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**European Network of Ombudspersons for Children (ENOC)
Statement on Violence in a children's rights context**

**ENOC Submission to the Europe and Central Asia Regional Consultation for the UN
Secretary General's Study on Violence against children,
Ljubljana 5 – 7 July 2005**

The European Network of Ombudspersons for Children (ENOC) was formed in 1997. It now includes more than 35 independent children's rights institutions in at least 23 member-states of the Council of Europe. Among ENOC's aims are to promote respect for children's views, to act as a collective voice advocating for Europe's children and to promote the establishment of independent institutions in all states.

ENOC is committed to working closely with the Council of Europe, whose strong human rights mechanisms have already done much to assert children's human rights – including their rights to protection from all forms of violence.

Rights-based approach to eliminating violence

ENOC applauds the UNSG's study and the attention it is generating in this and other regions on eliminating violence against children. The Study is rights-based and rooted in the Convention on the Rights of the Child and the work of the Committee on the Rights of the Child. ENOC sees all forms of violence against children as a violation of children's rights: violation of their right to personal integrity, to respect for their human dignity, to their right to privacy, their right to enjoy maximum chances of a healthy development and so on.

Participation – provision – protection

We see the Convention on the Rights of the Child as a comprehensive framework and tool for working to eliminate all forms of violence. In the Convention, all rights are equally relevant and interdependent. When the notion of violence is on the agenda, people tend to focus on protection rights only, while participation and provision rights are also of major importance. Children and young people need to know what their rights are and they need places and people they can turn to for help, care and guidance, including in confidence. They have a right to be heard and taken seriously with their questions. They have a right to have their views heard and respected when any decisions are being made, including on child protection interventions. The contents of the CRC and States Parties' obligations can move children forward in their emancipation and empowerment. Children must be regarded as the experts and we must seek their voluntary engagement in the planning of all strategies to challenge and eliminate violence.

Children also have a right to know, a right to **information** on the violence issue. They need to know that violence is illegal, even in cases where it seems "accepted" or when it is executed by people that they (want to) trust. They need to know what they can do, who they can turn to and what the consequences can be. They need to know how their rights can be executed within both treatment settings and legal procedures. They need services which respect them and their rights and do not add further harm to the experience of violence.

Through our work, including through individual complaints, we all get informed, often on a daily basis, of a **variety of forms of violence** that children and young people suffer from. While these are mostly individual problems, the issue of violence against children is a structural problem within our societies. Some forms of violence against children remain uniquely legally and socially approved. Societies have a human rights obligation to take a clear stand against all violence; they need to avoid more violations of children's rights and thus avoid the impact that violence against children has on societies both in the short and the long term.

Children suffer all forms of violence – physical and mental - in their homes, in all forms of institutions and alternative care, in schools and in their communities. We know from interview studies with children, and with young adults looking back at their childhood, that most violence against children does not get reported or investigated. In very many cases, children plainly do not know of, or do not trust, existing child protection services. Or worse, they are not aware, or never learned that violence is indeed a violation of their rights.

We do believe that any form of violence, however “slight”, is problematic and cannot be tolerated. We want to avoid the discussion on scales or gravity within these different forms of violence. Discussions of this kind do not help to clarify the basic responsibility of all the different actors in the struggle against violence. We need to work on policies that promote a zero tolerance to all forms of violence.

In 2001, ENOC unanimously adopted a Position Statement in which we urged governments without delay to introduce legislation prohibiting all **corporal punishment**, and to initiate/support education programmes in positive, non-violent forms of discipline. We noted: “While almost all European countries have eliminated corporal punishment from their schools and other institutions for children, it remains common and legally and socially accepted in the family home in most countries. Many States have laws which explicitly defend the rights of parents and other carers to use ‘reasonable’ or ‘moderate’ corporal punishment. Where the law is silent, corporal punishment tends to be accepted in practice.”

We also noted that in a growing minority of countries across Europe, all corporal punishment has been prohibited, often as part of a statement of parents' responsibilities. The purpose of these reforms is not to prosecute more parents, but to send out a clear signal that hitting children is no more acceptable than hitting anyone else.

More countries have taken this step recently, but still millions of Europe's children live in countries where they have less legal protection than adults from being hit. We commend the Parliamentary Assembly's June 2004 recommendation 1666/2004, which states: “The Assembly considers that any corporal punishment of children is in breach of their fundamental right to human dignity and physical integrity. The fact that such corporal punishment is still lawful in certain member states violates their equally fundamental right to the same legal protection as adults. Striking a human being is prohibited in European society and children are human beings...”

“The Assembly therefore invites the Council of Europe's Committee of Ministers to launch a co-ordinated and concerted campaign in all the member states for the total abolition of

corporal punishment of children. The Assembly notes the success of the Council of Europe in abolishing the death penalty and the Assembly now calls on it to make Europe, as soon as possible, a corporal punishment-free zone for children.”

We hope that the Regional Consultation will adopt this as an essential and urgent target.

Adults sometimes seem to find it easier to focus on violence by children, rather than violence against children. We are concerned that many European societies seem to be adopting **an unproductively punitive and stigmatising attitude to young people**. In 2003 we adopted a position statement expressing concern at the tone of political and media debate and the direction of public policy and legal changes concerning juvenile offenders, including violent offenders, in many of our countries: “Children in conflict with the law are still children first and do not lose their human rights, including rights to special treatment and protection, to education and to health.”

ENOC believes that current trends to reduce the age of criminal responsibility and to lock up more children at younger ages must be reversed. The treatment of young people placed in penal institutions in many of our countries is a scandal – breaching their fundamental human rights.

We do believe that children should be held “responsible” for their actions in line with the concept of evolving capacities and our strong advocacy for respect for children’s views in all aspects of their lives. It is essential to establish responsibility for crimes. Where responsibility is disputed, there has to be a formal process to determine responsibility in a manner which respects the rights of the alleged offender. But this process does not have to lead to criminalising children. In this context we also want to warn policymakers for the risks of a too repressive use of new policies or emerging measures (e.g. the anti-social behaviour orders), by which often young people are aimed at and stigmatised.

In promoting policies which respect the **human rights of young offenders**, we emphasise that we are not in any way neglecting the rights and concerns of victims of juvenile crime, who must receive appropriate reparation and support from the state. But their interests are not served by pursuing policies that fail to rehabilitate offenders and tend instead to make them more prone to offend and possibly more violent. We must also highlight the fact that children are far more often victims of crime, including violent crime, than perpetrators.

We believe that all states, far from considering lowering current ages of criminal responsibility, should aim progressively to raise them to 18, developing innovative systems for responding to all juvenile offenders below that age which genuinely focus on their education, reintegration and rehabilitation.

We commit ourselves to continue to work in the context of the Convention and of the regional human rights instruments to ensure that States adopt legal frameworks and all other measures necessary to eliminate violence against children. We will urge our governments to use the unique context of the UNSG’s Study to work urgently to bring their laws, policies and practice into line with the UNCRC and thus work effectively against violence.

ENOC's position statements and all details of the Network and its member-institutions are at www.enoc.eu