

The European Network of Ombudspersons for Children

Statutes as amended November 2020¹

Preamble

Independent Children's Rights Institutions (ICRIs) are public bodies, independent of the government, whose mandate is to protect and promote the rights of the child as set out in legislation. ICRIs protect and promote the rights of the child as enshrined in the United Nations Convention on the Rights of the Child (UNCRC) and its three Optional Protocols, on the involvement of children in armed conflict, on the sale of children, child prostitution and child pornography, and on a communications procedure, as well as under other United Nations human rights treaties, and the European human rights framework, including the European Convention on Human Rights and the European Social Charter. They monitor the implementation of the rights of the child at national level, advise national governments on how to fully realise the rights of the child, conduct awareness-raising activities, and engage with children and young people.

In line with the Paris Principles, the UNCRC and its Optional Protocols, and the UN Committee on the Rights of the Child's General Comment no. 2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child, ICRIs ensure that children, young people, and adults understand the rights of the child, children and young people know how to contact them, listen to all children and young people's views, including those most marginalised, involve children and young people in their daily work, work closely with children's and young people's organisations, monitor State compliance with their international human rights obligations, investigate where children's human rights are not being respected and report to the UN Committee on the Rights of the Child on the status of children's rights in their countries. In order to protect and promote the rights of the child, ICRIs also conduct awareness-raising, capacity-building and educational activities in many areas including, inter alia, education, information, training, research, production and distribution of publications, advocacy, dissemination of messages in the media, and advising governments on compliance with international human rights standards.

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

¹ Original Statutes approved May 2006 in Dublin, amended in September 2011 in Warsaw, in October 2012 in Nicosia, and in November 2020 at the annual general meeting of the ENOC General Assembly.

mandate is to facilitate the promotion and protection of the rights of children, as formulated in the United Nations Convention on the Rights of the Child (UNCRC).

- 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 A).
- 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 UN 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, and to maintain an overview of other activities around the world and share more broadly beyond ENOC;
- 2.4 to stimulate contacts and support with and among other ICRIs worldwide and their networks;
- 2.5 to ensure, through advocacy and policy work, that relevant European-wide bodies place child rights at the centre of their activities, legislation and policies, and adopt a child rights approach to their work;
- 2.6 to promote the active participation of children and young people in decision-making processes, legislation, and policies concerning them. ENOC aims to implement such active engagement with and participation of children and young people in every aspect of ENOC's work and decision-making, including *inter alia* through consultations, engagement, and other activities; and

2.7 to initiate and coordinate strategic interventions on policy and litigation affecting children's rights agreed by at least two-thirds of full members of ENOC.

Article 3: Organisation of ENOC

3.1 ENOC has a General Assembly, a Bureau, and a Secretariat (see Articles 11, 12 and 13).

3.2 The General Assembly consists of all full members. While members are the ICRIs, they are represented within ENOC by the person who holds the mandate or their delegated representative. Should a delegated representative attend on behalf of the mandate-holder, the mandate-holder should inform the Bureau in writing in advance and confirm the decision-making powers of the delegated representative.

3.3 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 12.5.7.

3.4 The Bureau consists of seven persons, the past and current Chairperson, the Chairperson-elect, the Secretary, the Treasurer of the Network and two ordinary members.

3.5 The Secretariat assists the Bureau in carrying out its responsibilities.

Article 4: Membership

4.1 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 A).
- 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.

4.2 The institutions must hold authority, set down in legislation, to advocate for, protect and promote the rights and best interests of the child.

4.3 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 and considered by the membership application working group, which makes a recommendation to the Bureau. Applications will be considered for both full and associate membership. Where 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 membership application working group reviews all applications, requests additional information if necessary and makes a recommendation to the Bureau. The Bureau considers this recommendation and, if it determines that the application meets the criteria for either full or associate membership, circulates a recommendation to all full members, made on the basis of the criteria in article 4. 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 applicant 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: Membership fees

6.1 All full and associate members are expected to contribute to the Network's resources by paying annual membership fees. Members who join the Network

between January and June pay the full annual fee and those who become members between July and December pay half the annual fee. The Secretariat will invoice members for these fees once per year at the beginning of the financial year.

6.2 A working group on membership fees will be established every four years. The working group will review and propose annual membership fees to the General Assembly and, once agreed upon by the General Assembly, subsequent membership fee invoices issued by the Secretariat will reflect the decision of the General Assembly.

6.3 If a member cannot pay its membership fees they may be waived in part or in full, at the discretion of the Bureau and where the Bureau is satisfied that the member cannot pay the amount in full for that year due to reasons beyond its control. A membership fee waiver will apply for a period of one year, but a member must inform ENOC of any improvement of its ability to pay the membership fee within that year. A member can apply for a maximum of two consecutive waivers.

6.4 Any full or associate member who wishes to apply for a waiver is expected to submit a copy of their agreed budget for the year ahead, and cover letter or email to the Bureau at least 90 days in advance of the ENOC financial year, which runs from January to December. The Bureau will discuss a possible waiver and communicate its decision to the member by email.

6.5 At the request of a member the ENOC Bureau will provide supporting documentation addressed to the funding body of the member to reiterate the importance of ENOC membership to the work of ICRIs, the obligation set out in the Paris Principles and the United Nations Committee on the Rights of the Child's General Comment no. 2 for the state to provide funding for ICRIs, and risk of dismissal for non-payment of fees.

Article 7: Rights and responsibilities of full members

7.1 All full members have equal status within ENOC. All have the right to fully participate in the work and decision-making of the Network.

7.2 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.

7.3 All full members have the right to present themselves as a candidate for the position of Chairperson, Secretary, Treasurer of ENOC or ordinary Bureau members or to propose another full member as a candidate for these positions.

7.4 All full members of ENOC are expected to attend the annual meeting of the General Assembly.

7.5 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.

7.6 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.

7.7 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 fulfilment of the criteria for full membership as set out in Article 4.

Article 8: Associate members

8.1 Associate members should be supported by the Network and the Bureau to work towards becoming full members through guidance and capacity-building efforts. There should be a review of associate members' status every 3 years to review progress made and assess whether associate members can become full members. There is no time limit on associate member status and members can remain associate members so long as they continue to protect and promote the rights of the child and meet the criteria under article 4.

8.2 Associate members may attend and participate in ENOC meetings and 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.

8.3 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.

8.4 Associate 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.

Article 9: Resignation and dismissal

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

9.2 The Bureau may recommend to the General Assembly that a full member be reclassified as an associate member if the institution no longer meets the criteria for full membership set out in article 4. The General Assembly shall vote on this as its next annual general meeting.

9.3 The Bureau may suspend:

- a full or associate member if the institution has brought ENOC into disrepute meaning any attitude, statement or similar in contravention of the rights and principles of the UNCRC or the spirit and objectives of the Network, or the institute has violated ENOC's child protection policy;
- 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 without a formal waiver.

9.4 Any suspension by the Bureau must be justified and communicated to the member concerned. The member concerned must be given one month from receipt of communication to respond to the decision and can request a meeting with the Bureau to discuss further.

9.5 All suspensions must be confirmed by the General Assembly. Where the suspension occurs within three months of the next annual general meeting, the decision will be taken at that point. If not, an online extraordinary general meeting of the General Assembly shall be called. Prior to the vote, the Bureau and the member will have the opportunity to be heard. Otherwise, the suspension will be considered void. This suspension is renewable for one year.

9.6 The Bureau may also propose, by reasoned opinion, the dismissal of a member from the Network. A proposal to dismiss a member will be a matter of last resort and according to criteria of proportionality. This proposal must be justified and communicated to the member concerned and to the General Assembly in writing. The removal of a member is the General Assembly's responsibility, which decides on the basis of the Bureau's report and any written reply received from the member. Where the proposal for dismissal occurs within three months of the next annual general meeting, the decision will be taken at that point. If not, an online extraordinary general meeting of the general assembly shall be called. Prior to the vote, the Bureau will present its proposal and the member will have the right to be heard by the General Assembly. The decision, which is final, is brought to the attention of the member concerned.

9.7 Following dismissal, a member cannot reapply for membership immediately and must wait a minimum of one year before reapplying, and demonstrate change in circumstances as part of the application.

9.8 In case of dismissal, the Bureau will inform the national authority concerned of the General Assembly's decision in writing.

9.9 In case of resignation, suspension or dismissal, the membership fees are calculated pro rata and refunded to the institution concerned.

Article 10: Resources

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

- Membership fees;
- Grants, donations or other contributions from governmental, inter-governmental or other bona fide, rights-based transparent philanthropic bodies, in line with ENOC's aims and objectives. This is subject to approval by the Bureau, which will assess whether the body concerned meets the appropriate criteria, after consultation with the General Assembly.

Article 11: General Assembly

11.1 The General Assembly consists of all full members and is the highest authority of ENOC.

11.2 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.

11.3 Upon request of two-thirds or more of the full members, an additional extraordinary general meeting of the General Assembly may be called.

11.4 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.

11.5 Voting is conducted in a transparent manner. All members cast their vote simultaneously. Votes will be recorded and available for scrutiny afterwards.

- 11.6 A secret vote may be requested by the Chair or at least five voting members represented at the meeting. As regards decisions concerning policy statements to be issued by ENOC, dissenting members may always register a reservation.
- 11.7 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.
- 11.8 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 12: Bureau of ENOC

- 12.1 ENOC is managed by a seven-person Bureau, consisting, as noted in article 3.3, of the current and past Chairperson, the Chairperson-elect, the Secretary, the Treasurer of the Network and two ordinary members. 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.
- 12.2 The Chairperson-elect, Secretary and Treasurer of ENOC and two ordinary members are elected by the General Assembly during its annual general meeting. The application process for Bureau membership is opened via official notification from the Secretariat three months prior to the Annual General Meeting.
- 12.3 The quorum of the ENOC Bureau is four. In instances where it is not possible to reach a consensus, a vote can be held, requiring a simple majority of those members present.
- 12.4 The Chairperson-elect is elected for a three-year period in total. The elected individual begins his/her functions upon election. The Chairperson-elect then becomes Chair in their second year at the beginning of the following annual General Assembly meeting, and becomes the former Chair at the beginning of the next annual General Assembly. The Secretary, Treasurer and ordinary members 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.

12.5 Under the leadership of the Chairperson, the Bureau is collectively responsible for:

- 12.5.1 co-ordinating the Network and keeping full and associate members informed of its work,
- 12.5.2 Ensuring relations with other relevant bodies and organisations in the field of children's rights on the international level,
- 12.5.3 Organizing the annual meeting of the General Assembly,
- 12.5.4 Reviewing and making recommendations to the General Assembly on applications for membership,
- 12.5.5 Developing strategies to further strengthen ENOC and increase its visibility,
- 12.5.6 Overseeing the administration of any funds or assets of the Network,
- 12.5.7 Carrying out any other mandate given by the General Assembly,
- 12.5.8 The representation of ENOC in cases before the court as either plaintiff or defendant.

Article 13: Secretariat

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

13.2 Its functions include the following:

- 13.2.1 facilitating the networking activities of ENOC's full and associate members;
- 13.2.2 assuring the availability of information about ENOC and ENOC member institutions, including the maintenance of the ENOC website;
- 13.2.3 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;
- 13.2.4 supporting the organisation of the annual general meeting and any extraordinary general meetings and preparing reports on them; and
- 13.2.5 maintaining a register of decisions of the General Assembly and the Bureau.

Article 14: Child protection policy

All members must comply with the ENOC child protection policy. This is referenced in Annex B.

Article 15: 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 5, 2006. The Statutes have been subject to amendments by the General Assembly held in Warsaw, Poland on September 15, 2011, in Nicosia, Cyprus on October 12, 2012, and on November 18, 2020 at the annual general meeting held online and hosted in Edinburgh.

Article 16: 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 A

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 UN Convention on the Rights of the Child (UNCRC).

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 UNCRC and the European Convention on Human Rights. The full text of the Principles is reproduced 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 UNCRC;
- 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 UN 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 UNCRC 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 cooperation with, for example, appropriate non-governmental organisations (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 UN 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, e.g., 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.

ANNEX B

ENOC's Child Protection Policy can be found here: <http://enoc.eu/wp-content/uploads/2019/12/Child-protection-policy-FV.pdf>

Principles relating to the Status of National Institutions (The Paris Principles) : <https://www.ohchr.org/en/professionalinterest/pages/statusofnationalinstitutions.aspx>

United Nations Committee on the Rights of the Child General Comment no. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fGC%2f2002%2f2&Lang=en