



## A. Child

*This term appears to have a generally agreed meaning and/or can be used without stigmatising and/or otherwise harming the child.*

### A.1. Definitions in legally binding instruments<sup>6</sup>

“Child” is not a contentious term as such, and is used in a large number of international legal instruments. While the precise textual legal definition of “child” can vary slightly depending on the instrument, it is clear that a quasi-universal understanding of the legal notion exists:

- i. 1989: Article 1 of the CRC sets forth that, “[f]or the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”
- ii. 1990: Article 2 of the African Charter on the Rights and Welfare of the Child (ACRWC) states that, “[f]or the purposes of this Charter, a child means every human being below the age of 18 years.”
- iii. 1999: Article 2 of International Labour Organization (ILO) Convention No. 182 on the Worst Forms of Child Labour (WFCL) (ILO C182) sets forth that the term “child” shall apply to “all persons under the age of 18”.<sup>8</sup>
- iv. 2000: The OPSC refers explicitly, in its Preamble, to Article 1 of the CRC.
- v. 2000: Article 3(d) of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (“the Palermo Protocol”), defines the child as “any person under 18 years of age”.<sup>9</sup>
- vi. 2001: The Council of Europe Convention on Cybercrime (“the Budapest Convention”) uses the term “minor” in Article 9 dealing with child pornography and states that it includes all persons under 18 years of age. However, a State party may require a lower age limit, which shall not be less than 16 years.<sup>10</sup>
- vii. 2007: The Lanzarote Convention establishes in Article 3(a) that a child is “any person under the age of 18 years”.

### A.2. Terminology considerations

It should be noted that these documents do not necessarily define *who is a child* but rather the scope of their applicability under international law: the provisions are applicable to all persons below the age of 18, with or without exceptions. For instance, Article 1 of the CRC makes an exception to the applicability of the CRC, mentioning the possibility that the age of majority is attained before the age of 18 under national law. This is also the case for the OPSC, which explicitly refers back to Article 1 of the CRC and thus adopts the same scope of applicability.

The ACRWC, on the other hand, does not allow for such exceptions: regardless of the provisions on the age of majority in the domestic law, the provisions of the Charter are applicable to all persons below the age of 18.

The same is true for ILO C182.

Despite the exception set forth by the CRC, it is noteworthy that the Committee on the Rights of the Child (CRC Committee) has consistently recommended that all states extend the scope of the CRC to all persons under the age of 18 years.<sup>11</sup>

While emphasising the importance of ensuring all persons under the age of 18 are considered children and granted the rights and protection that come with this status, it should also be acknowledged that older children in their adolescent years are commonly referred to (especially in non-legal contexts) as “adolescents” or “teenagers” (see Sections A.3.V and A.3.VI).

**Conclusion:** In line with the majority of international legal instruments and with international practice, the participating organisations advise that the term “child” be understood as including any person who is under the age of 18 years.

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<sup>6</sup> The legal instruments referred to throughout this document follow first a hierarchical order (international instruments before regional instruments) and second a chronological order (year of adoption from past to present).

<sup>7</sup> Assembly of Heads of State and Government of the Organization of African Unity, “African Charter on the Rights and Welfare of the Child”, adopted at the 26th Ordinary Session in Addis Ababa, 9–11 July 1990 <http://acerwc.org/the-african-charter-on-the-rights-and-welfare-of-the-child-acrwc/>

<sup>8</sup> International Labour Organization, “Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour”, adopted in Geneva, 17 June 1999 [http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100\\_ILO\\_CODE:C182](http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C182)

<sup>9</sup> UNGA, “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, adopted in Palermo, 12–15 December 2000. [https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED\\_NATIONS\\_CONVENTION\\_AGAINST\\_TRANSNATIONAL\\_ORGANIZED\\_CRIME\\_AND\\_THE\\_PROTOCOLS\\_THERETO.pdf](https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf)

<sup>10</sup> Council of Europe, “Convention on Cybercrime”, CETS 185, adopted in Budapest 23 November 2001 <http://www.conventions.coe.int/Treaty/EN/Treaties/Html/185.htm>

<sup>11</sup> CRC Committee, “General Measures of Implementation”, General Comment No. 5, adopted at the 34th session, 19 September–3 October 2003

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsiQql8gX5Zxh0cQqSRzx6Zd2%2fQRsDnCTcaruSeZhPr2vUevjbn6t6GSi1fheVp%2bj5HTLU2Ub%2fPZZtQWn0jExFVnWuhiBbqgAj0dWBoFGbK0c>

