

The European Network of Ombudspersons for Children

Statutes as approved May 2006 Dublin and amended in September 2011 in Warsaw & in October 2012 in Nicosia

Article 1: Creation and name

1.1 The European Network of Ombudspersons for Children (ENOC) is a not-for-profit association of independent children's rights institutions (ICRIs). Its mandate is to facilitate the promotion and protection of the rights of children, as formulated in the Convention on the Rights of the Child.

1.2 While encouraging understanding and mutual support, ENOC respects the free and open exchange of ideas in the framework of different national or regional policies. ENOC does not, in any way, assume the responsibilities of its members, but supports its members in executing their proper mandates within their respective country or region. ENOC has adopted Standards for independent children's rights institutions which its members agree to aspire to respect. (See annex 1)

1.3 The office of the Network is established in the headquarters of the Council of Europe in Strasbourg, France.

Article 2: Objectives of ENOC

ENOC has no profit-making intentions and its objectives are:

- 2.1 to promote and safeguard children's rights and to work on strategies for the fullest possible implementation of the Convention on the Rights of the Child;
- 2.2 to serve as a forum of colleagues for the exchange of information, capacity-building and professional support among the members;
- 2.3 to promote the establishment of independent children's rights institutions (ICRIs) in countries worldwide and offer support to such initiatives;
- 2.4 to stimulate contacts and support with and among other ICRIs worldwide and their networks.

Article 3: Organisation of ENOC

- 3.1 ENOC has a *General Assembly*, a *Bureau*, and a *Secretariat* (see Articles 10, 11 and 12).
- 3.2 The *General Assembly* consists of all full members. While members are in fact the independent institutions for children, they are represented within ENOC by the person who holds the mandate or their delegated representative. Both the *General Assembly* and the *Bureau* have decision-making powers within ENOC. The *General Assembly* can delegate decision-making to the *Bureau* in conformity with article 11.3.7.
- 3.3 The *Bureau* consists of five persons, the past and current *Chairperson* and *Chairperson-elect* and the *Secretary* and *Treasurer* of the Network.
- 3.4 The *Secretariat* assists the *Bureau* in carrying out its responsibilities.

Article 4: Membership

There are two categories of membership of ENOC - full and associate. Full membership of ENOC is open to independent children's rights institutions within Council of Europe member-states which meet all of the following criteria:

- The institution is established through legislation approved by parliament, which provides for its independence.
- The institution has the function of protecting and promoting children's rights. This function is established through legislation.
- There are no provisions in the legislation which limit the institution's ability to set its own agenda in relation to this function, or which prevent it carrying out significant core functions suggested in the Paris Principles and ENOC's Standards (see annex 1).
- The institution must include or consist of an identifiable person or persons concerned exclusively with the protection and promotion of children's rights.
- Arrangements for appointment of ombudspersons, commissioners and members of a commission must be established by legislation, setting out the term of the mandate and arrangements for renewal, if any.

Institutions may be constituted separately or may form part of an independent national or regional human rights institution. In all cases they must meet the above criteria.

Article 5: Applications for membership

- 5.1 Requests for membership are addressed to the Bureau of ENOC. Applications will only be considered for full membership. Where the Bureau decides that the criteria in article 4 are not met, the institution may be considered for associate membership, if it demonstrates it is actively seeking to meet these criteria.
- 5.2 Applications should contain the law establishing the institution and other information relevant to the criteria set out in article 4. The Bureau reviews all applications, requests additional information if necessary and circulates a recommendation, made on the basis of the criteria in article 4, to all full members. Any full member may request that the recommendation be referred to the *General Assembly* for further discussion. If there are no such requests, the Bureau will inform the institution either that it is accepted as a full member or, where it is considered not to meet the criteria in article 4, may invite it to become an associate member. If an institution is informed that it does not meet the criteria for full membership, and/or is not invited to become an associate member of the Network, it may appeal in writing to the *General Assembly*.
- 5.3 The membership status of those accepted as associate members will be reviewed by the Bureau every three years.

Article 6: Rights and responsibilities of full members

- 6.1 All full members have equal status within ENOC. All have the right to fully participate in the work and decision-making of the Network.
- 6.2 All full members have the right to submit a proposal or a request related to the work of ENOC to the *General Assembly* and/or the Bureau.
- 6.3 All full members have the right to present themselves as a candidate for the position of Chairperson, Secretary or Treasurer of ENOC or to propose another full member as a candidate for these positions.
- 6.4 All full members of ENOC are expected to attend the annual meeting of the *General Assembly*.
- 6.5 All full members undertake to submit an update on their activities for the annual meeting of the *General Assembly* and to provide updated

information as necessary for ENOC's website.

- 6.6 Full members are expected to promote ENOC and its aims in all appropriate activities. They may only represent ENOC with the prior agreement of the Bureau.
- 6.7 Full members are required to inform the Bureau immediately of any changes in the legislation establishing the institution or other developments that may affect their fulfillment of the criteria for full membership as set out in Article 4.

Article 7: Associate members

- 7.1 Associate members may attend ENOC meetings and participate in ENOC activities and information-sharing. At the discretion of the Bureau, certain meetings, parts of meetings or other ENOC activities may be open only to full members.
- 7.2 Associate members are invited to submit an update on their activities for the annual general meeting of the General Assembly and to provide updated information as necessary for ENOC's website.

Article 8: Resignation and dismissal

A full or associate member of ENOC can resign at any time by submitting a letter of resignation to the Bureau.

The General Assembly, after having given to the concerned institution the opportunity to be heard, may dismiss:

- a full member, if the institution no longer meets the criteria for full membership set out in article 4;
- a full or associate member, if the institution has brought or may bring ENOC into disrepute;
- a full or associate member if the institution has not attended three consecutive annual meetings;
- a full or associate member, if the institution has not paid fees for 2 consecutive years

Article 9: Resources

To carry out its activities and finance its operations, ENOC is authorised to draw on the following resources:

- Contributions from members, to be determined by the *General Assembly*;
- Grants, donations or other contributions from governmental, inter-governmental or other philanthropic bodies, subject to approval by the Bureau after consultation with the *General Assembly*.

Article 10: General assembly

- 10.1 The *General Assembly* consists of all full members and is the highest authority of ENOC.
- 10.2 The *General Assembly* holds an annual general meeting. During the annual general meeting, the *General Assembly* approves the accounts and budget of the association. The *General Assembly* can decide to establish temporary working groups on specific Network issues.
- 10.3 Upon request of two thirds or more of the full members, an additional extraordinary general meeting of the *General Assembly* may be called.
- 10.4 At its meetings, the *General Assembly* follows a decision-making process based on the principle of consensus. No decisions shall be made at a meeting of the *General Assembly* unless a quorum is present. The quorum is two thirds of the full members of ENOC. In instances when it is not possible to reach a consensus, a vote can be held, requiring a two thirds majority of those full members present and voting. As regards decisions concerning policy statements to be issued by ENOC, dissenting members may always register a reservation.
- 10.5 The ENOC Statutes can be amended by decision of an annual general meeting or extraordinary general meeting of the *General Assembly*, on the proposal of any full member.
- 10.6 If an extraordinary general meeting of the *General Assembly* decides to dissolve the network, any remaining assets of ENOC shall be transferred

to a not-for-profit children's rights organisation to be determined by the meeting.

Article 11: Bureau of ENOC

- 11.1 ENOC is managed by a five-person Bureau, consisting, as noted in article 3.3, of the current and past Chairperson, the Chairperson-elect, the Secretary and the Treasurer of the Network. Whenever the current chair is unable to carry out his/her function, for whatever reason, the chairperson-elect will take over the function of chairperson.
- 11.2 The Chairperson-elect, Secretary and Treasurer of ENOC are elected by the General Assembly during its annual general meeting. The Chairperson-elect is elected for a non-renewable one-year term and begins his/her functions at the beginning of the following annual general meeting of the General Assembly. The Secretary and Treasurer are elected for a one-year term and may be re-elected for a maximum of two further consecutive terms (three years in all). They take up their post immediately following election. Where a member of the Bureau is unable for whatever reason to carry out his/her functions, the Bureau may fill the post until the next annual meeting with a former member of the Bureau.
- 11.3 Under the leadership of the Chairperson, the Bureau is collectively responsible for:
- 11.3.1 co-ordinating the Network and keeping full and associate members informed of its work,
 - 11.3.2 Ensuring relations with other relevant bodies and organisations in the field of children's rights on the international level,
 - 11.3.3 Organizing the annual meeting of the General Assembly,
 - 11.3.4 Reviewing and making recommendations to the General Assembly on applications for membership,
 - 11.3.5 Developing strategies to further strengthen ENOC and increase its visibility,
 - 11.3.6 Overseeing the administration of any funds or assets of the Network,
 - 11.3.7 Carrying out any other mandate given by the General Assembly,
 - 11.3.8 The representation of ENOC in cases before the court as either plaintiff or defendant.

Article 12: Secretariat

12.1 The Secretariat is appointed by the Bureau based on criteria set by the General Assembly. The Secretariat is guided by the Bureau.

12.2 Its functions include the following:

12.2.1 facilitating the networking activities of ENOC's full and associate members,

12.2.2 assuring the availability of information about ENOC and ENOC member institutions, including the maintenance of the ENOC website,

12.2.3 daily management of the financial operations of ENOC, including the preparation of regular statements of accounts for the Bureau and annual accounts for the General Assembly, as well as arranging for independent auditing of accounts,

12.2.4 supporting the organisation of the annual general meeting and any extraordinary general meetings and preparing reports on them.

12.2.5 maintaining a register of decisions of the General Assembly and the Bureau.

Article 13: Approval of Statutes

These Statutes were approved by an extraordinary founding general meeting of the General Assembly held for this purpose in Dublin, Ireland on May ... 2006.

The Statutes have been subject to amendments by the General Assembly held in Warsaw, Poland on September 15, 2011 and in Nicosia on October 12, 2012.

Article 14: Applicable law

These statutes were drafted according to the Alsatian law on associations - Code Civil Local, art. 21-97 III - which will serve as the reference for any matters not explicitly mentioned in these statutes.

ANNEX 1

ENOC's Standards for independent children's rights institutions

These Standards are aspirational; not all ENOC member-institutions meet all of the Standards. But its members agree that parliaments and governments should be encouraged to review the status of existing institutions in the light of the Standards and to ensure that the design of new institutions conforms with the Standards and with the Convention on the Rights of the Child (CRC).

ENOC believes that in order to be effective in monitoring, promoting and protecting the human rights of children, a human rights institution must conform with the Paris Principles, the CRC and the European Convention on Human Rights. The full text of the Principles is reproduced in Annex A below. The following is an unofficial summary of the key implications of the Principles, relating them, where appropriate, to children's human rights in particular:

Competence and responsibilities

An independent institution set up to monitor, promote and protect the human rights of children must:

- be established by legislation;
- have as broad a mandate as possible in relation to the monitoring, promotion and protection of children's human rights, based on the CRC;
- have the right to provide and to publicise opinions, recommendations, proposals and reports on its own initiative or at the request of other authorities on any matter concerned with the promotion and protection of children's human rights, including:
 - * legislative or administrative provisions and provisions relating to judicial organisation, intended to preserve and extend the protection of human rights. The institution will consider legislation, etc., in force and proposed and when necessary recommend adoption of new legislation, etc., or amendment;
 - * any violation of children's human rights which it decides to take up;
 - * preparation of reports on human rights in general, or on more specific matters;
 - * drawing the attention of the Government/Parliament to violations, making proposals for remedies and when necessary commenting on the position and reaction of Government/Parliament.

- promote and ensure harmonisation of national legislation with the Convention on the Rights of the Child and all other international human rights instruments relevant to children's rights to which the state is a party, and promote their effective implementation;
- encourage ratification of or accession to any such instruments;
- contribute independently to the monitoring and reporting process under the CRC and other relevant instruments;
- co-operate with the United Nations and with UN and other agencies, regional institutions and national institutions of other states competent in the promotion and protection of children's rights;
- assist in formulating and executing programmes for the teaching of and research into human rights;
- publicise human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, through information, education and making use of the media.

Composition, independence

The institution must have adequate funding to enable it to have its own staff and premises in order to be independent of Government. It must not be subject to financial control which might affect its independence.

Arrangements for appointment of ombudspersons, commissioners and members of a commission must be established by an official act, setting out the duration of the mandate and any arrangements for renewal. The composition and methods of appointment of the institution must be appropriate to enable effective co-operation with, for example, appropriate NGOs and professional organisations, universities, Parliament and Government departments.

Methods of operation

The institution must be able to:

- freely consider any questions falling within its competence, whether submitted by Government or taken up on its own initiative;
- hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
- speak freely to the public, directly or through any media;
- meet regularly and whenever necessary in the presence of all its members duly convened;
- establish working groups and set up local or regional sections to assist it in discharging its functions;

- maintain relationships with other bodies responsible for the promotion and protection of human rights including with a broad range of non-governmental organisations.

Hearing and considering complaints

Some institutions will be authorised to hear and consider complaints from individuals or groups. If this is the case, additional principles are proposed to base such functions on. Without prejudice to the other principles, the institution may:

- seek an amicable settlement through conciliation, or through binding decision within limits prescribed by law; or, where necessary, on the basis of confidentiality;
- inform the complainant of his rights and of available remedies and promote access to them;
- hear complaints or transmit them to any other competent authority within the limits prescribed by the law;
- make recommendations, in particular for changes in law, regulations and administrative practice which might have remedied the situation complained of.

Designing human rights institutions for children

In addition to conforming, as above, with the Paris Principles, ENOC believes that the design and development of the institution must take full account of the special status of children and the particular difficulties for children in exercising their rights.

The legislation establishing the institution must be linked explicitly to promoting implementation of the Convention on the Rights of the Child - thus covering children's economic, social and cultural rights as well as civil and political rights. Conformity with the Paris Principles requires the institution to consider all other relevant human rights instruments which the state has ratified or acceded to.

The legislation must include provisions setting out specific functions, powers and duties relating to children and their rights, linked to the Convention. "Children" should be defined as in Article 1 of the CRC. For example:

- duties to pay particular regard to the views of children, to take active steps to maintain direct contact with children, organisations of children and organisations established to promote children's rights; and to promote respect for the views of children throughout society;

- the institution must be readily accessible to children and able to respond to any individual communications from children.
- powers to have regard to the situation of children in the family, in schools and in all other institutions;
- powers to consider the promotion and protection of children's rights in relation not only to government but also to private bodies;
- the right to have access to children in all forms of alternative care and all institutions which include children;
- the right to report freely and separately on the state of children's human rights.

The institution must review whether children have access to advice and advocacy and complaints procedures and services, and make appropriate recommendations.

The institution must seek to ensure that children and adults are aware of the principles and provisions of the CRC.

The institution must include or consist of an identifiable person or persons concerned exclusively with the promotion of children's human rights - a Children's Ombudsman, Children's Rights Commissioner or Children's Rights Commission. This should be a person/people who can bring status and public and political respect to the office. They should have a high public profile and so enhance the status and visibility of children. The institution will need to ensure awareness of its existence and mandate amongst children, using appropriate channels including for example schools, other institutions which accommodate children, youth organisations and media used by children.

The institution needs to have appropriate, multi-disciplinary staffing dedicated to the promotion and protection of children's human rights and a ring-fenced minimum budget to enable it to work effectively.

A transparent procedure for appointments should be established, for example including advertising the appointment publicly and/or establishing an appointments committee including, eg, children, children's NGOs, governmental representatives, etc.

Responding to complaints from children and their representatives

If an institution includes in its mandate considering and responding to complaints from children it will need to take account of the particular difficulties for children in making complaints. Complaints procedures designed with adult complainants in mind are most unlikely to be used significantly by children. The institution will need to ensure, for example:

- that its mandate and powers are well and appropriately publicised to children and their representatives throughout the jurisdiction in a form and language they can understand, with special attention to very young children, disabled children, children in difficult circumstances and in all institutions;
- that children have free and easy access to the institution, for example through free telephone lines, e-mail access and local offices;
- that it is able to give advice and refer children to appropriate bodies;
- that there are clear confidentiality policies, explained to children and others before they use the institution's services.

Children themselves should be involved in the design and review of complaints procedures and advice and advocacy systems.