> UNICEF Office of Research (2014). 'Children of the Recession: The impact of the economic crisis on child well-being in rich countries', Innocenti Report Card 12, UNICEF Office of Research, Florence.

<sup>45</sup> *Ibid.*



of 76.5 million children currently live in poverty in the richest countries. Of these, 6.6 million entered into poverty during the recession. Moreover, the crisis has influenced other important aspects of people's social lives. During the crisis, feelings of uncertainty and stress arose in the majority of the EU countries, according to quantitative self-perception indicators that capture the accessibility to food and measure of life satisfaction. In households with children the average income has decreased in almost half of the EU Member States. 'The number of families stating that their situation is 'very difficult' has risen in most countries.'<sup>46</sup> The risk of 'working poverty' (i.e. working below the poverty line) has increased of 4% by having one or more than one child in the family. In countries such as Italy, Greece and Estonia the number of households with children, which are unable to afford meat and fish every second day, has increased by around 60%. In the 12 countries which were mostly exposed to the recession more than half of the families with children is unable to deal with unplanned expenses.

This sort of change has a deep impact on the children's daily life. In addition, children suffer from the worsening of their family's socio-economic situation, both directly and indirectly. They feel stressed and apprehensive if parents experience income loss or are unemployed. One of the most important indicators of poverty is housing. Due to the recession in many countries, families experienced eviction and incurred in mortgage default and foreclosure. Moreover, the safety net with regard to education, nutrition and healthcare was weakened. As a result, 11.1 million children were materially deprived by 2012 in 30 European countries. This marked an increase of 1.6 million deprived children by the beginning of 2008.<sup>47</sup> Once these children are entangled in the cycle of poverty at an early point in their life, the possibility to break the cycle and improve their living conditions becomes increasingly difficult over time.

As a result, the poorest children are affected the most by this vicious circle. Socio-economic inequality has increased in some countries where average child poverty has decreased. This suggests that tax policies intended to help the most vulnerable children have been partially ineffective. The 'poverty gap', i.e. 'a measure of the distance between the poverty line and the income of people below it'<sup>48</sup>, has widened in those states where poverty has escalated most. Thus, deprivation in those states is more intense and severe. Additionally, the presence of particularly vulnerable children in the harshest range of poverty statistics remains constant. By definition, vulnerable children are those who live in defragmented families composed of lone parents, or families that come from a different cultural background. Also, households that are

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<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

affected by unemployment tend to have negative socio-economic implications upon children's well-being.

It is notable that in the majority of the 31 European countries analyzed (which are the 28 EU Member States, including Switzerland, Norway and Iceland) the poverty level has expanded among children while it has decreased among the elderly. Such findings imply that policies safeguarding the younger generation have been more ineffective and insufficient, while the older generation is relatively more protected. Thus, there is an urgent need for new policies that aim to protect the youngest and offer them better life prospects.

An additional and significant consequence of the recession is the high unemployment rate among the youth. Those in the 15-24 age range entered a precarious labour market in which contract work has prevailed over long-term employment. The level of underemployment is three times higher than the pre-crisis level in the countries most affected by the recession. There is an urgent need to create alternative jobs and possibilities for this young generation, whose opportunities have been negatively affected by the recession.

In the first phase of the recession, a substantial number of EU governments has adopted expansionary fiscal policies followed by an increase in public spending. Regrettably, as the recession continued, there was a decrease in national revenues and at the same time an increase in public deficits. Subsequently, under the pressure of financial markets, many governments were forced to cut budgets. At this point the Eurozone has carried out a reversal in its policy-making decisions, which implied a drop in social spending on families and, implicitly, on children. In the Mediterranean region, resources have been shifted from stimulus policies to consolidation, increasing social inequalities and contributing to a worsening of children's social conditions.

In the second phase of the recession, the efforts intended to reduce child poverty failed to meet the goals in one out of three European countries. Governments were not prepared for the length and depth of the recession. States with high rate of child vulnerability should have implemented safety nets before the recession broke out, especially during the period of economic growth, which was instead characterized by increasing disparity and steady concentration of wealth. On the other hand, states which have chosen to invest in existing institutions and social programmes, have managed to better protect children from the negative effects of the recession. Adopting the latter strategy would improve the socio-economic situation of the most vulnerable children in our society.

Each state had to cope with budget constraints in the wake of the EU's economic stagnation. A significant number of states were expected to make difficult choices as a result of the recession. The need for austerity measures was compelling, nevertheless other sectors beseeched support, and compromises were made on the basis of conflicting factors.

Anyhow a considerably high number of children fell short of benefitting from protection policies which were neither efficient enough prior to the outbreak of the recession, nor sufficiently strengthened during the crisis.

The Great Recession has caused many sufferances and life-long risks to an extra 444,000 children in France and even 619,000 in Italy. Even if states succeeded in overcoming the recession, the effects are still apparent in children and families, which might take an unpredictable period of time to recover. Most of families and children did not return to pre-recession level of well-being. Unforeseen long-term risks were emanated from the crisis and from the failure to adopt effective social responses.

‘Countries should place the well-being of children at the top of their responses to the recession. Not only is this a moral obligation but it is in the self-interest of societies.’<sup>49</sup>

## 2.4 ANALYSIS OF DATA ON CHILD POVERTY RATE AND NEET RATE

The Organisation for Economic Co-operation and Development (hereinafter ‘OECD’), as well as the European Union itself, has provided useful surveys regarding the effects of the economic crisis on children. In the Innocenti Report Card n.12, the UNICEF Office of Research used these data to draw two league tables regarding the change in child poverty after 2008 and the change in the NEET (Not in Education, Employment or Training) rate among young people (age 15-24).

The first league table takes into account monetary poverty, i.e ‘a measure of the availability of resources to purchase goods and services to ensure material well-being.’<sup>50</sup> The second table shows the current situation of the generation aged between 15 and 24, whose future outcomes have been undoubtedly influenced by the impact of the recession.

Table 1 in Figure 3 shows the change in child poverty rate between 2008 and 2012. The change is computed by calculating child poverty in 2008 with a poverty line, which is fixed at 60 % of

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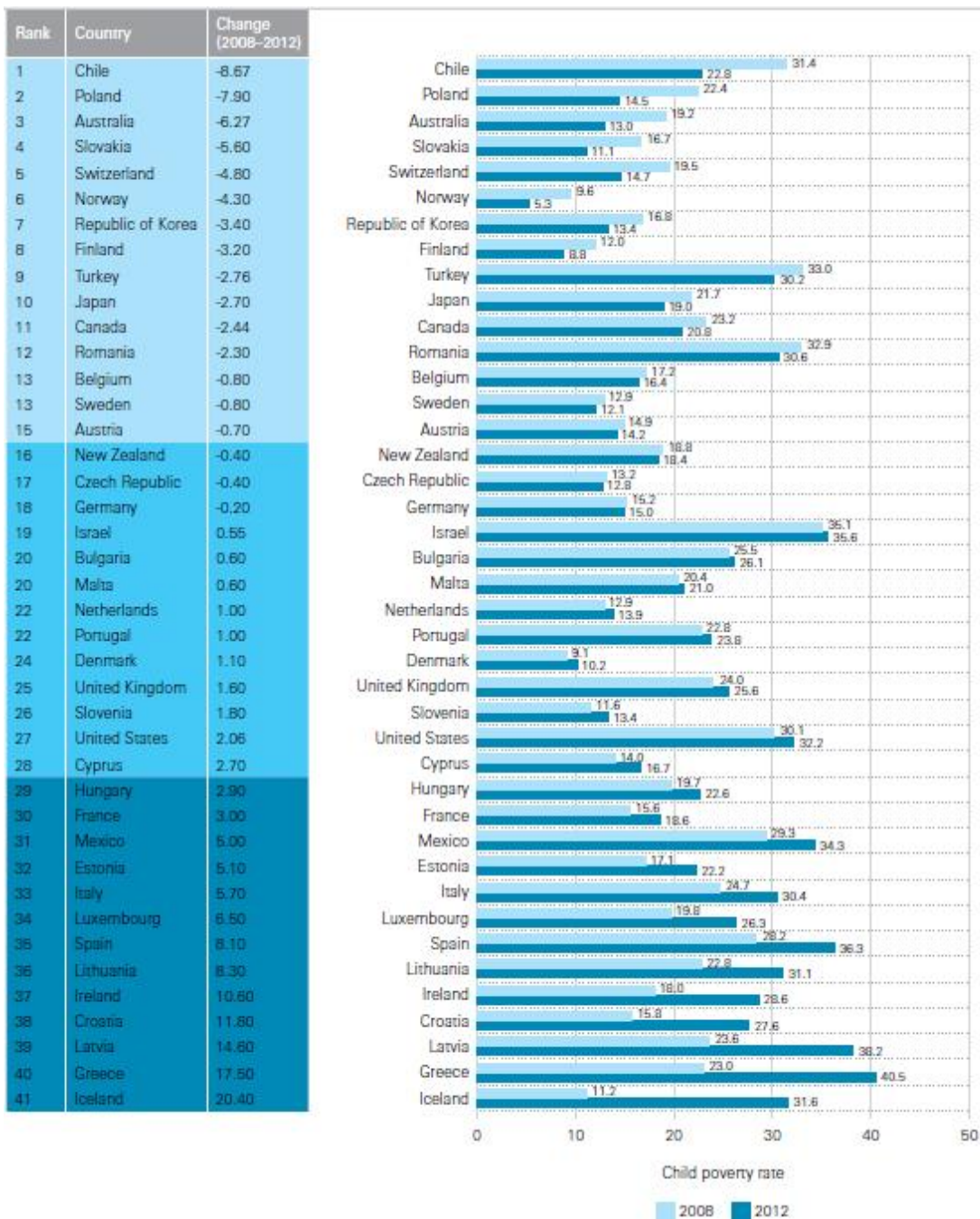
<sup>49</sup> UNICEF Office of Research (2014). ‘Children of the Recession: The impact of the economic crisis on child well-being in rich countries’, Innocenti Report Card 12, UNICEF Office of Research, Florence.

<sup>50</sup> UNICEF Office of Research (2014). ‘Children of the Recession: The impact of the economic crisis on child well-

median income. Then, using the equivalent poverty line of 2012 adjusted for inflation, the rate of child poverty is calculated and the change between the two rates is displayed. An increase in child poverty is represented by a positive number.

The 41 EU and non-EU countries are divided into three groups (colored as light, middle and dark blue). The top group shows negative changes, thus a decline in child poverty, while the bottom group shows high positive value of change, hence a huge increment in child poverty. Some of the most affluent states show signs of recovery which is in line with macroeconomic indicators that suggest a positive recovery of the countries' economy at hand. Nevertheless, economic growth is still slow while unemployment rates are exceptionally increasing. Children, in particular, are more likely to feel the impact of the recession in the long run, even though the crisis is deemed to be over.

Figure 3 – League table 1 – ‘Change in child poverty in 41 EU and/or OECD countries between 2008 and 2012’



In 23 out of 41 countries child poverty has increased, ranging between +0,55 and +20,40. Significantly, 11 EU Member States are listed in the bottom group. Those with the largest increase in child poverty are Greece, Latvia, Croatia, Ireland, Lithuania, Spain, Luxembourg, Italy, Estonia, France and Hungary. All those countries were remarkably hit by the recession. On the other hand, some other countries managed to partially reduce child poverty, with a change between -0,70 and -7,90. In this list ranges Austria, Sweden, Belgium, Romania, Finland, Slovakia and Poland.

The total number of children living in poverty amounts to 76,5 million in the above-listed 41

countries, of which 2,6 million children were reduced to poverty during the crisis.

In the majority of the countries, one out of five children lives into poverty. Child poverty affects 30% of Italian children, 36% of children in Spain, Greece and Latvia.

Unsurprisingly child poverty is lower where public spending on children was higher prior to the crisis.

In the Innocenti Report Card n.12, poverty is measured by using a fixed reference anchored to the 2008 poverty line, in order to assess the absolute change in child poverty rather than the relative one. Poverty is generally measured on a relative poverty line set at either 50% or 60% of a family's average annual income. However, this assessment reflects changes in income over time, thus it would not satisfy the need to assess the change in child poverty due to the impact of the recession. With a relative poverty line, the decline in annual average income would offset the change in average poverty. For example, the United Kingdom shows a positive change in child poverty equal to +1,60, owing to the anchored poverty line. If we were to assess the UK's relative change in child poverty, we would instead have found a decrease equal to -5,40 as a result of the recession. However, the median annual income declined between 2008 and 2012 which in turn lead to a lower relative poverty line.

Figure 4 shows changes in percentage of youth in NEET between 2008 and 2013 in the 41 countries analysed by the Innocenti Report card n.12.

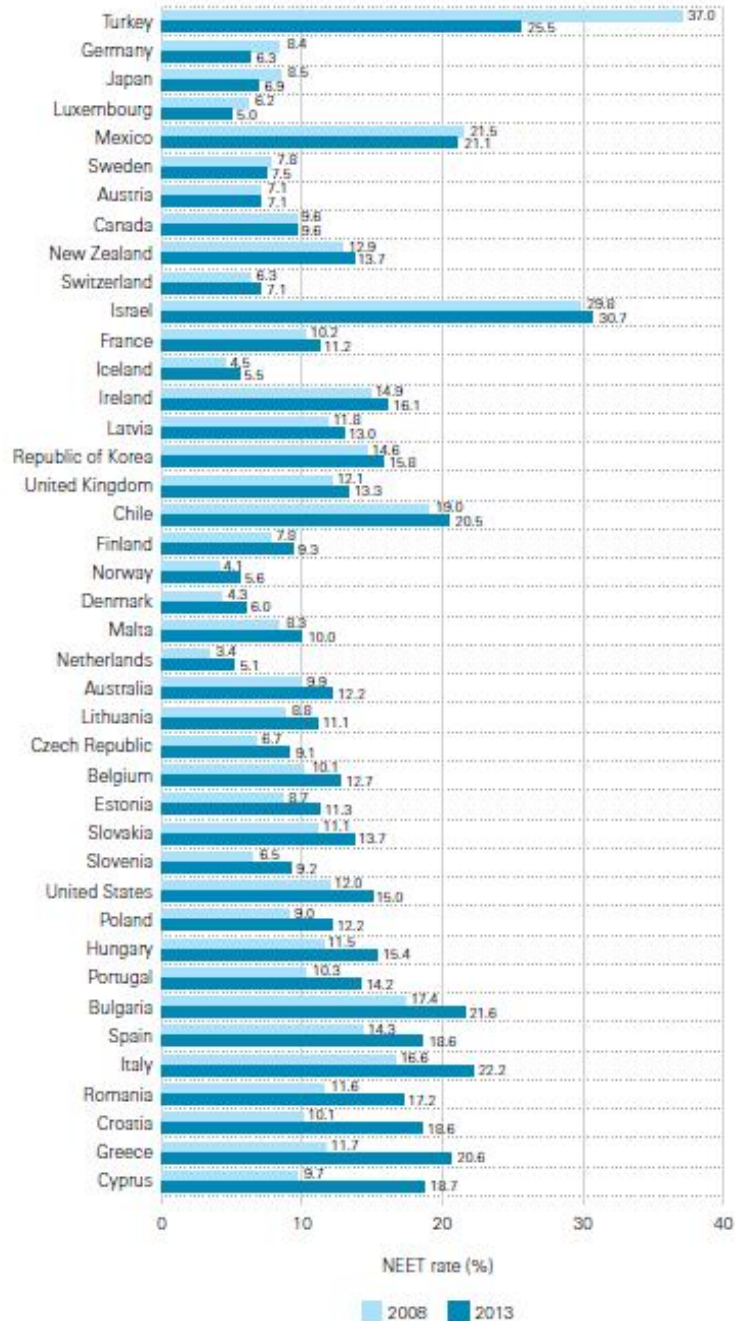
A number of EU Member States are clustered in the bottom group of countries, characterised by a large positive change, which means by an increase of people aged between 15 and 24 excluded from education, employment or training. The range of percentage change varies between +9,00 in Cyprus and +2,60 in Estonia. Countries, in which the young generation was hit the most by the recession were Cyprus, Greece, Croatia, Romania, Italy, Spain, Bulgaria, Portugal, Hungary, Poland, Slovenia, Slovakia, Belgium and Estonia. By 2013, about 7,5 million young people were in NEET, of which 1 million in Italy alone. 'The labour market for adolescents and young adults was already a problem before 2008, but the recession has magnified it for a whole generation. The relevance of these trends should not be underestimated. A long period of underemployment or inactivity can have an enduring impact on one's lifelong financial security. It can stifle career plans, reduce expectations and lead to demoralization. For whole societies, it increases demand for social benefits, decreases workforce contributions to social security systems, and erodes a pillar of social cohesion.'<sup>51</sup>

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<sup>51</sup> OECD, Society at a Glance 2014.

Figure 4– League table 2 - ‘Youth aged 15 to 24 not in education, employment or training (NEET), percentage’

Rank	Country	Change (2008–2013)
1	Turkey	-11.5
2	Germany	-2.1
3	Japan	-1.5
4	Luxembourg	-1.2
5	Mexico	-0.4
6	Sweden	-0.3
7	Austria	0.0
7	Canada	0.0
9	New Zealand	0.8
10	Switzerland	0.8
11	Israel	0.9
12	France	1.0
12	Iceland	1.0
14	Ireland	1.2
14	Larvia	1.2
14	Republic of Korea	1.2
14	United Kingdom	1.2
18	Chile	1.5
18	Finland	1.5
18	Norway	1.5
21	Denmark	1.7
21	Malta	1.7
21	Netherlands	1.7
24	Australia	2.3
25	Lithuania	2.3
26	Czech Republic	2.4
27	Belgium	2.6
27	Estonia	2.6
27	Slovakia	2.6
30	Slovenia	2.7
31	United States	3.0
32	Poland	3.2
33	Hungary	3.9
33	Portugal	3.9
36	Bulgaria	4.2
36	Spain	4.3
37	Italy	5.6
37	Romania	5.6
39	Croatia	6.5
40	Greece	8.9
41	Cyprus	9.0

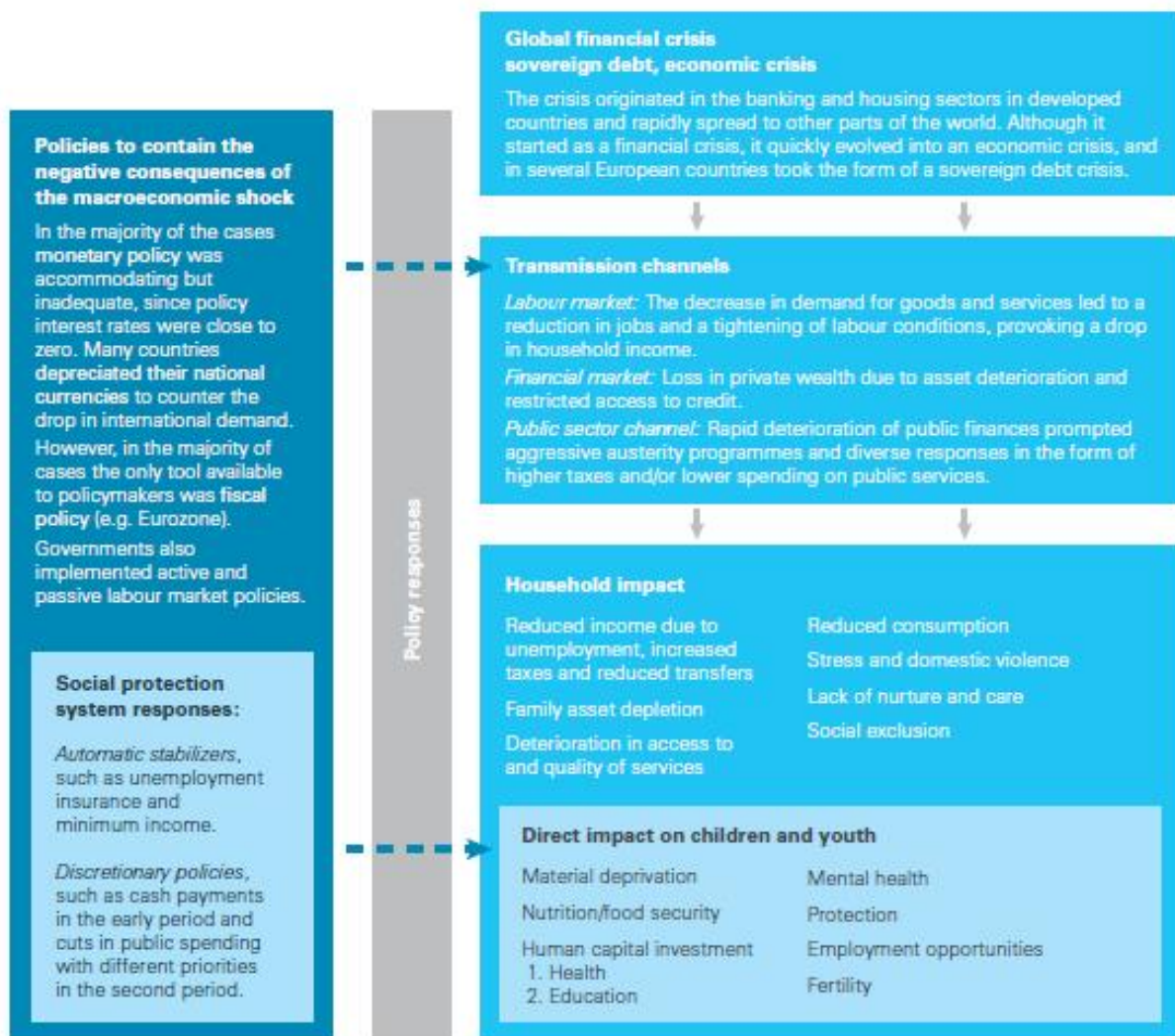


‘High NEET rates suggest an interrupted transition from school to work, or from school to further education, with long-term individual and societal costs. Increases in the NEET rate reflect the recession’s impact on a generation of young people; the kind of productive adulthood their parents took for granted is slipping away.’<sup>52</sup>

## 2.5 HOW DID THE FINANCIAL CRISIS TURNED INTO A CRISIS FOR CHILDREN?

Figure 5 – Conceptual framework

**Conceptual framework:** How did the financial crisis turn into a crisis for children?



Source: Natali et al. 'Trends in Child Well-being in EU Countries during the Great Recession'.

The financial crisis and the subsequent recession resulted in a severe crisis for children

<sup>52</sup> *Ibid.*



worldwide. There is a strong correlation between the decline in children's well-being and the impact of the recession on national economies. Children suffered most in those countries heavily affected by the recession. The conceptual framework of Figure 5 connects the economic events that occurred during the recession with the consequences that influenced children's daily life and their prospects of employability. Children are becoming even more vulnerable after the crisis and so are their families.

The two most relevant factors determining children's condition are 1) the parents' situation in the labour market and 2) the ability of the state to provide social assistance to households with children.

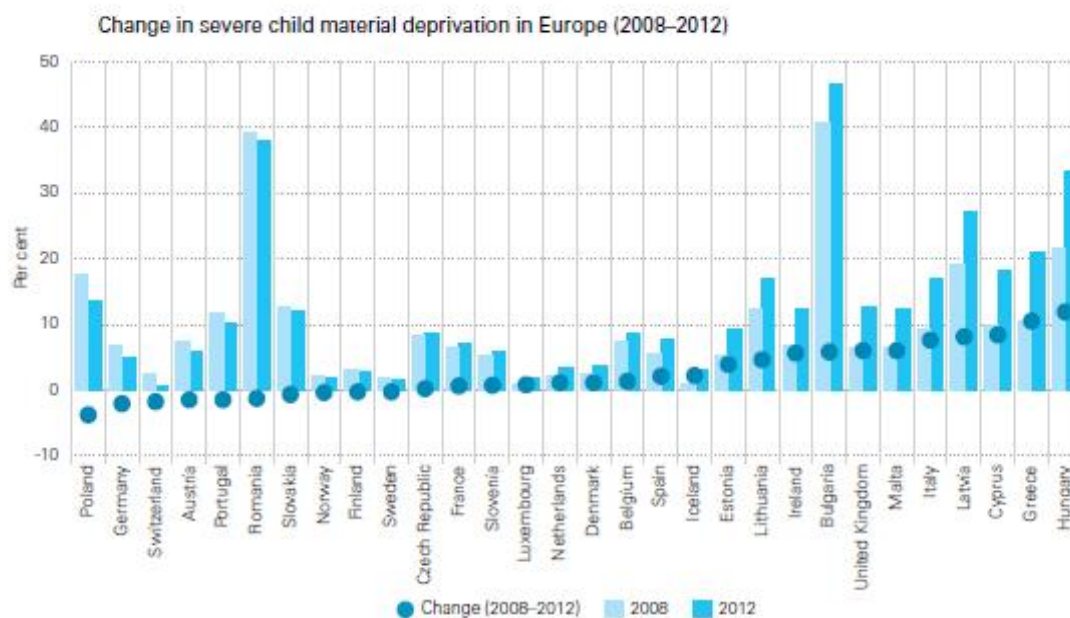
Children may remain trapped in the cycle of poverty and it can be very difficult for them to escape from stress due to enduring unemployment of their parents and the overall decrease in household's income.

Unconsciously, children are affected by adjustments in their nutrition and by restraints in leisure activities and shopping due to a decrease of family's average budget. In some cases, children consciously experience drastic changes such as changing the residence or even the country due to economic reason. Moreover, poverty constitutes a self-reinforcing pattern. Those pattern particularly manifest in the daily life of the child. For example, we know that a child who lives in an incomeless household may perform less well at school. Poor school performance can result in a higher amount of stress for the entire family. This is why new policies addressed to help children's condition are urgently needed. Families are often unable to cope with economic restraints and less able to assure full development and provide care to their children simultaneously. The state shall help families to provide care to children in order to guarantee a more prosperous future for our society.

It has to be borne in mind that variables such as deprivation of material means need to be taken into account in order to have a comprehensive view on the effects of the crisis upon children. The 'severe material deprivation' indicator seeks to capture the overall well-being of families depending on properties or set of behaviours. Children are exposed to 'severe material deprivation' when the household in which they live cannot afford at least four of the following nine items: 1) to pay rent, mortgage or utilities; 2) to keep the home adequately warm; 3) to face unexpected expenses; 4) to eat meat or proteins regularly; 5) to take a holiday; 6) to have a television; 7) to have a washing machine; 8) to have a car; 9) to have a telephone. In contrast to purely monetary measures of the financial resources of households, this indicator shows the

satisfaction of material fundamental needs.”<sup>53</sup> Figure 6 shows the change in severe child deprivation during the recession.

Figure 6 - ‘Change in severe child deprivation in Europe between 2008 and 2012’



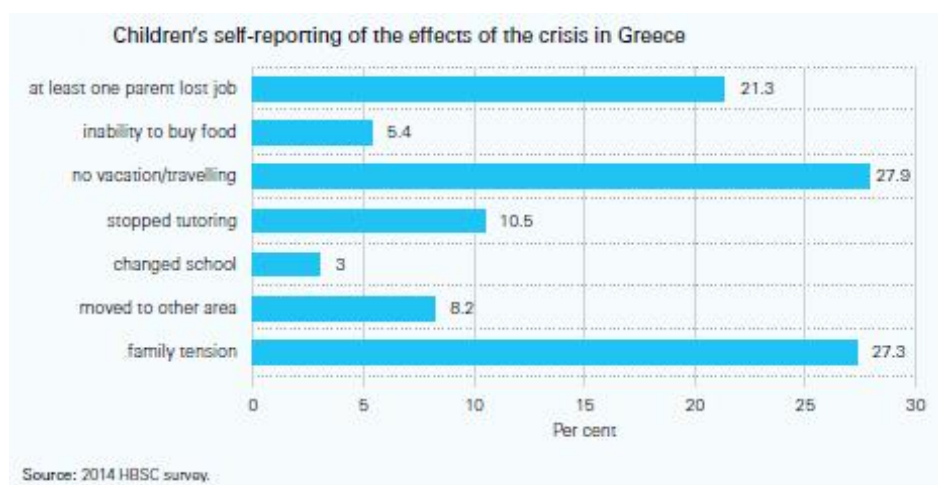
Source: Eurostat.  
Note: No data for Croatia.

As Figure 6 portrays, most of the European countries under study have experienced more severe material deprivation since 2008. The largest increase in child material deprivation took place in Hungary, Greece and Cyprus. The number of children facing severe material deprivation increased by 1.6 million between 2008 and 2012. The data show that 16% of severely materially deprived children lived in Italy, whereas the figure is 14% in the United Kingdom.

Greece was undoubtedly one of the most affected countries during the recession. Due to its exemplarity, it is significant to analyze a survey conducted by the Health Behaviour in School-aged Children (HBSC) in 2014. The survey is carried out on a sample of Greek students aged 11, 13 and 15 years old. The results show how children elaborate the change which occurred in their life in relation to the recession.

<sup>53</sup> *Ibid.*

Figure 7 - 'Children's self-reporting of the effects of the crisis in Greece'



As showed by Figure 7, Greek children are highly aware of problems deriving from the economic recession. On average, one out of five children reported that 'at least one parent had lost their job' and about 30% of them declared that their family could not afford any holiday trips. Others indicators were 1) the change in the qualitative and quantitative parameters of education received (end of tutoring lessons, change from private to public school or to a school in a different area) and 2) the perception of stress in the household, with an increase of domestic violation and family tension.

Futhermore, Figure 8 illustrates that EU Member States have lost years of social progress with regard to children as a result of the economic crisis.

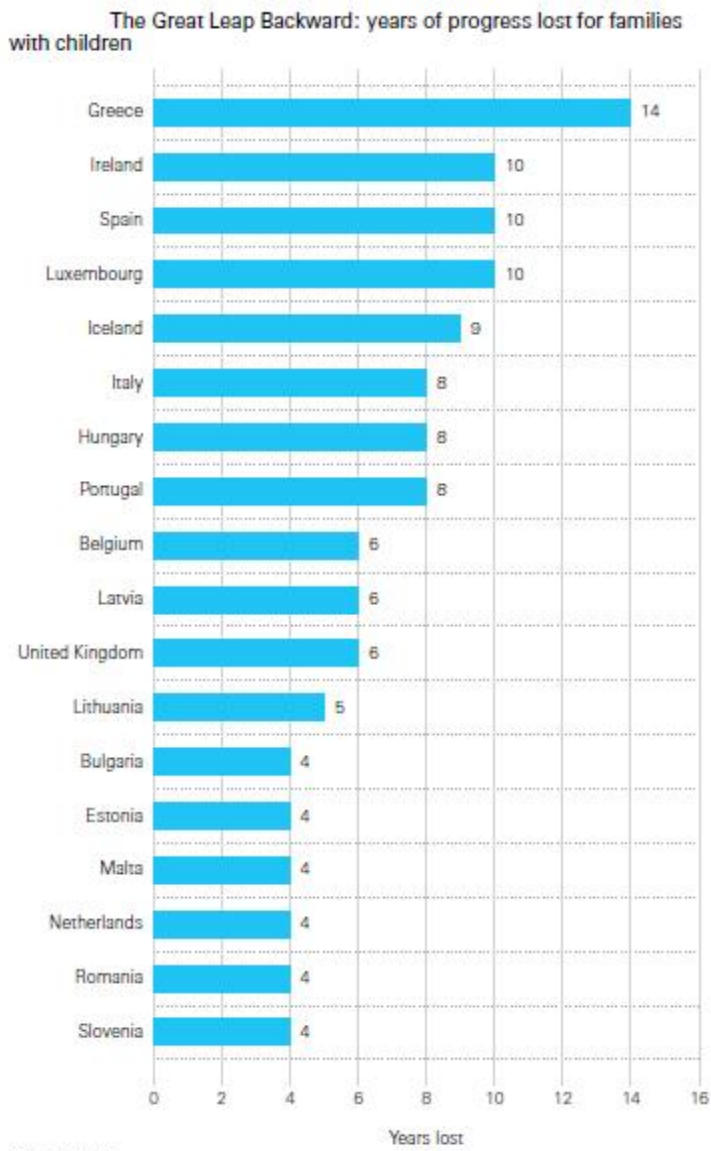
The graph plots the decrease which occurred in household income between 2008 and 2012 and it indicates how many potential years of progress have been lost due to the recession.

Greece is the most affected among the countries under study.

'The larger cost of this lost potential may be seen in increased social alienation and reduced population growth. Upward trends in fertility rates have slowed for the first time in a decade, a phenomenon at least partially linked to young adults delaying family formation due to economic conditions[ ...]. Such impacts magnify the disadvantages of persistent poverty and reduce educational and professional achievement potential.'<sup>54</sup>

<sup>54</sup> *Ibid.*

Figure 8 - ‘The Great Leap Backward: years of progress lost for families with children’



Source: Eurostat.

Note: Estimates based on median equivalized incomes for households with children in national currency at 2007 prices.

## 2.6 CONCLUSION

The Great Recession has had unprecedented and severe impacts on the children socio-economic well-being. Millions of children were directly affected by the recession and are very likely to suffer from long-term after-effects. Moreover the impact has not affected children evenly, since social inequalities persist both at national and intranational level. In Europe the condition of children is mirroring increasing inequality both within and among states. A widening income inequality undermines the European Union's projects, such as the goal to 'lift at least 20 million people out of poverty and social exclusion and increase employment to 75%'<sup>55</sup> within the so called Europe 2020 strategy.

Governments should follow fundamental principles of inequality reduction and consider recommendations on how to implement strategies on the protection of children and find an effective way to particularly ensure children's sphere of interest. Most importantly, states should observe the well-being of children as their first priority in the set of responses to the crisis. 'Not only is this a moral obligation but it is in the self-interest of societies.'<sup>56</sup>

According to the Convention on the Rights of the Child, the condition of social exclusion and child poverty should be addressed from a child's rights perspective. In order to end child poverty and to assure the future well-being of children, the mainstreaming of children's rights shall be boosted at the regional, national and international level. Moreover, the principle of equality for children should be considered in the decision-making process of plans about education, care and development. States should encompass 'red lines', i.e. indicators of child poverty and well-being, which, whether crossed, immediately trigger public intervention. Simultaneously, there would be a greater chance for children to break and escape the vulnerability and poverty cycle. 'Governments should invest to eliminate extreme poverty by implementing the recommendations of the European Commission report 'Investing in Children: Breaking the cycle

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<sup>55</sup> European Commission, directorate- General for Employment, social affairs and inclusion, The Social Dimension of the Europe 2020 Strategy: A report of the Social Protection Committee, European Commission, 2011

<sup>56</sup> UNICEF Office of Research (2014). 'Children of the Recession: The impact of the economic crisis on child well-being in rich countries', Innocenti Report Card 12, UNICEF Office of Research, Florence.

of disadvantage’,<sup>57</sup> which include a call for integrated strategies, the development of universal policies and the involvement of stakeholders.”<sup>58</sup> There should be a balance between universal and targeted policies for the support of the most disadvantaged children. By increasing investment in social policies, child poverty can be prevented. Effective and cost-efficient programmes should be implemented. Vulnerable children should be protected from socio-economic exclusion. ‘And there need to be access to affordable early childhood education and care to facilitate parents’ labour market participation, and also to reduce inequalities at young age.”<sup>59</sup>

Additionally, governments should strengthen occupational adjustment strategies in order to address the issue of youth unemployment and underemployment.

Finally, each government should rely on a functional national institution which observes the children’s needs as they arise on a case by case basis , monitors the effectiveness of the ongoing programmes and protects the right of the children, as well as collecting data on the changing condition of children.

‘Fifty years from now, we will look back at this period as a critical juncture in the history of many affluent countries. The Great Recession may be remembered for the generation of vulnerable children it left behind. But it may also be remembered as a transcendent historical moment, when recovering nations laid the foundations for more inclusive societies based on equality and opportunity for all.’<sup>60</sup> How else could the debt owed to our children be repayed?

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<sup>57</sup> European Commission, ‘investing in Children: Breaking the cycle of disadvantage’, Commission Recommendation, 20 february 2013

<sup>58</sup> UNICEF Office of Research (2014). ‘Children of the Recession: The impact of the economic crisis on child well-being in rich countries’, Innocenti Report Card 12, UNICEF Office of Research, Florence.

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

## CHAPTER III

### PROJECT PROPOSAL FOR THE CARE AND THE DEVELOPMENT OF CHILDREN IN NEONATAL AND PRE-SCHOOL AGE

*“Education is the best economic policy there is.”*

*Tony Blair*

#### 3.1 INTRODUCTION

Despite the intensive legal framework on the rights of the child, still the institutions are failing to provide the necessary care and protection for children. Moreover, the economic crisis has worsened the condition of millions of children in the EU Member States and caused 2,5 million more children entering into poverty. The effects of the crisis are particularly severe for children as they are the most vulnerable in a society. Additionally, the most crucial phase of their life, the pre-school age, is completely neglected both from the legal and economic point of view. There are very few or none recommendations upon States regarding to the specific care and the development of new born babies and very young children. They are abandoned by the State, despite they are the most vulnerable and they need care the most. Families are supposed to take full care of children during the pre-school age but often they fail to provide the correct care and adequate assistance to those babies whose future capacities and possibilities are at stake due to insufficient pre-school development. This common pattern shall be changed and states shall take their responsibilities in providing aid to families during the most crucial and important phase of development of their children. It is in the best interest of the society to invest in pre-school care in order to raise up better and more capable future generations.

How to make a first step in the direction of inclusive care for new born babies and youngest children? First of all the best interest of the child must be taken into consideration. Any programme shall be designed around the children's needs, as stated by the United Nations Convention on the Rights of the Child. Secondly an area and target of intervention must be chosen. I will take into consideration the pre-school age (from 0 to 3 years old) children who reside in the city of Rome, in Italy. The choice depends on the ease of access to data such as Italian legislation and statistical measures on population, as well as on the necessity to address

the real problem of insufficient day care in the city. The problematic existence of lack of measures for childcare in the capital of Italy is symbolically explicative of the urgency to face issues regarding children in a developed country such as Italy. Thirdly an approximate measure of the costs shall be drafted, in order to ideally compute the share of financial responsibility of the State upon the care of children in the pre-school age.

### 3.2 PROJECT DESCRIPTION

The project's name is NIDO, acronym which stands for New Ideal Domestic Orbit. Why 'orbit'? Because the path followed by the institutions should be designed around the child. The child's interest shall be at the centre of the policies' design. Why 'domestic'? The child's first environment is his or her home. In order to make the child feel confident and protected, and for his or her best interest, the house shall be the place around which the project takes place. The project shall consist in an agency which provides child carer in a one – to – one relation with babies. The children shall have between 0 and 3 years old. By providing day care at home, the State shall not provide for external real estate for the aggregation of children during the day time and the parents, or the persons who are responsible for the child, will be eased, since they do not have to take the baby in a space outer than his or her own house in order to receive aid, assistance and care. The childcarers shall be professionals or students (i.e. with some degree of education but few working experience, for example) and previously screened by an organization which takes responsibilities for adjusting the flow of workers and making the demand for care givers meeting the supply. Such management coordination could be made by organizations such as Save the Children, which is not new to the creation, monitor and implementation of programmes aimed at the protection and development of children. One of their latest projects in Italy, for example, is called 'Illuminiamo il futuro' and it's aimed at providing free care to children living in vulnerable areas of cities such as Milan, Turin, Rome, Naples, Bari, Catania, Palermo and more.

The market of child carer is often regulated by private agencies, not by the State. Moreover, a relevant portion of the market is black and not captured in the official data. In this case, both children and caregivers may suffer from the experience. Children may not be provided with the sufficient care, as the childcarers are not appropriately screened by an organization which can guarantee for them. On the other hand, the childcarers are exposed to risks deriving by the uncertainty of their job. They are not able to take the full responsibilities for the care they



provide to the children, while if they had a job contract, they would have recognition by the State and by the families they help. By regulating this phenomenon, the State could avoid or at least reduce the ongoing existence of a black market around pre-school care. In the United Kingdom there is a form of home child care for children aged under 3 years old, but it is a private agency. The NIDO instead would represent a sort of combination among multiple actors (the State, NGOs and households) which collaborate in order to guarantee that the best interests of the child are protected. In Italy in 2013, mothers not using the parental leave could ask for vouchers (around 80€ per month). Anyhow financial support is not sufficient if not correlated to structural help.

Rome has over 2.700.000 inhabitants as computed by ISTAT in 2012. The nativity rate of 2014 is equal to 8,4%.<sup>61</sup> This implies that there are about 24.000 babies born in the city each year. The city counts 207 public day care centres and 221 private ones, which are not enough to supply the present demand for day care. About one out of three children remains excluded from day care services during the pre-school age. The total (both public and private) supply of day care shall increase by 61%<sup>62</sup> in order to meet the urgent needs of the population.

The NIDO project is ideally set in Rome and shaped according the statistics regarding the same city, but it can be reproduced in any city of the European Union. The ease of replicability of the model is one of its most valuable aspects.

The choice of Rome is due to the existing need in the city. In very large cities such as Rome, the need for children day care is felt more than in other smaller cities or villages, where forms of social and mutual organizations compensate the lack of resources provided by the State.

The NIDO project is innovative because it is not entailed in any previous form of day care projected by the State. In the ‘Piano Nazionale Asili Nido’ draft bill of 2003, for example, at art.5<sup>63</sup> we can find some forms of innovative services such as day care centres inside the workplace or aggregate day care centres by neighbourhood, or again home day care centres. Anyway none of them takes into consideration the one – to – one relation the baby needs with his or her carer during that part of his or her life. The one – to – one relation delivers the best outcomes. It is in the best interest of the baby to receive full care and attention by one person, which is completely dedicated to the baby during the time of the day care. It is also less stressful

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<sup>61</sup> <http://www.comuni-italiani.it/058/091/statistiche/demobil.html>

<sup>62</sup> <http://www.vocidiroma.it/articolo/lstp/43025/>

<sup>63</sup> Piano Nazionale Asili Nido, disegno di legge n.2583, 13<sup>th</sup> November 2003.

and more effective for a childcare worker to take care of one child at the time rather than to multiple children together.

The main problems with children's day care are the lack or insufficiency of real estates where day care should take place, the lack or insufficiency of staff and the shortage of financial resources to support. With the NIDO project, the first problem does not exist anymore because the day care will take place in each baby's house and therefore the State does not have to provide financial resources to build new day care places. The second problem can be addressed by absorbing the educated staff who is currently searching for work in any European Union's Member States. Whether that number of staff is still insufficient, the NIDO project could give young people the opportunity to join the labour force even without previous years of experience. Previously data showed how large is the NEET (Not in Employment, Education or Training) rate among youth in the European Union's Member States. Often the youngsters are the most willing to move abroad or within the country. The NIDO project could represent an opportunity for mobility for the youth. Young people willing to work could have the chance to move in another Member State where the demand of child care is higher than in their home country or they could simply choose in which country to provide child care on the base of personal motivation such as preferences for one country or willingness to learn a new language and culture. Children day care is a job that requires attention to customs' patterns but does not necessarily need to be related to one's country of origin. Children care is a universal job which can be performed everywhere regardless of one's nationality.

By eliminating the problems of establishment of places dedicated to day care and of recruitment of educated staff, the State shall provide only to fund the workers for their working hours.

In 2015 in Rome the average cost of 1 working hour of childcare amounts to 8€. If we assume that childcare is needed between 1 and 5 days a week by each family, within a minimum of 2 hours to a maximum of 8 hours per day (being 5h an optimal average amount of hours per time), families would need from 2 to 40 hours of day care per week. The amount of hours is equal to a minimum of 16€ and a maximum of 320€ per week. If we consider the number of babies born in the city each year equal to 24.000 and we seek for the one – to – one relationship between child and caregiver, then the monetary sum of the total weekly amount of hours of childcare would be ranging between a minimum of 384.000€ and a maximum of 7.680.000€, depending on the amount of hours requested by parents. Of which amount, the State shall be entitled to pay at least 20% of the sum for each baby universally, regardless of the socioeconomic status, as it is in the

best interest of the society itself to provide care and better development for each new born baby. Then the State shall pay up to 50% for targeted groups, such as children living in large households, in lone-parent families, in jobless or low-income families and other vulnerable situations. If we consider an average of 5 hours of daily childcare 5 times per week, then the average cost for the State to provide appropriate childcare for a baby born in a vulnerable situation is equal to 200€ per week. In Italy in the post-recession period, child poverty rate increased is equal to 15%, of which around 10% in relative child poverty and 5% in absolute poverty. By applying the national statistics to the city of Rome and by taking into account the measurement bias due to the variability of the statistics, we can assume that around 3.600 children live in poverty in the city of Rome. A weekly cost of +/- 720.000€, which is 37.440.000€ per year, would provide those children with sufficient care and assistance. It would improve their development by protecting them from the effects of living in poverty and in vulnerable situations. The amount of necessary money would be diminished or augmented depending on the hours needed by the parents.

The most recent existing law in Italy regarding education and the protection of children's rights is n.107 issued on 13<sup>th</sup> July 2015 by the Parliament.<sup>64</sup> By the aforementioned law, the Parliament has delegated the Government to adopt a legislative bill on the delicate topic of pre-school age. Finally an inclusive system of education and development for children from the birth to the primary school age (i.e. 6 years old) has become subject of law. Art.1, paragraph 181, letter e) represents the reference point for the subsequent implementation phase. The NIDO ideal project would perfectly fit in this new national legislative framework.

Moreover, the project is in accordance with the ambitious objectives of Europe 2020 Strategy, "which sets out a vision of Europe's social market economy for the 21st century, sets concrete targets for children and youth with a focus on education and training."<sup>65</sup> Such targets include the reduction of early school leavers to less than 10% and giving all children access to early childhood education and care.<sup>66</sup> [Additionally] The 2020 Strategy established a flagship initiative 'Youth on the Move' that aims to improve education and training systems at all levels, to strengthen policy efforts for improving youth employment and to increase EU youth mobility

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<sup>64</sup> Law 13th July 2015, n. 107 'Riforma del sistema nazionale di istruzione e formazione e delega per il riordino delle disposizioni legislative vigenti.' (15G00122) (GU n.162 del 15-7-2015)

<sup>65</sup> European Commission (2010), Communication from the Commission, EUROPE 2020: A strategy for smart, sustainable and inclusive growth, COM(2010) 2020.

<sup>66</sup> European Commission (2011), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Tackling early school leaving: A key contribution to the Europe 2020 Agenda, COM(2011) 18.

for learning purposes and on the labour markets.<sup>67</sup>” Therefore the NIDO project includes not only the most important and ambitious project to give children early access to education and care, but even an opportunity for increasing young employment (as professional child carers) and trainings and simultaneously for fostering youth mobility within the EU Member States for learning and working purpose. For these reasons, the project can have an European added value. Therefore the EU shall take into consideration to co-fund such a project in order to include vulnerable children in its social policies and to protect their rights. With the aid of the EU, many more children can be helped and can develop correctly

The NIDO project represents a concrete programme to enhance the condition of children, in line with the commitments to the UNCRC, the ECHR and national legislation about the care and development of children. At the same time, it counteracts the worsening effects that the economic crisis had on children while at the same time absorbing part of the currently unemployed workforce by creating new job places. Indeed the positive externalities of the project are the possibility for parents to re-enter the labour market, even if only with part-time job contracts, and to increase youth mobility.

The main objective of the project is to assure full care, attention and development to new born babies and children during their pre-school age, by assuring them qualitative activity time with professional and motivated childcarer. The best interest of the child is the focus of the programme. If the baby receive appropriate care during the first and most crucial phase of his or her life, he or she will benefit from it for a life time. In the long run, our society will grow more if the new generations receive the right amount of care during the pre-school age. The rights of such young babies have been so far neglected, therefore it is about time to end this trend and to raise awareness about the importance of this phase in the life span of every child.

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<sup>67</sup> Youth on the Move, [http://ec.europa.eu/youthonthemove/index\\_en.htm](http://ec.europa.eu/youthonthemove/index_en.htm), (8 February 2012).

## CONCLUSION

Child-friendly policies shall be implemented in order to fulfill children's rights.

In Italy and as well as in many other European Union's Member States, the after-crisis period was characterized by cut to public expenditure, which was deemed to be of the uttermost importance. Decrease in government expenditure has led to a sharp decline in social policies and therefore it has hit children the most, by affecting their well-being. Today the problem of social distribution shall be faced and a more comprehensive and child-oriented strategy shall be adopted.

The European Commission shall prioritise well defined areas of action in which to improve children's protection, such as the pre-school day care. Any action shall entail the inclusion of children's rights perspectives in all legislative tools and the target to focus on specific areas of mediation. This implies the necessity for structures dedicated to these actions and educated staff, with the experience and the knowledge needed to shape laws to address these problems in the child's best interest.

The NIDO project can be an idea for developing a better and more social inclusive system of child care. It represents a sort of first step in a new ideal concept of education, based on equity, social cohesion and public strategy.

The rights of the children shall be guaranteed at any stage of their life. The best interest of the child shall be pursued at any level of the law and policy making process. Why not to start from the very beginning of life to shape new policies for children?

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Riassunto in italiano

*Progettazione di politiche pubbliche nell'ambito dei diritti dell'infanzia.*

L'elaborato di ricerca si propone di analizzare la condizione dei bambini nell'Unione Europea e di suggerire un nuovo programma atto a favorire l'inclusione dei bambini di età compresa tra 0 e 3 anni nei progetti educativi, in modo che possano ricevere cure e supporto da parte delle istituzioni nazionali ed europee.

In particolare, il presente lavoro si propone di rispondere alla domanda di ricerca "Come può la qualità della vita dei bambini essere migliorata nell'Unione Europea?", proponendo un progetto sostenibile. Il progetto sarà modellato su standard simili a quelli tipici di europrogettazione.

La prima parte della ricerca fornisce al lettore una visione globale sulla legislazione vigente in materia di protezione dei diritti dei minori nell'Unione Europea. La conoscenza del quadro giuridico dell'Unione Europea è di fondamentale importanza, in quanto conoscere le possibilità e i limiti previsti dalla normativa è un prerequisito essenziale al fine di pianificare politiche fattibili ed efficaci.

In secondo luogo la ricerca si concentra sull'ultima crisi economica che si è diffusa in Europa, in quanto ha peggiorato le condizioni di vita per milioni di bambini e li ha esposti a rischi che potenzialmente potrebbero durare per tutto il corso della loro vita. Per arginare le conseguenze negative della crisi, è emerso il bisogno di promuovere nuove politiche volte alla protezione dei gruppi sociali più vulnerabili, tra i quali, appunto, i bambini. Una completa valutazione delle esigenze può essere fatta solo dopo l'analisi delle conseguenze che la crisi economica ha avuto sul benessere dei bambini.

La terza sezione dell'elaborato consiste nella proposta del progetto NIDO (New Ideal Domestic Orbit). Il progetto prevede conformità alla normativa vigente nell'Unione Europea e ne indirizza i bisogni così come valutati nell'analisi dell'impatto della crisi economica sui bambini. L'obiettivo ultimo del progetto è di limitare gli effetti negativi della crisi economica sui bambini più piccoli e di migliorare la loro qualità di vita tramite l'affiancamento di figure professionali alle famiglie durante il periodo precedente all'inserimento del bambino nella scuola d'infanzia. Nello specifico, il progetto è inteso a costituire un corpo statale di puericultrici (e puericultori) che siano retribuiti parzialmente dallo Stato e per il restante dalle famiglie stesse, in una percentuale basata sul reddito delle famiglie stesse. Il progetto è mirato ad incrementare l'area di intervento statale nella cura e nello sviluppo dei bambini di età inferiore ai tre anni. Infatti gli asili nido nazionali non sono sufficienti a coprire la richiesta e solitamente asili privati e agenzie private

regolano il flusso di domanda e offerta in questo campo. Con l'allargamento dell'intervento istituzionale, inoltre, si andrà a regolarizzare la posizione di molte puericultrici e operatori sociali il cui lavoro non è compreso nelle statistiche ufficiali. Il progetto, grazie alla sua universalità e replicabilità, potrebbe essere riprodotto in ogni Stato dell'Unione Europea. Tramite un co-finanziamento europeo, molti più bambini beneficerebbero dei cambiamenti apportati dal programma. In aggiunta l'impatto di riduzione delle conseguenze negative della crisi sarebbe maggiore.

### *I diritti dei bambini all'interno dell'Unione Europea*

Nel corso degli anni l'Unione Europea ha affrontato il tema della protezione dei diritti dei bambini secondo un metodo che è andato sempre più evolvendosi. Sebbene molta enfasi sia stata riposta nelle concezioni europeiste d'integrazione e cittadinanza, la somma di queste due componenti assieme all'attenzione rivolta alla crescita demografica hanno favorito direttamente ed indirettamente l'indagine sulla condizione dei diritti dei più piccoli.

Il tema non risultò di particolare rilevanza fino agli anni '90. Tuttavia, proprio in quel periodo iniziò un graduale interesse che andò formandosi sempre di più grazie alle acquisizioni di nuove competenze, che portarono l'Europa a porre i diritti dei bambini al centro del dibattito politico ed istituzionale. Per questo dopo il Trattato di Lisbona, il tema fu incorporato nel Trattato dell'Unione Europea che non solo lo custodisce e lo tutela ma ne certifica il valore. Nello specifico, il Trattato di Lisbona ha potenziato i diritti dei bambini attraverso l'introduzione di particolari attenzioni normative riposte nei due trattati europei principali: "Il Trattato dell'Unione Europea" e il "Trattato sul funzionamento dell'Unione Europea". Il Trattato di Lisbona così come la Carta Europea dei Diritti Fondamentali propongono maggior peso legale nei confronti dei diritti dei bambini. La capacità delle istituzioni europee e degli stati membri è stata ulteriormente ampliata e resa più efficace nel sostenere la promozione e la protezione dei diritti dei bambini tramite successivi passi molto significativi, come la Comunicazione 'Verso una strategia sui diritti dei minori' (2006), il già citato Trattato di Lisbona (2009) e il Programma UE per i diritti dei minori (2011). Sebbene questi mirino a sviluppare un atteggiamento operativo logico e inclusivo verso i diritti dei bambini, la competenza legale nella formulazione di misure a favore dei diritti dei bambini è stata molto limitata nelle azioni.

Il Trattato di Lisbona prevede "la tutela dei diritti del minore" (articolo 3) come un obiettivo tra le varie finalità dell'Unione Europea. Come affermato dall'articolo 24 della Carta dei Diritti

Fondamentali dell'Unione Europea, i bambini ora “hanno diritto alla protezione e alle cure necessarie per il loro benessere”. In conformità dei loro interessi deve essere devoluta primaria considerazione in “tutti gli atti relativi ai bambini, siano essi compiuti da autorità pubbliche o da istituzioni private”. Nel 2011 la comunicazione della Commissione “Programma UE per i diritti dei minori” ha indicato 11 azioni per “intensificare gli sforzi nella tutela e promozione dei diritti dei bambini” per poter così raggiungere una forma di giustizia a misura di bambino. Inoltre l'integrazione dei diritti dei minori ha guadagnato crescente rilevanza nelle procedure legislative del Parlamento Europeo. Ciò è di estrema importanza poichè “la volontà politica può cadere quando prende luogo il cambiamento politico; quindi un processo di tendenze dominanti deve essere sempre presente”.

Generalmente gli strumenti giuridici sopracitati includono impegni che non trovano conferma, all'atto pratico, in elenchi che riportino al dettaglio tutti gli obblighi legali. In più è assente una descrizione pertinente dei mezzi attraverso i quali si tentano di raggiungere i risultati preposti. Ad esempio, sembra mancare una riflessione concreta sul significato di concetti come “bisogno”, “benessere”, “interesse”, che non trovano quindi alcun tipo di specificazione. Gli obiettivi sono così estesi che gli Stati contraenti sono lasciati con un notevole margine di manovra per designare gli strumenti da adottare. La questione della cura nella fase di pre-scuola è completamente abbandonata a sè stessa senza essere intesa come un bisogno primario da dover risolvere. Non si attuano poi chiare ed intelleggibili distinzioni nel citare i tanti compiti che, in nome della “responsabilità familiare”, dovrebbero trovare invece larga corrispondenza nei testi europei. Anche se il trattato dell'Unione Europea e la Carta dei Diritti Fondamentali dell'Unione Europea evidenziano la necessità per la tutela dei diritti dei bambini, essendo la dimensione giuridica fortemente limitata, l'idea di promozione dei diritti rischia di essere solo un pretesto legislativo che non riesce a trovare legge in cui risiedere.

L'Unione europea e gli Stati membri sono tenuti a rispettare i diritti dei bambini, in virtù del diritto internazionale ed europeo. Gli Stati membri dell'Unione Europea hanno infatti ratificato varie convenzioni regionali ed internazionali che coprono una vasta gamma di aspetti per la protezione dei diritti dei bambini e che forniscono protezione a livello nazionale. Tuttavia, le istituzioni dell'Unione Europea non risultano essere vincolate legalmente in quanto l'Unione Europea non è parte delle convenzioni. L'Unione Europea si trova quindi ad affrontare la sfida che richiede un superamento dell'impianto normativo, il quale confina la realizzazione delle stesse azioni europee.



### *Gli effetti della crisi economica sul benessere dei bambini.*

Una breve digressione storica ci riporta intorno agli anni 90, precisamente al 1995, quando entrò in vigore la Convenzione delle Nazioni Unite sul Diritto dei Bambini, alla quale aderirono tutti gli stati facenti parte dell'Unione Europea. Tuttavia, molti degli impegni presi sono rimasti ancora in sospeso. I paesi al tempo preposti a garantire l'adozione delle politiche sono diventati negli anni incapaci di portare a termine i propri compiti. Le cause da annoverare sono molteplici, prima tra tutte l'insorgere della Grande Recessione che si è diffusa rapidamente in tutto il mondo, esponendo ai propri effetti anche i bambini.

Il divario tra famiglie povere e ricche si è allargato nella maggior parte dei paesi industrializzati. Il luogo di nascita può determinare i diritti e le opportunità di vita per ogni bambino. I tassi di disoccupazione più alti portano le famiglie a non essere in grado di fornire la protezione e la cura necessarie alle quali i bambini hanno diritto. Un numero crescente di bambini ha incontrato difficoltà ad essere soddisfatto nei più basilari bisogni materiali ed educativi. Inoltre, una generazione di giovani capaci e istruiti rischia di essere intrappolata in un limbo di vulnerabilità e di aspettative non soddisfatte a causa della Grande Recessione. Se la condizione dei bambini continua ad essere trascurata, la crisi per loro continuerà ben oltre la ripresa economica. Le conseguenze a lungo termine mettono a rischio il benessere della nostra società.

Lo status socioeconomico dei bambini e della gioventù varia da paese a paese. Pochi paesi hanno significativamente risposto alla crisi con tempestivi programmi che abbiano protetto i bambini dalle più dure conseguenze della recessione. Molti paesi hanno portato avanti riforme parziali per la salvaguardia dei bisogni primari come la salute, il cibo e l'alloggio. Occasionalmente gli sforzi di alcuni governi sono stati ostacolati dal carico di requisiti imposti loro dai mercati finanziari e dai fornitori di supporto finanziario.

Secondo la Convenzione dei Diritti del Bambino, la condizione di esclusione sociale e di povertà del bambino deve essere affrontata dal punto di vista del bambino. Per porre fine alla povertà infantile e per assicurare il benessere futuro dei bambini, nuove politiche pubbliche a sostegno dei diritti dei bambini dovrebbero essere implementate sia a livello nazionale che internazionale. Inoltre, il principio di equità per i bambini dovrebbe guidare il processo decisionale di programmi riguardanti l'istruzione, la cura e lo sviluppo.

Gli stati dovrebbero includere alcune "linee rosse" come ad esempio gli indicatori sulla povertà infantile e sul benessere che, una volta rilevati, richiedono l'immediata attivazione di piani di intervento pubblico. Contemporaneamente ci sarebbe una maggiore possibilità per i bambini di fuggire dalla condizione di povertà e di vulnerabilità provocata o aggravata dalla crisi.

I governi dovrebbero investire per eliminare la povertà estrema implementando le Raccomandazioni della Commissione Europea su 'Investing in Children: Breaking the cycle of disadvantage', che comprende una richiesta per le strategie integrate, lo sviluppo di politiche universali e il coinvolgimento di tutte le parti interessate. Ci dovrebbe essere un equilibrio tra le politiche universali e sociali a favore dei bambini più svantaggiati. Incrementando gli investimenti nelle politiche sociali, si può prevenire la povertà. I programmi dovrebbero essere implementati al fine di perseguire maggiore efficienza soprattutto in relazione ai costi. I bambini più vulnerabili devono essere protetti dalla esclusione socioeconomica. Vi è pertanto la necessità di accedere a piani efficienti per l'istruzione e per la cura dei bambini nella fase della prima infanzia e di facilitare la partecipazione dei genitori nel mercato del lavoro, così come di ridurre le disuguaglianze in giovane età. Inoltre, i governi dovrebbero rafforzare le strategie occupazionali al fine di affrontare la problematica della disoccupazione e sottoccupazione giovanile. In fine ogni governo dovrà fare affidamento su organizzazioni istituzionali che osservino i nuovi bisogni che sorgeranno di volta in volta, che monitorino l'efficacia dei programmi messi in atto e che proteggano i diritti dei bambini.

Nella ricerca vengono analizzate le politiche attuate dagli Stati membri dell'Unione Europea in risposta alla Grande Recessione e la correlazione tra la crisi economica e la condizione dei bambini. Due 'classifiche' (league tables) misurano la variazione dei livelli di povertà dei bambini e l'impatto della recessione sui giovani sin dall'inizio della crisi.

La Grande Recessione ha provocato una grave crisi per i bambini. Milioni di bambini sono stati direttamente colpiti dalla recessione, molti di loro sono esposti a subire per tutta la vita le conseguenze della crisi. Inoltre, l'impatto della recessione non ha colpito i bambini in modo uniforme, dato che le disuguaglianze sociali persistono sia a livello nazionale che internazionale. In Europa, infatti, la condizione dei bambini riflette la crescente disuguaglianza sia all'interno dei singoli paesi che tra di essi. Una crescente disuguaglianza mina i progetti dell'Unione Europea, come l'obiettivo di "almeno 20 milioni di persone fuori dalla povertà e dall'esclusione sociale e l'aumento dell'occupazione ... al 75%" nell'ambito della strategia Europa 2020. Tra cinquanta anni guarderemo indietro a questo periodo come un momento cruciale nella storia di molti paesi ricchi. La grande recessione potrebbe essere ricordata per la generazione di bambini vulnerabili che è stata abbandonata a se stessa. Ma può anche essere ricordata come un momento storico cruciale, in cui le nazioni riescono a porre le basi per una società più inclusiva basate sulla parità di opportunità per tutti. In quale altro modo il debito dovuto ai nostri figli sarà ripagato?

### *Formulazione del nuovo progetto*

Nonostante il quadro giuridico approfondito sui diritti del bambino, ancora le istituzioni non riescono a fornire la cura e la protezione necessaria per i bambini. Inoltre, la crisi economica ha peggiorato la condizione di milioni di bambini negli Stati membri dell'Unione Europea. Gli effetti della crisi sono particolarmente gravi per i bambini in quanto rappresentano uno dei gruppi più vulnerabili nella società. Inoltre, la fase più importante della loro vita, l'età precedente alla scuola dell'infanzia, è completamente trascurata sia sotto il profilo giuridico che economico. Ci sono pochissime norme relative alla cura specifica di neonati e allo sviluppo di bambini molto piccoli. Essi sono abbandonati dallo Stato, nonostante siano i più vulnerabili e abbiano bisogno di più cure. Le famiglie spesso non riescono a fornire la giusta cura e l'assistenza adeguata a quei bambini, le cui capacità e possibilità future sono in gioco a causa di insufficiente sviluppo durante la primissima età infantile. E' nel migliore interesse della società investire in attività prescolastiche, al fine di garantire più possibilità di crescita alle generazioni future.

Come fare un primo passo nella direzione dello sviluppo e della cura dei neonati e dei bambini più piccoli? Prima di tutto l'interesse superiore del bambino deve essere preso in considerazione. Qualsiasi programma deve essere progettato intorno alle esigenze dei bambini, come dichiarato dalla Convenzione delle Nazioni Unite sui Diritti del Fanciullo. In secondo luogo una zona e un bersaglio di intervento devono essere scelti. Nella seguente ricerca verrà presa in considerazione i bambini in età prescolare (da 0 a 3 anni) che risiedono nella città di Roma, in Italia. La scelta dipende dalla facilità di accesso ai dati della legislazione italiana e alle misure statistiche sulla popolazione, nonché dalla necessità di affrontare il problema reale di insufficienza delle strutture apposite alla cura degli infanti. La problematica mancanza di misure per l'infanzia nella capitale d'Italia è simbolicamente esplicitativa dell'urgenza di affrontare questioni riguardanti i bambini in un paese sviluppato come l'Italia. In terzo luogo una misura approssimativa dei costi deve essere redatta, al fine di computare idealmente la quota di responsabilità finanziaria dello Stato nello sviluppo e nella cura dei bambini in età prescolare.

Il progetto NIDO può essere un'idea per lo sviluppo di un migliore e più inclusivo sistema sociale di assistenza all'infanzia. Rappresenta una sorta di primo passo per un nuovo concetto ideale di formazione, sulla base di equità, di coesione sociale e di strategia pubblica.

I diritti dei bambini devono essere garantiti in ogni fase della vita. L'interesse superiore del fanciullo deve essere perseguito a qualsiasi livello del processo legislativo e politico. Perché non iniziare a modellare nuove politiche per i bambini fin dall'inizio della loro vita?