

**EUROPEAN NETWORK OF  
OMBUDSPERSONS FOR CHILDREN  
(ENOC)**

**REPORT OF THE  
SEVENTH ANNUAL MEETING**

**STOCKHOLM, SWEDEN, 15 - 17 OCTOBER 2003**

## **ENOC Annual Meeting Stockholm, 15-17 October 2003**

### **Introduction**

The ENOC Annual Meeting took place from 15-17 October 2003, hosted by Lena Nyberg, the Swedish Ombudsman for Children and Young Persons and her team. There were 23 Ombudspersons Offices participating in the meeting from 20 countries and two observers (see list of participants in Annex 6). The meeting was opened by Lena Nyberg, who welcomed the group to Stockholm, particularly the new ENOC members from Croatia, Latvia, Luxembourg and Greece.

The ENOC activities update was presented by Claude Lelièvre who highlighted major activities undertaken by the Chairperson on behalf of ENOC. As a first priority, he updated the group where we are vis a vis the deposit of the Statutes. They should soon be published in the Belgian Monitor and once this is done, should be officially translated into English. The second priority of the president was the rapid establishment of an ENOC secretariat. He, together with a number of other Ombudspersons participated in the Forum of the Council of Europe on Ombudswork for Children. In this regard, he highlighted the conclusions of the forum. He informed the group that he had also met with the CoE Deputy Secretary General to discuss possible future collaboration with ENOC. At the European Union level, ENOC also sent a letter to the meeting of European Ministers of Children held in Lucca in September (see Annex 2).

### **Country Updates**

All offices made brief presentations on recent developments and areas of focus for their work (Country Updates can be found in Annex 1). Special attention was given to the question of how they communicate with children, leading to the substantive discussion on this theme later in the meeting. There was an overwhelming focus on issues relating to the school environment, based on concerns expressed by children themselves. School-related issues included bullying and school safety more generally, stress, and need for improvements in the school environment. Some offices reported that they are already working with mechanisms such as student councils and school ombudsmen, while others indicated that they were advocating for the establishment of such mechanisms. It was suggested that the issue of the school environment could be an area of focus at next year's annual meeting.

Other areas of common concern were working with municipalities, violence against children, children's rights in cases of divorce, and alcohol consumption by children.

### **Report back of the Working Group on Establishing an ENOC Secretariat**

The working group, created at the 2002 ENOC Annual Meeting, was tasked with exploring options for the establishment and financing of a permanent ENOC Secretariat. The working group was facilitated by Peter Newell. The Working Group agreed that Trond Waage should replace Claude Lelièvre as chair of the Working Group in May. A report had been circulated to ENOC members by the Working Group in advance of the meeting, containing detailed proposals for the General

Assembly to consider. The chair of the Working Group summarized the results of a questionnaire which had been sent to all ENOC members, soliciting their views on secretariat options, and took members through the Working Group proposals.

The General Assembly agreed that the Working Group should continue in existence to finalise arrangements for the location and funding of ENOC's permanent Secretariat.

The General Assembly also agreed:

- that UNICEF should be thanked for its agreement to continue to support ENOC while negotiations to establish a permanent Secretariat continue, and the offer accepted, if necessary until the end of 2004;
- to note that the proposal to form an Office for Liaison with ENOC in the office of the Council of Europe Commissioner for Human Rights, which received unanimous support from ENOC members, has been accepted; the Working Group will negotiate a draft agreement with the Commissioner, the final document to be circulated for approval by the General Assembly;
- in principle that ENOC's Secretariat will be established in Strasbourg, provided the Working Group can negotiate an appropriate agreement with the Council of Europe;
- that the Working Group should continue negotiations with the Deputy Secretary General of the Council of Europe to determine whether it is possible to locate the administrative functions of ENOC's Secretariat within the Council of Europe premises in Strasbourg, retaining full operational independence;
- that ENOC's Secretariat should be funded, at least over the first three years, from contributions from members and governments, together with any EU funding that may be obtained;
- that the Working Group should be authorised to finalise the budget for the Secretariat, taking into account any contributions that may be available from the Council of Europe and other bodies, and to circulate this to members;
- that each member-institution should pay a minimum annual membership fee of €500 and that in addition members should be expected to contribute to the costs of the Secretariat according to their means.
- A further proposal, that member institutions should contribute a fixed percentage of their budget, was not agreed. It was agreed that the Working Group will make further proposals once the full budget for the Secretariat is worked out.
- That the Working Group, having established a budget, will circulate members asking them to confirm what is the maximum contribution they can commit themselves to contribute, per year for the first three years, to the costs of the Secretariat; also, member institutions who believe it is appropriate to seek a contribution towards funding the Secretariat from their governments, will be asked to approach their governments and report back to the Working Group on any funding available for the first three year period.
- To authorise the Working Group to follow up the possibility of EU funding for ENOC's Secretariat, preparing an explanation of activities and budgets. If this looks hopeful, all members in EU or EU-applicant countries will be asked to lobby for acceptance of the proposal.
- To thank the Government of the French Community of Belgium for its offer to fund the ENOC Secretariat in Brussels.
- To thank the Commissariat-General aux Relations Internationales in Brussels for providing a meeting place, translation facilities and refreshments for three

meetings during the year, and to Claude and Stephan for the practical organisation of the meetings.

Concerning overall relations with the CoE, Peter reported that the CoE, under the leadership of the Deputy Secretary General (DSG), is in the process of rethinking how it coordinates its work on children and children's rights. It was agreed that the ENOC Chairperson send a letter to the DSG emphasizing that ENOC would like to see a strong and specific focus on children's rights.

### **Communicating with Children**

This session included several Ombudspersons' experiences followed by presentations on respect for children's views in the courts and on communicating with children through school democracy structures. (See statement in Annex 3).

#### **Ombudspersons' Experiences**

Peter Clarke, Ombudsman for Children in Wales shared his experience in involving children in the work of his office. Initially he worked with the Welsh children's parliament. Eventually, however, he decided that he wanted to really involve children in ways that they could contribute and that are easy for them – not just adult ways. He felt it was not enough just to have a council or a series of councils, but that young people must be involved across the board. Toward this end, he has a young member of staff and will have 2 further posts (age 16-25). He is working to ensure that young people's views are at heart of everything the office does.

Claire Brisset, the *Defenseur des Enfants* in France noted that only 10% of individual cases are from children themselves. To her, this was an indicator that children do not have adequate mechanisms to communicate with her office. The office has now started to communicate with children through the internet and has links with a children's press group. They have established an advisory group of adolescents, using a consultant to bring together a representative group of young people, from different regions, socio-economic groups, ethnic groups, etc. The advisory group met twice last year for a weekend with *Defenseur* team, and discussed what they are most worried about and what the theme of *Defenseur's* report should be. What worries them the most is terrorism, war, poverty, and the environment (but feel unempowered in this regard).

Trond Waage, the Norwegian Ombudsman for Children also shared some of his experience. In Norway most municipalities have youth/children's councils, but do they have any real power or influence. The Norwegian Office has a number of dialogue instruments with children. The first was "powerline", a telephone hotline linked to a television programme which now uses text-TV. Powerline is still an important source of ideas, comments, and suggestions from children. The office has a team of 4 people working with dialogue instruments. They focus on gathering information on children's lives. The Internet Parliament is the most important tool. It is functioning in 25 schools around Norway, with student council presidents having access to website. They plan to expand to 50 schools, and hope to have voting and referendums. How does it work – the office prepares information on given topic (often selected by children themselves), it is discussed in classrooms, and then there is a vote through the Internet Parliament.

## **Discussion**

During the discussion which followed, it was emphasised that ombudspersons need to address issues of concern to children and young people, which, in many instances, may include controversial issues. These can not and should not be ignored by ombudspersons, simply because they may find them uncomfortable (e.g. adoption by same sex couples).

One major area of concern was how to ensure that not only advantaged children participate in dialogues and debates. In this regard, the Danish National Council for Children works with home classes of children in 7<sup>th</sup> grade – selected by a university to ensure diversity, and will work with them for 3 years to ensure they get a variety of perspectives.

It was noted that many school councils do not feel they have any influence, but rather that they exist for superficial reasons only. It was noted that in all cases, a variety of communication channels should be available to children, including through schools, telephone, Internet, radio, print media, etc.

## **Communicating with Children in Courts and Schools**

The second part of the session included presentations by Titti Mattsson, Associate Professor of Public Law, Lund University and Christian Mollerup of the Organising Bureau of European School Student Unions (OBESSU).

Ms. Mattsson focussed on listening to the child in the context of the court system, specifically the basic legal framework for respect for the views of the child as a fundamental procedural right. She noted that even if laws are in place, many children are not asked to tell their story and many feel abandoned and forgotten, lacking tools to be seen and have their voices heard.

She highlighted a number of procedural issues including right to a fair trial, right to a lawyer and adult representative, right to personal integrity and issues of autonomy. For example, in public custody cases, the child is the centre of information necessary to ensure that a good decision is taken. In this regard, she noted four different legal roles of the child.

- The child as a carrier of information assumes that the child is an individual with equal value and rights, as well as freedom of expression. In this role, the expression is an aim/end in and of itself.
- The child a giver of information assumes that the information provided becomes part of the evidence material and is used as a means for a good decision.
- The child as receiver of information is critical to ensuring that the child can express his/her views and give relevant information. Being adequately informed of the details of the case is a prerequisite to ensuring the meaningful contribution of children in court proceedings.
- The child as an intermediary of information places the child in a position of passing information to others. It is then the responsibility of adults to determine how that information is used.

Christian Mollerup, of OBESSU explained that his organisation is the European platform of school students unions, primarily secondary school but also primary in some countries.

He began with OBESSU's perspective on the overall school environment, quoting a student from Malta who said: "We learn to walk, we learn to talk. Then we come to school and are told to sit down and be quiet." He noted that often school students are forced to be passive, and are not involved in the learning process or decisions taken about them. Adding that a good learning environment must be based on good communication.

He presented a range of children's views on school including the following: "boring...not motivating...no stimulation...old fashioned teachers...bad working environment...feel passive...lack of influence on learning process...."

OBESSU believes young people can take responsibility for decisions about their learning environment, and there should be no age limits. He stressed that adults should not be the gate-keepers of what children can or can not discuss and that OBESSU members will come knocking at the doors of ombudspersons and expect cooperation.

OBESSU wants to give young people a formalised right to participate in decisions that affect them, being represented in decision making bodies which concern them both in school and society.

Christian summarised some of OBESSU's projects and its positions on a number of issues, including the following. OBESSU believes that marks and grades should be taken out of school and replaced with new evaluation methods and new forms of exams and assessment in general. Schools should be a non-commercial zone and uniforms should be taken away. Young people should be taken for what they are and not what we want them to be!!!!

He ended by asserting that the CRC should be implemented in school, because at the moment there is not necessarily a link between education and school.

### **Juvenile Justice in Europe**

The importance of the topic was introduced, citing the increasing trend toward punitive measures, and efforts to lower rather than raise age of criminal responsibility. It was felt at last year's annual meeting that ENOC members would benefit from an ENOC statement on these issues. (See Statement in Annex 4)

Peter Newell presented the draft statement, explaining that he had tried to separate out issues of responsibility vs. criminality. He noted that if we are trying to get society to take children seriously as responsible citizens, then we cannot say they are not responsible in the context of criminal actions. But responsibility does not have to mean criminalization. It was proposed that the statement endorse the view that the only justification for depriving children of their liberty is if they pose a risk to public safety.

Pawel Jaros, the Polish Ombudsman for Children made some comments on the problems of the Polish juvenile justice system, as did the Spanish and Belgian offices.

The group then split into working groups focussed on general reactions to the draft statement and proposals for changes, followed by brainstorming on strategies for Ombudspersons to advocate positive reform of juvenile justice systems. The statement was amended by agreement to emphasise the importance of developing alternative measures to criminalisation and also training for all those involved with the juvenile justice system. In addition, it was agreed that the statement should encourage the Committee on the Rights of the Child to rigorously examine States parties to the Convention on the Rights of the Child on juvenile justice policies and promote a single-minded focus on rehabilitation and re-integration, not criminalisation, for all children up to 18.

### **European Social Charter**

Niamh Casey from the Secretariat of the European Social Charter explained the background to the European Social Charter and the Revised Social Charter which will eventually replace it. These supplement the European Convention on Human Rights and cover economic and social rights. The Revised Social Charter substantially expands the detail of some rights. The European Committee of Social Rights (ECSR) is the monitoring body for the Charters, with 13 members. They are the only body entitled to make a legal interpretation of the provisions in the Charters. There is a complex pattern of reporting by member states under the various articles. When the Committee finds non-conformity, it transmits its findings to a Governmental Committee, which decides which should be transmitted to the Committee of Ministers. The Committee of Ministers may issue recommendations to states setting out the action they should take to comply.

Niamh highlighted the conclusion of the ECSR that compliance with article 17 of the Charters required explicit prohibition of all corporal punishment and other humiliating treatment of children; the Committee had asked states systematically to explain the legal status of corporal punishment and had already found five countries – Poland, France, Slovenia, Slovak Republic and Romania to be not in conformity with the Charters because of their failure to effectively prohibit all corporal punishment. In addition “collective complaints” had been lodged by the World Organisation Against Torture against five other countries - Greece, Ireland, Italy, Portugal and Belgium. An additional protocol to the Charters establishes the system of collective complaints; it has so far been accepted by 13 of the 45 member states. Approved international NGOs and international and national trades union and employers’ organisations can make complaints.

Niamh outlined the interpretation of the Charters in relation to juvenile justice, child labour, inclusive education, and other issues.

### **Other Business**

#### **The UN Secretary General’s Study on Violence against Children**

Peter Newell provided an update on progress in launching the study, noting that Ombudspersons for Children will have an important role in contributing to the study

at national level. He shared the briefing note prepared by the NGO Advisory Panel to guide national processes. He informed the group about plans for a European Regional Consultation which will be likely be led by UNICEF in close cooperation with the Council of Europe and relevant NGO and UN partners.

### **Promoting the Establishment of Ombudspersons for Children**

The ENOC Secretariat introduced this item, which was primarily an information sharing session. A matrix had been developed to track existing offices, those in process of being established, and those countries without any movement in this regard. The discussion focussed largely on Europe, but also covered other regions of the world where Ombudspersons have contacts (e.g. Latin America and Africa). It was agreed that the matrix was a useful tool and should be regularly updated. Some Ombudspersons volunteered to monitor progress in countries with which they have regular contact.

### **ENOC Website**

Trond Waage presented a proposed restructuring of the ENOC website, with a focus on simplicity and ease of access for both users and those updating it. It was suggested that using simple software and a password system that ENOC members could update their own country pages directly. It was agreed that the Norwegian Ombudsman's office would work with the Secretariat to finalise the new structure of the site and that together they would assure the initial inputting of the data.

The meeting also briefly discussed and adopted a statement on "Childhood and Commercial Pressure" in response to an EU proposal for a "Directive on unfair business-to-consumer commercial practices." (See Statement in Annex 5)

**The General Assembly elected by consensus Peter Clarke of Wales to be the next chairperson of ENOC and host the 2004 annual meeting. It is proposed that the meeting take place from 13 to 15 October 2004 in Cardiff.**

### **Feedback**

There was positive feedback about the meeting in general. People very much liked working in small groups and proposed that it be used next year for appropriate sessions. There was also a general feeling that with the increased membership in ENOC, the country updates session is becoming too long and should be replaced with some other mechanism for sharing information of a general nature. One suggestion was that country updates focus on one theme or problem only, another was the idea of a market place, during which people could circulate to "visit" other offices and learn more about their projects.

There was also a proposal to hold a special meeting of CEE/CIS Ombudspersons prior to the next meeting (as was organised by UNICEF in Stockholm). Suggestions for next year's thematic discussions were: school environment and/or integration of children with special needs. It was also suggested that a representative of the network of Child Friendly Cities could present their work and that the Chairperson of the Committee on the Rights of the Child be invited again.



## **ANNEX 1**

### **Office Summaries**

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **AUSTRIA**

**Austrian report  
for the ENOC's Annual Meeting in Stockholm 2003**

I. As regards the past year, the Ombudspersons of the nine federal states of Austria make the following statement:

Positive aspects:

- + National Action Plan for the implementation of the UN Convention on Children's Rights (UNCRC): introductory event and constitution of working groups for the preparation of a catalogue of measures. In this respect, it is important that the initiative has been taken by the competent ministry and that many NGOs and the ombudspersons have been integrated.
- + the 2<sup>nd</sup> government report as to the implementation of the UN CRC has been submitted in the autumn of 2002
- + the NGO report as to the government report will be submitted in the autumn of 2003

Negative aspects:

- ▶ the general wish to make savings is starting to have an impact, above all, on the budgets and the staff situation of the youth welfare institutions, the educational policy and the support provided to young people
- ▶ experts are consulted far less often than before
- ▶ phenomena such as vandalism, increased alcohol and dependence problems, readiness to resort to violence, psycho-social crises, failure at school or rejection of education etc are increasing
- ▶ the participation of children and young people has been recognized as a method, nevertheless, there are only few communal authorities, schools and institutions that actually enable participation following the valid standards
- ▶ the irreconcilability of family and profession is increasing. The expectations of the world of employment and the wish resp. the necessity to earn money are increasing, but there still are not enough childcare possibilities providing educational services of good quality (0 – 15 years)
- ▶ the general mission entrusted to the schools (= communication of knowledge and education for life), the parents' wishes (= education and care, learning of social competencies) and the needs of the children/adolescents (= enjoy learning, having fun with children of the same age, space to find one's identity and to develop one's own personality resp. preparation to independently manage professional and private relationships) differ more and more
- ▶ NGOs would be able to compensate many needs as well as communal or regional developments resp. help to improve them, however, they have to make more and more efforts in order to ensure the survival of their own existence

- ▶ There are still no child impact assessments in municipalities or other authorities
- ▶ The UN-CRC still has not been anchored in the Austrian constitution

### **1) How do we communicate and how do we work with adolescents and children**

*Basically:*

- we communicate with children/adolescents in a comprehensive language that corresponds to their age
- we respect the children/adolescents as experts as far as their own living situation is concerned
- we inform, prepare problem solving strategies and let the child/adolescent make the decision on his own
- we promote each kind of participation of children/adolescents

*We use the following media:*

- homepage (subjects suitable for children and adolescents; see: [www.kija.at](http://www.kija.at))
- e-mail
- telephone – some of our numbers are hotlines with a cheaper price.
- consultations held in our offices and consultations on the respective site
- we often get in touch with young people thanks to the assistance of children of the same age
- information stands on the occasion of events for children and adolescents
- lectures on the kija and topics that are relevant for children and adolescents in schools (e.g. legal protection of children and adolescents, ...), municipalities, parents' organisations ..
- in schools, "kija ambassadors" inform about our offices and the children's rights
- projects organized in schools as to different subjects concerning children (rights, information, violence, social learning, ...)
- music play for children "children do have rights" (in the federal state of Lower Austria)
- project "case of children's rights" in the federal state of Lower Austria (with Unicef)
- "meditative education" in some federal states of Austria, an introductory programme for the learning of positive conflict-resolution strategies (e.g. for children of the 3<sup>rd</sup> and 4<sup>th</sup> form of primary schools)
- distribution and despatching of folders, stickers, posters, postcards ... about subjects that are relevant for children and adolescents and the ombudsoffices
- brochures about different special subjects (e.g. separation of the parents...)

**2) How do we support/claim/promote ... criminal, guardianship and civil proceedings that are suitable for children and adolescents?**

Basically the Austrian Juvenile Court Act is antiquated and needs to be amended (e.g. provisions as to enforcement).

**We are in contact and exchange**

- with (juvenile court) judges
- with examining magistrates in cases of abuse
- and sometimes we organize round tables with judges, the public prosecutor's office, the police, social workers in order to improve the situation in cases of abuse

**Juvenile Criminal Law:** We criticise that instead of implementing the model of Vienna that proved to be successful in the whole country, the Juvenile court of Vienna was closed. That led to a deterioration of the enforcement.

**Suggestions and Promotions to improve accompanying / advising of children and adolescents:**

- suggestion of structural improvements, e.g. the situation of questioning and the conduct of conversations with children and adolescents have to be adapted to them
- improvement of the information suitable for children and adolescents about the procedures at court (summons suitable for children, draft of information materials suitable for children)
- development of the service of accompanying the children and adolescents to court in cases of sexual abuse: more information, assistants trained for that purpose, contact to the competent judges and public prosecutors...
- According to a survey conducted in the federal state of Tyrol, about 50% of the guardianship judges are in favour of accompanying the children and adolescents to court by ombudspersons, 50% of them aren't.

And sometimes we just rely upon the being involved and good working of the probation officers, the persons participating in out-of-court settlements, organizations intervening in case of violence in the family, social workers of the youth welfare institutions ...

**3) Position as to a further development of the future ENOC office**

It would be very positive to have an ENOC office, but there are more questions open than answers given.

**II. General information**

**a) current data of the Austrian Ombudsoffices and important developments, problems, challenges in the ombudsoffices**

our global tasks:

- to inform about children's rights
- to inform about the ombudsoffices as a lobby

- to improve the position of the children in the family and in the society
- to make clear that the ombudsoffices are not only advisory services
- the ombudsoffices have to detect defaults and show structural possibilities for improvement
- to gain importance as to the assessment of laws
- introduction of child impact assessments for children and adolescents
- protection of independence and the standards of the Austrian ombudsoffices

our special subjects:

- guardianship and visiting rights in case of separation or divorce
- support of unaccompanied minor refugees
- try to stop the restrictions of the youth welfare institutions' offers
- try to integrate the UN-CRC into the constitution
- development of participative offers in schools, municipalities, leisure time...
- development of the victims' protection

***b) What has been reached/improved only thanks to our activities:***

On the national level, negative developments concerning the laws on children and adolescents could hardly be avoided (e.g. Juvenile Court, disciplining measures in schools for pupils, ...)

In some federal states (e. g. in Vienna, Lower Austria...), the cooperation with regard to laws prior to their resolution is welcome on the level of the federal states.

The ombudsoffice influence is the greatest when operating as working groups together with the administration, NGOs and other ombudsoffices and in case the government of a federal state is interested in the cooperation of other institutions.

During the last years, the following has been reached, partially in the whole of Austria, partially on a regional level only:

- sensibilization of the public as far as sexual abuse is concerned
- set-up and development of centres/groups for the protection of children (e. g. in hospitals)
- initiation and development of the service of accompanying children to court (in cases of sexual abuse)
- strengthening of the children by informing them about their rights
- strengthening of the prevention of abuse (exhibition)
- discussion about the subject of children's rights in the constitution

**c) Experiences gained in the direct contact resp. cooperation with children / adolescents and experiences made in the set-up of child advisory/consultative groups:**

basically: the ombudsoffices attach great importance to participation, as children have to be taken seriously. But they don't have a lobby. There is an Austrian working group which tries to promote participation projects.

- there are participation projects all across Austria for the organization of playgrounds, the appointment of juvenile municipal councillors, the constitution of juvenile state parliaments, participation projects in schools (e. g. the design of the schoolyards...)
- only in few federal states there are children's representatives in the municipalities
- child impact assessments still do not exist anywhere
- some isolated requisitioning of the needs of children and adolescents in the district or the municipality exist

**d) Examples for the kija's claiming resp. promoting or improving the conformity of the juvenile jurisdiction to the CRC**

Basically: The kijas are heard only seldom, nevertheless we regularly make statements e. g. in comments or press releases.

As to the situation of children and adolescents in criminal proceedings, please refer as well to: Austrian Report to the European Forum For Child Welfare "Kinder und Justiz: gleiche Rechte?" (*Children and justice: same rights?*) (Brussels, March 2002)!

On the grounds of juvenile jurisdiction, children and adolescents are entitled to special rights which, however, still do not grant sufficient protection of their needs and do not take them sufficiently into consideration.

For that reason, the kijas are demanding:

- in the case of stays in prison: compulsory provisions instead of facultative provisions as far as the work and the leisure opportunities for juvenile prisoners are concerned
- strict separation of adolescents and adults in the prisons
- more educational measures for juvenile prisoners
- multi-professional support teams (psychologists, therapists, social workers, educators...)
- sufficient institutions for the follow-up of juvenile released prisoners
- compulsory minimum standards applying to youth custody units with right to claim work and leisure programmes
- maximum use of diversionary offers (out-of-court settlement, diversion...)
- development of the jurisdiction applying to adolescents up to the age of 25
- introduction of a juvenile jurisdiction according to the Swiss model

Sometimes our tasks are:

- (continuous) direct intervention at court in individual cases
- give basic suggestions as to the improvement of the situation, e.g. by means of bills
- suggest improvements of the situation of children and adolescents as victims of preliminary proceedings and criminal proceedings
- write statements in case the code of criminal procedure is amended

***e) Support of the development of independent ombudsoffices in other countries***

- voyage of the ombudsperson of Upper Austria to Bulgaria, target: information about the Austrian youth welfare system and the constitution of an ombudsoffice of children's rights and the monitoring of children's rights
- several appointments with the youth forum of South Tyrol (Italy) in order to support the setting-up an children's ombudsoffice for South Tyrol
- invitation to Italy (Garante Nazionale) (July 2003)
- preparation of the visiting programme of the employees of the youth welfare of the city of Pecs (Hungary)

Additional Information to Topic I.2. and II.d.: Austrian Report to the European Forum For Child Welfare "Kinder und Justiz - gleiche Rechte?" (*Children and Justice - Same Rights?*) (Brussels, March 2002)

Responsible for the Contents: the Standing Conference of Ombudspersons of Austria, c/o Christian Theiss (ombudsman of Styria), August 2003



**SUMMARY OF OMBUDSPERSON ACTIVITIES**

**FLEMISH COMMUNITY OF BELGIUM**

*ANNUAL UPDATE*

2002-2003

## Information, campaigns and publications<sup>1</sup>

One of the main functions of the office is to get the Convention on the Rights of the Child as well as the office known to people in Flanders. Several **publications** like brochures, leaflets, posters and booklets are made to that effect, aimed at different targetgroups, and distributed through different channels: schools, libraries, youth institutions etc. There is also a website which has been revised recently to make it more userfriendly ([www.kinderrechten.be](http://www.kinderrechten.be), in Flemish, with separate parts for children, young people and adults). The website has an average of 5000 visitors a month.

The leaflet '12-18' has been renewed. We got the support of a popular cartoonist in Flanders to illustrate it. We also used his cartoon character 'Cowboy Henk' (very well known among Flemish youngsters) on stickers and in an advertisement campaign.

In 2003 we also worked on a booklet on the CRC in a version for children and one for youngsters.

A report on the annual activities is published every year, in extended version for the parliament and Children's Rights partners as well as in a version for young people in a 'newspaper' format.

Every year in the fall there is the **annual campaign** focussing on participation rights and aimed at children, age 8-12. Participation rights because those are still rather problematic in practice, compared to protection and provision rights. Children, because we want their competences to be recognised and because we want to let them know and enjoy their rights for as long a period as possible: the younger they are, the longer they will be able to do something with their rights before they become adults.

The first years we went into the direct life surroundings of children. In 2000 we focussed on Children's Rights in their community, in 2001 on Children's Rights in school and in 2002 the campaign was on the implementation of Children's Rights within the daily family life. This was one of the more difficult and delicate campaigns because of the resistance of many adults towards Children's Rights the moment it is coming too close to their private life.

With every campaign, we also publish a '**Megafoon**', a booklet for children with practical info and tips on how to exercise their rights in the community (2000), in school (2001) and in the family (2002). Where the first Megafoons were aimed at children themselves, the family Megafoon is aimed at children and their parents focussing on the importance of dialogue and mutual respect.

Every campaign also consists of an **activity** on the field: A voting ballot on local priorities for children in 2000, a school-participation project in 30 schools in 2001 and

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<sup>1</sup> Check also the material Ankie has brought to the meeting

a theatre production and interactive exposition in 2002-2003. For this production we worked with a well-known youth theatre group in Flanders. The theatre-production ('Balmoral') was made by children and young people themselves and was performed throughout communities in Flanders. The play was very successful and got many positive reactions. Accompanying the play is an interactive exposition ('Villamour') for children and parents on daily life situations in the house. This expo still exists and will be set up on regular occasions where children and their parents are present.

2003 was the year that the annual Children's Rights Festival was buried, due to lack of funds. We have changed the scenario now: with all the festival partners (CR NGO's) we designed a **Children's Rights village**, that we set up on several occasions throughout Flanders. We were present at several music festivals for children and on some relevant events that many kids attend. With the festival we reached some 6-8000 children. With the village we reached about 25.000 this past summer.

This year we also published a book ("Come tell this at home..."), revealing the research results on a survey on parent-child relation and communication. This book is aimed at parents in general and will be presented on oct. 29<sup>th</sup> with a paneldebate with 'experts' on education.

All through the year the office is in close contact with several Children's Rights NGO's, administrations and other relevant organisations.

For example:

- member of the working group on integrated youth care,
- member of the working group on equal opportunities in schools,
- contacts with the working group on Children's Rights in the Belgian senate,
- partner of the Flemish Pupil's Union,
- partnership with the League of Families and the Children's Phone for the annual campaign,
- member of the board of the Princess Mathilde-foundation,
- member of the editorial board of the Flemish Journal on Children's Rights...

The Children's Rights Commissioner or teammembers in the office took part in several conferences and steering committees of research projects in universities.

### **Ombudswork for children and young people**

The past year we received approx. 1200 requests for information, advice and complaints.

The Children's Rights Commissioner's office cannot interfere in pending procedures or change decisions made by other authorities, but it can inform children on their rights and how to implement them themselves, it can refer them to the most appropriate services, it can mediate between conflicting parties or it can act as spokesperson for children in their relation with school, authorities, parents etc...

Most requests still deal with family problems in the context of divorce. An increasing number of cases deals with problems in school: refusal of enrollment, discussion on schoolresults, distressing or violent behaviour of teachers or fellowstudents... Other cases concern problematic situations in youth care. Not only do we try to solve the

individual problem, but we also use this information as illustrations in policy recommendations. Some issues lead to the drafting of recommendations.

### **Research**

*The three-year research has just been finished on parent-child-relations and communication within the family and its effect on the wellbeing of children. All data have been analysed and translated (cfr above).*

In 2003 we started a research project, together with several youth services, on how children and young people spend their leisure time, what services they have access to and what services or provisions they would like to have. This survey will provide data that could be relevant for all the local governments which are legally obliged to strategically plan their youth policies. With these data we want to insert young people's voices in that planning procedure, so that the youth planning can go beyond what adults seem to think they should provide for young people.

### **Advice and policy recommendations**

*Recommendations were drafted on several policy-issues dealing with the rights or the interests of children:*

- Support for the Youth telephone,
- Sanctions and disciplinary actions in schools,
- Youth tourism,
- ADHD and schools,
- Eurosong for children,
- Non accompanied minors,
- Voting at 16,
- Legal position of minors,
- Euthanasia,
- Integrated youth care and the rights of the client under 18,
- School participation,
- Rights and responsibilities of students,
- Tattoos and piercings,
- Increase in parental 'control' measures,
- Corporal punishment,
- Child impact studies.

Former recommendations that have actually led to new and improved legislation covered issues such as (intercountry) adoption, patients rights, equal opportunities in schools, environmental precautions... Many recommendations however are still stuck on the 'discussed but not voted' level, which makes it difficult to measure our impact.

In 2003 we had elections for the federal parliament. To that occasion we drafted a **memorandum**, together with the NGO-coalitions and the youth councils in Belgium. The follow-up will be coordinated throughout the fall.

Ankie Vandekerckhove  
Children's Rights Commissioner  
Flanders, Belgium

## ***ADDITIONAL NOTE FROM THE FLEMISH COMMISSIONER***

### **Dealing with juvenile offenders: a view on Belgium**

In spite of several recommendations of both the Flemish office and the CRC Committee (in its concluding observations) the new Belgian government plans unwanted changes in its policy towards juvenile offenders<sup>2</sup>. While a sui generis legal system should be developed in conformity with the CRC, our new government plans to build forward (though in the wrong direction!) on the old existing Youth Protection law of 1965.

In this law there is an article, art. 38, that gives judges in Juvenile Court the opportunity to send juvenile offenders, between 16 and 18, who have committed rather serious offences, to the adult courts. In consequence these young people are tried and punished accordingly to the adult criminal law system and serve their sentence in adult institutions. Since 1965 this measure was considered to be one of last resort. In some judicial regions it was hardly ever applied, while others used it more frequently in an effort to serve as a strong deterrent. (The question whether this worked or not is still not answered properly.)

Our new government now has ‘proudly’ presented this measure, as if it was a novelty, as an answer to juveniles committing offences. This exceptional measure would then be applied as a general rule for 16-18 year-olds. All this, while the CRC Committee has stated twice already that this article should disappear and that a new and coherent legal system should be put in place.

The only novelty that the government introduced (quickly after first reactions of children’s rights activists and our office) is that they would also provide in new youth prisons to put those youngsters away in, instead of having to put them in the adult prisons, as it happened before.

The weird thing however, is that the comments on these plans differ enormously on both sides of the language borders. In the French speaking community there seems to be less controversy on this point and many are glad to stick to the old ‘protective’ law, rather than to move on to a newly developed legal system. The feeling there is that a law system for juvenile offenders is in essence a repressive system and therefore unwanted. However, we have seen, in the previous legislation, that a coherent system, including legal guarantees for both offenders and victims as well as a goal of reintegrating young offenders, could very well be put into place without turning only to repressive measures. A law proposal in this sense was turned down however by lack of consensus by the former government.

The current minister of Justice is French speaking and seems determined to go on with the work based on the old ‘protective’ law (which lacks legal guarantees), including a more widespread use of art. 38. In practice the judges in the juvenile courts will be able to send young ‘serious’ offenders to adult courts and keep themselves busy with the problematic familysituations and petty crimes of juveniles.

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<sup>2</sup> As you may know, the Flemish commissioner has no competences on the federal level. What we say does not always get a follow-up....

## The establishment of new IHRI's for children

During the past year, the Flemish office has had contacts with Dutch government officials, NGO's, law practitioners and academics on law proposals on a children's ombudsman in the Netherlands. Up until now no law has passed and one of the proposals did not comply with ENOC's quality standards at all.

One of the other ideas is to place a children's department in the National Ombudsman's office.

Also, NGO's are a little worried that a children's ombudsman might interfere with either their work or their budgets. I have done several efforts to explain that IHRI's should and can work alongside and with NGO's and that they should not be considered as competitors, but more as supporting offices for children's rights as well as for the work NGO's can do in that area. This seems to become more clear now and more NGO's seem to have support for the idea of an children's ombudsman now.

Ankie Vandekerckhove

Flemish commissioner for the rights of the child

**SUMMARY OF OMBUDSPERSON ACTIVITIES**

**FRENCH COMMUNITY OF BELGIUM**

## **General Delegate of the French Community of Belgium for Children's Rights**

Country Update 2002-2003

### **The General Delegate for Children's rights: a strengthened institution**

The Year 2002 had been important for the institution of the General Delegate for Children's rights.

By the vote of the decree of 20 June 2002 instituting a General Delegate of the French Community for Children's rights, the Parliament of the French Community had wished to reinforce the institution in charge of the respect of children's rights and interests. This one is now created by decree (law); the articulations with the Parliament are wide; the powers to carry out investigations are made more effective....

The year 2003 is quite important because it constitutes the term of the second mandate of six years of the person who assumes since 1991 the function of General Delegate, Claude Lelièvre.

#### **Informations, complaints and mediation request concerning children ill-treatment**

The General Delegate is always the ombudsman, the mediator of children, who receives information, complaints or mediation requests with respect to children's rights breaches in general and of one child in particular.

For this twelfth exercise, the number of personal files falls: approximately 1.500 children concerned this year.

What worries more is the physical and psychological ill treatment of many children after parental separation or conflicting divorces. These children, sometimes very young, express a completely visible suffering. The problems of parental separation and its effects on the children should be a priority for our governments.

With regard to informations or complaints blaming of the services, of the authorities and the standards, the main problems concern youth assistance. As well judges as youth assistance's authorities continue to complain to not have sufficient adequate services.



## **Recommendations to political authorities, unceasingly repeated**

In twelve years of activities, the General Delegate was brought to make multiple recommendations in fields as various as:

- fighting ill-treatment and sexual abuse,
- family affairs, with parental abduction.
- adoption,
- the situation of foreign minors detained in closed centres,
- youth assistance,
- juvenile delinquency,
- the children of a detained parent.

These recommendations and proposals came, either directly from the institution, often after a specific working group, or from an external reflection, or in co-ordination with another institution.

Some of these recommendations were heard and became reform legislative and lawful, or gave rise to concrete applications such as the official approval of the hotline “Ecoute-Enfants – 103”.

Others were - and will be still - recalled so that the authorities make the necessary to take better into account the children’s rights: application of the law about the food contribution’s funds, creation of international mediators, hearing of the children within divorce and parental separation.

In 2003, there is an election in Belgium at the federal level. The voice of the General Delegate seems to be heard in the governmental declaration.

Indeed, we can read in the declaration that “the families constitute the base of the society like place of personal development and active implication in the society” and that “the children constitute our future”. In the chapter concerning the Justice, we find also some positive declarations. Thus, in the field of civil justice, we can note that the government will create within the court a qualified section of the families for all the questions touching with the rights of the people and the rights of the family and which are currently discriminated between the different courts. Maybe the first steps to a court of the families?

In the field of the juvenile delinquency, it is more than time to reform the protection of youth. The federal government seems to want to maintain the protectionnal system, with supplementary measures.

## **Some others activities of the General Delegate**

In this year 2003, we must also talk about the second congress on the sexual assault. This congress "sexual assault: articulation of practices" took place in Brussels the 7. 8 and 9 May 2003. The General Delegate ensures the general co-ordination and the secretariats of the organisation and scientific committees. This congress is carried out in partnership with the french-speaking universities, the political instances and the professionals. The scientific content was the sexual assault taken under three axes: clinic, legal, ethics and according to the two faces of sexual assault: the victim (child, adult) and the aggressor (child, adult). The scientific organisation turns on the following method: 1<sup>st</sup> day: Before the trial; 2<sup>nd</sup> day: During the trial; the 3<sup>rd</sup> day: After the trial. This congress gathers more than 700 participants.

Concerning the question of the communication with the children, we must talk about two new experiences. First, each Sunday, during 3 hours, the General Delegate, and a new radio presenter, answer to the questions and the interrogations of the young teenagers and the young adults (14 years to 25 years) in a new broadcast called "Vide ton sac" on a great french-speaking radio.

Secondly, the project of creation of a Children's Parliament in the French Community of Belgium. In French Community, we already known, for a few years, a multiplication of the citizens experiences which are the Children's Communal Councils. The reflection on the creation of a Children's Parliament begins at the initiative of the General Delegate.

Some countries already created Children's Parliaments. France is in the case. Quebec knows a "Parliament schoolboy". The goal is not to transform some children into members of Parliament who would imitate the functions or the attitudes of adult members of Parliament. It appears important to work initially with the children to a culture of participation and dialogue, in particular because this choice will make it possible to make take part the greatest number of them.

The option will be to privilege the training of the process of deliberation democratic, through projects conceived by the children, discussed and improved by them. All this work will be done in schools, associations or Children's Communal Councils, which will want to take part in it on a voluntary basis. It will fall under one school year a teaching project. This project is still in its preparatory phase. To give him final form, a working group will quickly be set up, with the association of children. A first experiment could take place as of the next academic re-entry, as of the next school re-entry of September 2004.

SUMMARY OF OMBUDSPERSON ACTIVITIES  
CROATIA

## **WRITTEN UPDATE FROM CROATIA**

The Law on the Ombudsman for Children (Narodne novine 96/03) inaugurated the institution of the Ombudsman for Children in the Republic of Croatia in the middle of June 2003. It is a parliamentary ombudsman. The Ombudsman for Children is appointed and acquitted of his duty by the Croatian National Parliament upon the proposal of the Government of the Republic of Croatia and has got two Deputies appointed and acquitted of their duties by the Croatian National Parliament upon the proposal of the Ombudsman for Children.

According to The Law on the Ombudsman for Children, his/her competence is, the most generally said, to protect, monitor and promote the rights and interests of children on the basis of the Constitution of the Republic of Croatia , CRC and other international documents concerning the children rights.

The child, in the scope of the mentioned Law, is any person younger than 18 years of age.

Work out in detail, his/her competence is set as follows: to monitor the coordination of the laws and other regulations in the Republic of Croatia, concerned with the protection of the rights and interests of children, with the provisions of the Constitution of the Republic of Croatia, of the Convention on the Rights of the Child, and other international documents concerned with the protection of the rights and interests of children; to monitor the fulfilment of the obligations of the Republic of Croatia arising from the Convention on the Rights of the Child and other international documents concerned with the protection of the rights and interests of children; to monitor the implementation of all regulations concerned with the protection of the rights and interests of children; to monitors the violation of individual rights of children and studies general occurrences and manners of violation of the rights and interests of children; to make efforts towards protection and promotion of the rights and interests of disabled children; to propose undertaking of measures intended for the creation of the coherent system of protection and promotion of the rights and interests of children and for the prevention of harmful activities jeopardizing the rights and interests of children; to inform the public on the state of the children's rights; to inform and advise children on the manner of the realization and protection of their rights and interests; to cooperate with children, encourage children to declare themselves and respect their opinion, initiate and participate in public activities oriented towards improvement of the position of children and propose measures for the enhancement of the influence of children in the society; may take part in the procedure of the preparation of the draft proposals of the regulations concerned with the rights of children or those regulating important issues for children; can give impetus for the adoption or change of the laws and other regulations concerned with the rights and protection of children.

The Croatian National Parliament appointed Ljubica Matijević Vrsaljko for Ombudsman for Children on 17 July 2003, and two Deputies Gregori Graovac and Gordana Bračić Ružić were appointed on 1 October 2003. Appointed persons took an oath in front of the Croatian National Parliament at the end of September and beginning of October 2003. Formally and according to our law, we could start our duties.

The Office of the Ombudsman for Children got a working place in October 2003, and since that we were preparing all the necessary administrative, technical and organizational things for our work. We think that we did a great job and our office is really prepared for children's needs, because we wanted for children a warm and comfortable place, because we are planning all the time to invite children from all the country in our office. The reason for that is to learn and prepare children to communicate with the official bodies and their right to come and ask information from official place now and in future, because we would inaugurate "non – bureaucratic" approach.

Expert and administrative workers still have not been employed because the annual budget has not been known yet.

The Office has promoted itself in public and participated in many expert meetings. There are already more than 50 cases the Office is currently working on. Some of them have contributed to the detection of problems and directions of solutions. For instance, the Office has taken a big role in order to make the public more sensitive for the problems of two HIV infected girls whose identity had been unfortunately made known in public. Some media covered it without any scruples and the Office severely took a stand in public against it.

The Office of the Ombudsman for Children have also publicly condemned the television broadcast for children by some kind of "open letter to the public" because a young pop singer (who was 22 years of age and was a member of jury) had made fun out of children who performed as singers and offended them. This "open letter" was published in all newspapers and was on internet as a "top news". These actions have been publicly acclaimed, and after that this young man had to make an excuse on TV to the children, their parents and public in general.

So, we are very young office because we have been worked only for last three months and because of that we are not able to say a lot about a listing of achievements in the last year.

Most of the time during last ( and the first ) three months we have been promoted ourselves and our ombudsman role to the children on children s radio and TV shows , children meetings and performances and , unfortunately, we found that the knowledge about children rights is very low . A lot of them has never heard about CRC . So , we have to find the best ways to improve and change that and to learn children about their rights in a future ( educational programmes and books in schools, media , our WEB site , meetings with children ) .

During December we made an initiative and contacted one of the most popular teen magazine in Croatia “ Teen “ ( readers between 12 – 18 years of age ) about some kind of inquiry about children rights between teenagers and large article about CRC and children rights. We made an arrangement with manager that our office will permanently write about different children rights ( and about good and bad practise ) . We arranged that they will publish our address and mail in each number so children will have it “ in eyes “ all the time.

According to the information we have from newspapers , children s letters to our office , parent s complaints , informations from schools in this short time, we found out that bullying is one of the greatest problems between children , so this situations we see as a great problem and challenge in a future.

Since last few months bullying was not recognize in public ( even between experts ) as a problem but as some kind of “ accidental cases “ and even “ kids things “ . But , we made a contact with one NGO named “ Brave telephone “ where they contact with children with open telephone – line about their problems . They had made an inquiry about bullying and found out that more than 20 % of children are victims of different kind of bullying which means that every fifth child is victim . This results are published , and now we are preparing initiative addressed to the Ministry of education , Government and to the public and planning to propose measures and programmes according to the problem of bullying .

We will send all the information about bullying problem and possibilities to prevent and solve the problem from the other countries , different models and experiences , statistic , children s letters and informations from our office and we will make serious demand about changing this alarm situation.

In this moment UNICEF office in Croatia is now in the large action against bullying which began last year , UNICEF made and now is making a lot about pilot projects in schools, sensibility for problem in public , so in our action we are planning to ask for their help and support.

In this moment we are in planning activities for next year , but we will keep making a great effort to inform children about presence of ombudsman s office and their rights on every possiblle ways ( media , WEB , letters , meetings etc ) . In January 2004. we are planning meeting named “ Presentation Ombudsman for Children office “ . We are planning to invite representative of Government ( especially Ministers for education, family, health ) , Parliament , experts which makes decision about children , representative of NGO – s a media together with children . We would like that they can see and hear “ children voice “ and how children see their rights, what are their needs and who and on which way violate their rights. We are now in process of publishing a little book about CRC, our office ( address, mail, web , telephone etc ) as a some king of quide for children and we are planning to distribute this manual in the schools, hospitals, institutions etc.

**SUMMARY OF OMBUDSPERSON ACTIVITIES  
CZECH REPUBLIC**





**THE PUBLIC  
DEFENDER OF  
RIGHTS**

**CZECH REPUBLIC**

***Establishing of the Public Defender of Rights Institution***

- the law was passed on the 8th of December 1999
- in 2000 a completely new institution became a part of the Czech legal order and system of state authorities
- general ombudsman

**The Public Defender of Rights**

- is elected by the Chamber of Deputies for a term of six years (for a maximum of two consecutive periods)
- is directly accountable to the Chamber of Deputies
- criminal proceedings may not be instigated against the Defender without the approval of the Chamber of Deputies
- shall lose his function on the day that follows a court sentence that has come into force whereby the Defender is convicted of a criminal act
- the seat of the Defender is Brno
- in the near future the competence of the Defender will be extended to include the systematic monitoring of the conditions under which people who are kept in the facilities where are being confined (either de iure or de facto)

**The Structure of the Office**

- a total of 90 employees
- the Department of legal action (43 lawyers dealing with the complaints)
- the Department of administration
- the Department of financial affairs

***The legal basis of the Defender's work***

- the Defender's work is carried out in accordance with the Law published under the No. 349/1999 Coll.
- the Defender works to defend persons in relation to the actions of official bodies and other institutions listed in mentioned Law, should

such actions be inconsistent with the law, in contradiction to the principles of a democratic legal state and good administration, and also in the event of inaction by the Offices, thereby contributing to the defence of fundamental rights and freedoms

- the Defender's jurisdiction covers generally the public administration

### ***Complaints to the Defender***

- the Defender acts on the basis of a complaint filled by a person or other legal entity
- complaints may be passed to the Defender by a Deputy or Senator or by one of the two Houses of Parliament
- the Defender may act on his own initiative too
- complaint could be written, oral (in record) or in electronical version
- phonenumber (information about the files, mandate of the Defender, first legal aid)

### **Powers of the Defender**

In case he makes an inquiry, he may

- enter all areas of the public agency concerned even without prior notification of the visit
- inspect authority's files
- question authority's employees
- interview persons detained in detention or prison facilities without presence of third parties
- send a notice to the agency in question requiring it to provide information and explanation, produce its files, make a written statement as to the facts and the law of the case, produce evidence, etc.
- be present at oral hearings and productions of evidence in administrative process, question its parties

*In case the Defender finds violations of law or principles of good administration he may propose*

- opening of an administrative review procedure
- instigation of measures to prevent non-action
- instigation of a disciplinary or similar procedure
- instigation of prosecution for a crime, administrative offence or other maladministration
- paying damages or claiming the damages

In case **the agency fails to comply with the Defender's proposal**, he may inform the superior agency or the Government. The last resort is informing the media and the public about his findings.

The Defender has a **special power** too: he may recommend to issue or amend a statute or a piece of subordinate legislation.

The Defender has a **right to file a motion before the Constitutional Court** in case he found a subordinate regulation contrary to a statute or the constitution.

## THE DEFENDER AND PROTECTION OF CHILDREN RIGHTS

The most frequent complaints, dealt with by the Defender in the field of protection of rights of children, youth and family, are:

1. the complaints regarding activities of the bodies of social and legal protection of children:
  - taking children away from their parents without adequate assessment of the case or for the reason not supported by the legislation correspondingly represent the most serious and at the same time relatively frequent deviation
  - prejudice of the social workers towards any party of the case. That can affect assistance in provision of the contact of the legitimate person with child, negative standpoint presented before the court, where the social workers are appointed as guardians, etc.
2. breach of the rights in the facilities for children and youth, i.e. in the approved schools, youth custody centers, young offender's institution and children's homes.

### **CASE 1 - MIDNIGHT STORM**

Mrs. B.F. has turned to the Defender with the complaint in the matter of forced placing her daughter, named Midnight Storm by herself, in the nursery unit.

*The main reasons for taking the child away from parents were:*

- rejection of obligatory vaccination
- no registration of the child in register/vital statistics (breach of article 7 Convention on the Rights of the child)
- no registration for the reason of health insurance of the child
- alternative life style of the family, parents are Rainbow people

### **Violation of law or principles of good administration**

The Defender, after finishing the inquiry of the case, has reviewed, why the social workers had raised the proposal for preliminary ruling, on the basis of which the baby was placed in the nursery unit and considered

- the reason for such intervention is absolutely inadequate and insufficient
- the rejection of obligatory vaccination is not serious threat of favourable development of the child
- the child becomes insured party at birth, so the act of registration has no relevancy for existence of health insurance

- parents are not obliged to register their child, the article 7 par. 2 of the Convention says that state shall ensure the implementation of these rights. From the Register Act arise the obligation of medical centre to announce the birth of child to the register.

### ***Conclusion***

The Defender proposed the social workers

- to raise the petition to the court for cancellation of the preliminary ruling without undue delay (the court cancelled the preliminary rulings afterwards).

Another conclusion:

- the rejection of obligatory vaccination could not be reason for taking children away from their parents
- social worker's actions have to be based on the right to respect for private and family life

## **CASE 2 - Activities of Reformatory/Youth Custody Centres**

The Defender, making inquiry from his own initiative in the custody centre, found out serious maladministration and violation of law by the director of the facilities, relevant department of the Ministry of Education and Youth and inspector of Czech School Inspections.

### ***Violation of law or principles of good administration***

Institution concerned breached:

- the right to privacy – the custody centre had installed the camera and taping system without any legal base for such measure
- the right to contact with the parents

### ***Conclusion***

The director of the facility removed the camera system only from bedrooms, that the Defender found insufficient and informed about the case the public and government. Now the government has to make a decision if the Ministry of Education and Youth is obliged to prohibit the camera systems in reformatories.

## **CASE 3 – “The prison routine” in the reformatory**

The Defender, making inquiry of the custody centre from his own initiative, found out serious maladministration and violation of law. The facility was established in 1997 as “an experiment” of Ministry of Education and Youth for boys from other reformatories, who did some misdemeanour (abuse of drugs, escape, violation of domestic order of the reformatory, etc.).

### ***Violation of law or principles of good administration***

The Defender found out these violations:

- prohibition of visits
- prohibition of leaving facility

- body search
- obligatory physical exercise (many hours a day)
- collective punishment
- right to education

***Conclusion***

The reformatory was closed and the director was dismissed. Ministry of Education and Youth has to prepare new programme for “problematic” children and youth.

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **DENMARK**

**DENMARK**  
**Country Update**

The National Council for Children's activities in 2002-2003.

**1) The National Council for Children sets out to promote children's interests and rights**

The National Council for Children works to safeguard the rights of children. We focus and provide information on conditions for children in our society. We offer advice and consultancy to authorities on issues concerning children's conditions and take children's views on board in our work. The National Council for Children assesses the conditions under which children in Denmark live against the UN Convention on the Rights of the Child. Under the terms of the legal framework of the National Council for Children, the Council may not process concrete complaints.

*The organisation*

Supported by a majority of the Danish Parliament, the government discontinued a range of national institutions of advisory or advocating roles in early 2002. Appropriations to other institutions were severely reduced, among them the National Council for Children. The consequences were cuts in employees and premises as well as reduced possibilities of purchasing external assistance. The National Council for Children has undergone a process of adapting its organisation, finding new working methodologies and renewing its commitment with a view to compensating for the financial cuts. So far, the National Council for Children has been able to uphold high activity and visibility levels, but conditions will deteriorate in 2004, 2005 and 2006, unless the National Council for Children receives additional funds. Currently, the Council spends substantial resources on creating political support for an expansion of the National Council for Children's empowerment and appropriation - whether this strategy will succeed, remains to be seen.

*Cooperation*

The National Council for Children values its independence, but has in the past year concluded more partnerships on concrete initiatives than it previously did with governmental and non-governmental organisations. This strategy has paved the way for joint financing and enabled participation in a wider spectrum of initiatives than if the Council had worked alone.

*Activities*

In the past year, the National Council for Children focused on the following subjects:

- Methods of direct dialogue between children and adults
- Enforced surrender of children assisted by the sheriff in relation to contact arrangements with divorced parents
- Children's rights and access to complaint
- Children's and young people's alcohol culture
- A national strategy for social welfare in schools

The National Council for Children submitted its comments to 15 bills in the past year.

### *Communication*

Generally, the National Council for Children is highly visible in the Danish daily media and regularly so in the electronic media. Its work prioritises support to reporters where it furnishes excellent background information as well as communicates its views. The National Council for Children also produces publications and provides information via its website, which registers many visitors every day.

Publications produced in the period September 2002 - September 2003:

Three reports from the Council's Children's Panel (see below)

The report: "Inter-generational dialogue"

The video film: "Inter-generational dialogue"

The book: "The CRC in Denmark"

The leaflet: "Bringing up children with your heart"

The Council's annual report

The National Council for Children's newsletter is now distributed electronically. The newsletter appears 3-4 times annually.

Websites:

In October 2003, the National Council for Children will open a website for children. It will target children aged 10-12. Children will here be able to find information on their rights and test their knowledge.

## **2. Achievements in the past year**

The National Council for Children succeeded in focusing national attention on a range of subjects:

*Study of the practice of enforcement courts in enforced contact arrangements:* The National Council for Children study put the matter on the political agenda, and the Minister for Justice has launched additional studies.

*Children and the Iraqi war:* On the day when the war in Iraq started, the National Council for Children published a series of advice to parents and other adults on how to approach the issue of war in relation to children. Printed and electronic media covered the advice massively and helped to communicate the messages broadly.

*Publishing leaflet for parents on a positive approach to upbringing and conflict-handling in relation to small children:* The leaflet "Bringing up children with your heart. On development of and conflicts with small children" aroused much attention and became the starting point for debates on child rearing in newspapers, radio and television. Today, the Council has sold at least 20,000 copies of the leaflet, and it has spurred debates on child rearing at many parental meetings in day-care institutions.

*Developing new methods for dialogue between children and adults (see below):* Many professionals and politicians monitor the National Council for Children's tests of direct dialogue between children and adults closely. The report and the video film of our dialogue meetings focusing on good school environments and recreational



activities are very popular, and we hold courses for groups interested in our experience.

*Children's panel study on children's Internet chatting (see below) stirred attention:* The report is in extremely heavy demand. In environments where children have access to computers, parents and professionals study and debate its results.

*Children's lack of access to complaints:* The National Council for Children has for a long time analysed children's right to complain about aspects of their lives. And has been forced to conclude that, in several areas, children have no rights. Children's lack of possibilities for initiating actual complaints has now caught the attention of politicians.

### **3. Communication and cooperation with children**

#### **The Children's Panel under the National Council for Children**

The Children's Panel under the National Council for Children consists of a number of Danish children in the 7th grade (aged 12-13). Entire school classes make up the panel. Until mid-2003, the children filled in paper questionnaires in the classrooms. In future, questionnaires will be filled in electronically over the Internet, but still in the classrooms.

In the past year, children have filled in three questionnaires. The subjects were children's experience of co-determination in the primary and lower secondary school, use of Internet chatting and children's knowledge of democracy and politics.

#### *"Co-determination in the primary and lower secondary school"*

The Danish Act on Primary and Secondary Education stipulates that pupils must be groomed for democratic participation in society through schooling characterised by equality and intellectual liberty. The objective of this study was to procure documentation of how this stipulation translates into practice by asking the children. The study focused on the local democracy in the classes in terms of teaching methodology, content and relations to the teacher. The informal democracy was another focal point. This aspect targets the various forms of relations among the children. The study also touched on the formal democracy as realised in the pupils' councils.

Some results deserve mention. In general, children do not mind taking responsibility. The vast majority of children in the 6th grade believe that, generally, they themselves hold the overall responsibility for ensuring that they learn something, but 54% are never or rarely involved in setting up their own work plan. Twenty percent of the children are often or always afraid of voicing their opinions in the class. Eighty-nine percent never or rarely discuss personal matters with their teachers. Children want more influence on the local democracy in schools.

#### *"Chat: An aspect of children's lives."*

The study aimed to insert a children's perspective into the debate on children and chatting, while also throwing new light on children's chatting habits. Another goal was to attract attention to safety aspects of children's chatting. The study was made together with Save the Children and the Crime Prevention Council.

The study shows that as a new communication option, chatting widely attracts children and young people. Children view chatting as a virtual meeting place, where they can test their viewpoints and identities in long-lasting or casual acquaintances. In the vast majority of cases, children navigate safely on the Net, but they do have uncomfortable experiences and there are real risks of various types of abuse.

*“Children and politics”*

Not yet concluded, the study aims to determine children’s attitudes and relations to politics. The questions asked deal with, for instance, children’s attitudes to politics, their own goals for the future, expectations to political activities, degree of confidence in society’s institutions, voting rights, etc. The study was launched as an aspect of the debate on the voting age, and the results are to be published on 30 October 2003.

**Development project: Dialogue between children and adults**

The National Council for Children attaches weight to not only listening to or consulting children, but also to developing methods for direct inter-generational dialogue, a dialogue that will allow both parties to listen, ask and learn from each other’s perspective. The National Council for Children has found this method by developing and testing direct dialogue processes between children and adults. These processes build on equality.

On the basis of the communication method Appreciative Inquiry, the Council set up a direct dialogue between 75 children (aged about 13) and 75 adults focusing on children’s school lives and recreational activities in communities. The dialogue pivoted on how children’s school lives and recreational activities can be improved. The focal point of the method is that the child interviews the adult and the adult interviews the child as stipulated in the structured interview guides. This dialogue will improve children’s and adults’ awareness of each other’s experiences and opinions, and they will learn from each other’s stories, desires and ideas about the future. The method was documented in a report and on a videotape, which many practitioners order with a view to using it as inspiration for their own initiatives for meaningful inclusion of children.

On the basis of experience gleaned from this development project, the National Council for Children will set up a new dialogue meeting between children and adults in November 2003. At the meeting, young people aged 15-17 will interview each other on which role alcohol plays in our lives and what can be done to postpone young people’s alcohol debut to a higher age than today and to limit young people’s consumption of alcohol. The backdrop of the subject is that young people in Denmark hold the European alcohol-consumption record. Following the direct inter-generational dialogue, young people and adults will separately set up proposals for what is needed to limit young people’s use of alcohol.

*Workshop on inter-generational dialogue*

In the autumn of 2003, the National Council for Children will hold two workshops on communication methods for inter-generational dialogue. They are held in cooperation with the Danish local authorities’ course provider. Their aim is to inspire professionals and politicians locally and nationally with a view to forging an inter-generational dialogue on societal aspects.

#### **4. Note on treatment of juvenile delinquents**

In the past year, the National Council for Children took no initiatives targeted at Denmark's treatment of young people who have committed crime. But the National Council for Children will in all likelihood give this subject high priority in its activities in 2004.

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **FRANCE**

**ANNUAL REPORT ON THE ACTIVITIES OF THE  
FRENCH OMBUDSMAN FOR CHILDREN / DEFENSEUR  
DES ENFANTS  
(October 2002-September 2003)**

**I – Overview of activities during the past year:**

Originally set up by a French law dated 6 March 2000, completed by Article 13 of a law dated 22 January 2002 (extending the institution's authority to the French Overseas Departments and Territories) and by Article 44 of a law dated 18 March 2003 (which permits the Ombudsperson directly to refer cases to a national commission on safety), the Office of the Ombudsperson is, after three and one-half years in existence, firmly anchored in the French institutional "landscape". It is regularly consulted and highly respected in its field of expertise. Its proposals are often followed and contribute to progress in treatment of minors, both through the adoption of legislative texts and by the implementation of professional practices which are in the best interests of children. It enjoys a constructive relationship with State administrations and with local and legal authorities, and has now become the reference in the domain of child rights.

The relationship of trust quickly established with the French parliament continues. The Ombudsperson for Children is still systematically consulted by ad hoc parliamentary committees responsible for examining proposed legislation that might affect children and their rights. She is also consulted by government branches as they formulate regulatory texts.

Authority of the State, she is a member of various commissions set up to inform the government on issues affecting minors. The simple fact that the institution exists is increasingly well known to the general public in France and, above all, to minors. The newly instituted possibility of direct lodging of complaints over the Internet in 2003 has significantly contributed to facilitating direct access to the Office on the part of minors.

This increased awareness is due in part to the great number of trips the Ombudsperson has made within France – both Metropolitan France and the overseas Departments and Territories – which have been well covered by the media, but also to widespread efforts to publicize the work of the Office during the year (interviews of the Ombudsperson on radio, television and in the press, particularly in newspapers and magazines that target young audiences, a poster campaign on child rights in hospitals and reprinting of institutional posters in school manuals).

As local representatives have increased in number (40 at the end of this year), the direct impact of the Ombudsperson's trips and publicity efforts has grown correspondingly. These local representatives attempt to respond to the numerous requests in the field from schools, hospitals, associations and colloquia, whether in the form of individual claims or collective requests for information.

This increased activity is obviously reflected in the statistics which, for the period from 1 July 2002 to 30 June 2003, show that individual complaints received by the Office have risen by 16%. This corresponds to 1,500 different children (a single child or siblings) whose cases have been taken up by the Ombudsperson's Office this year. To this must be added close to 1,800 minors in school classes or extracurricular groups, unhealthy housing and various collectivities, on behalf of whom the Ombudsperson has been contacted.

In general, cases are submitted by individuals (94%) as opposed to organizations (6%). Among those submitted by individuals, 10% originate directly with the minors concerned (15% in the case of complaints received by mail) who, in the large majority, are between 11 and 15 years old. Cases submitted by mothers remain in the highest proportion (38%).

The reasons for which cases are submitted to the Office are varied and complex but, in general, they centre on disputes as to visiting rights and living arrangements, and the usual place of residence of the child when couples have separated or divorced. Conflicts with school authorities represent the second motive for complaint, and this phenomenon is extremely new. Complaints related to disabilities and health are also on the rise. Requests for placing of children in foster homes have dropped in relation to previous years, however. To all of the above cases must be added disputes with various institutions (police, youth centres, etc.).

After a careful review of the complaint, 41% are found either to be unjustified or to have insufficient grounds because it is found that no real danger threatens the child or no child right has been infringed.

As concerns these rights, there are four which are particularly at stake: the right to enjoy a relationship with one's parents, the right to protection against mistreatment, the right for one's parents to receive aid if needed and the right for children to be heard.

In the last analysis, without entering into tedious statistics, it can be shown that for 45% of the files originally deemed well-founded and dealt with during the period covered by this report, the Office has satisfied the expectations and needs of the claimants and the results have been favourable to the minor.

## **II – Progress achieved in implementation of the ICRC thanks to the work of the Ombudsperson:**

Positive changes and real progress have been achieved over the period in complying with the reforms called for in the International Convention on the Rights of the Child (ICRC) . For the most part, they have been the direct result of opinions expressed and proposals made by the Ombudsperson for Children since she took office.

Several files have, over the period, met with total or at least partial success, in addition to those successfully handled in preceding years.

- At the request of the Minister of Justice, the Ombudsperson made a series of proposals on ways in which children should be better protected against *messages of violence and pornography circulated by various media*. This report, issued in December 2002, resulted from studies within the institution and a number of hearings, particularly in the framework of child psychiatry and the courts. A decree expected in autumn of 2003 revises the composition and functioning of the commission responsible for classification of films with a view to improved protection of minors in line with suggestions made by the Ombudsperson (calling for the presence of child psychiatrists on the commission, for decisions taken by a simple majority, and for clearer classification of films on all publicity materials).

- Following a suggestion made by the Ombudsperson and by the Mediator of the French Republic concerning the *protection of individuals participating in biomedical research*, the Minister of Health took up a number of the recommendations in a legislative bill on public health policy, to be debated in the French parliament during the last quarter of 2003.

- At the time of an official visit to *Guyana*, the Ombudsperson drew attention to the *unfavourable state of the law with respect to minors* in this French Overseas Department. Only one juvenile judge was available to handle 1,200 files relating to placing of children in foster homes, three times the figure for France as a whole. This was pointed to as a clear abrogation of the right of children to be protected, pointed up in the Office's report of November 2002. In June 2003, the French Minister of Justice announced the appointment of a second juvenile judge for Cayenne. At the end of 2003, the overall situation should be further improved with the creation of a position of vice president for the court.

- On 16 June 2003, the Ombudsperson issued an opinion concerning the media's respect of legal provisions for the protection of minors with regard to information. On a number of occasions, she had received reports of instances in which various

written and televised media had not complied with these provisions, and of cases in which the media had wrongfully reported on sick children and children who had committed crimes and offences. The French Medical Association took up the cause, calling for respect of privacy in the relationship between a sick child and the caregiver. In the case of the delinquent minors, it was found that between the initial court proceedings (before the opinion issued by the Ombudsperson) and the appeal (following the opinion), the press in question had modified the way in which such reporting was done, bringing it in line with the law.

- Among the more important files handled and successfully concluded by the Ombudsperson, a large number of which were related to the health sector, the central theme covered in the Office's 2002 report, we should particularly point to:

- *the need to link maternal and child welfare and school medical services* so as to ensure that the corresponding personnel remain continuously in contact with the child, particularly to give psychological support;

- *sensitization of hospital paediatrics services to the way in which adolescents are treated.* A number of medical centres have now put specific procedures in place for handling adolescents in their paediatrics departments;

- *improved handling of pain experienced by children in the hospital environment.* A national pain-prevention program has been launched for 2002-2005, under the direction of the Ministry of Health services responsible for organizing hospitalization and care-giving in France;

- *recognition of the right for children in hospitals to express themselves;*

- *the situation of foreign minors,* a subject to which the Ombudsperson has devoted considerable attention;

- *setting up of specific training in handling of adolescents;*

- \* *the organization of a national conference on adolescence.* The French President has approved the Ombudsperson's proposal in this regard and has directed the government to act on it. A preliminary meeting on the question is scheduled for 18 October 2003, under the auspices of the French Ministry for the Family.

### **III – Setting up of a Consultative Committee of Minors:**

In order to remain abreast of the needs of the 13.5 million minors in whose name she speaks, and most particularly the needs of adolescents, the Ombudsperson has set up a Consultative Committee of Minors. The committee is composed of 21 young people between the ages of 14 and 17, representing all geographical, social, academic and associative backgrounds, with a view to respecting the diversity of young people in France today.

The committee's first meeting on 25 and 26 January 2003 in Paris was followed by a second on 18 and 19 May. On 25 January, they were received by the President of the National Assembly who took them on a



personally guided visit of the very symbolic French Parliament. At their second meeting, they had an opportunity to talk with two leading figures of the French Resistance: Raymond and Lucie AUBRAC.

On the occasion of these two meetings, the young people discussed among themselves and with the Ombudsperson a number of issues relating to their daily lives and their choices for the future. A preliminary questionnaire had been sent to each participant asking for the subjects of greatest interest and concern to them.

Violence and war top the list of the international concerns of the members of the committee, followed by poverty, famine and AIDS. The widening gap between the “have” and “have not” countries and its effect on education, health care and exploitation of children, as well as dictatorships are also high on the list. Strictly relating to France, the young people worry about poverty and drugs, followed by unemployment, politics and AIDS. Here again, they point to social inequality and its consequences and are clearly concerned about what they perceive as indifference to others in society.

Love and friendship are their primary interests, ahead of the family and culture. The environment is considered by the members of the committee to be a “luxury” and an elitist concern, and figures last on the list.

Several discussions on themes related to education and schools, central themes explored by the Office during the year, led to extremely animated exchanges and revealed the high expectations on the part of the young with respect to schools, their disappointments and questions as to any possible change in the educational system and – most particularly – pedagogical methods. They feel that the pressure of examinations, the lack of time and a lack of openness on the part of their teachers make it difficult to find a satisfactory balance between academic lectures and real dialogue.

The rights and responsibilities of the citizen, co-ed education and violence in the school were brought up in light of some recent, extremely serious incidents in a school in Marseille. When the Ombudsperson made a visit to that city, she and members of the committee from Marseille went to the school in question and met with young female North African students (one girl of 14 had been bound and shut up in a garbage can into which a lighted cigarette had been put).

These very open exchanges clearly highlighted the “daily oppression” to which girls are subjected by some boys disrespectful of the rules of law and instilled with attitudes of violence and contempt. Attempts to combat this kind of deviant behaviour at school all too often finish, to the distress of the members of the committee, with the student being suspended from the school by a disciplinary committee. This kind of exclusion has a perversely negative effect, and the young people would prefer to see more positive sanctions imposed.

The Consultative Committee of Minors has also conducted extremely pertinent and lively online discussions in the framework of an Internet forum.

This new structure is without a doubt a dynamic step forward in the work of the Office, providing a forum for close and continuing attention to the needs and centres of interests of young people. It encourages collective expression of their thinking, pointing up directions for reform which the Ombudsperson can then reformulate and propose to the government.

#### **IV – Examples of cases in which the Ombudsperson has worked to ensure that the juvenile courts in France comply with the CRC:**

Some cases handled during this period show the extent to which the Ombudsperson remains constantly vigilant and intervenes when necessary to ensure that legal texts proposed by the government relating to the rights of minors are not in contradiction with the ICRC and the recommendations of the CRC.

When the Minister of Justice presented a bill reorganizing certain aspects of the French legal system in July 2002, the Ombudsperson made a number of remarks concerning several important provisions relative to the rights of minors, particularly with respect to the creation of “closed reform schools” and expressed serious reservations as to their capacity to provide a constructive environment for education and rehabilitation.

When the decision was made in France to lower to 13 the age at which minors can be incarcerated (for criminal acts) should they not comply with court orders concerning their supervision, the Ombudsperson expressed her fears to the Minister of Justice regarding a stepped-up trend to increase incarceration, at the very time when the conditions under which minors are incarcerated in some penitentiaries constitute, according to a report following a Senate inquiry, a “humiliation for the Republic”.

At that time, the Ombudsperson reminded the authorities that, according to the Convention on the Rights of the Child, minors should be incarcerated only as a last resort and that priority must be given to their rehabilitation. She also stressed the fact that the high rate of recidivism on the part of minors after their incarceration requires that resources be developed to provide quality education and that alternatives to imprisonment be actively sought.

Lastly, the Ombudsperson regularly reminds the authorities that when prison has become the last and inevitable resort, humane treatment and respect of the law are preconditions and, in addition, that all other possibilities for reconciliation between the adolescent and society must have been exhausted.

**V – Efforts to set up independent Institutions responsible for promoting and defending the rights of children in other countries:**

In a desire to see an increasing number of independent institutions charged with defending and promoting the rights of children, the Ombudsperson takes every possible opportunity to speak up in the meetings and symposiums she attends abroad and tell of her experience, encouraging local governments which have not yet set up similar institutions to do so.

In this perspective, the Ombudsperson recently met in Paris with a parliamentary delegation from Scotland, whose aim was to gather information prior to creating the position of Ombudsperson for Children in that country.

She has also provided documentation and considerable information on the French institution to a jurist from Mauritius, responsible for drawing up a report on establishing an Ombudsperson for Children in that country, and has given similar information to representatives of the Irish Republic.

As concerns relations with North Africa, the Ombudsperson has made several trips to Algeria and Morocco at the request of the UNICEF representatives in those two countries. During those trips, she investigated available resources and possibilities for creating a position of Ombudsperson for Children in the Maghreb.

She also went to Rome last July to participate in a seminar organized by a parliamentary commission on children, with a view to helping to set up an independent national authority responsible for defending the rights of the child in Italy.

Lastly, on the occasion of a planned trip to Lebanon (in November) to participate in a medical conference and a symposium on child rights, she will meet with the Minister for Administrative Reform responsible for creating an Ombudsman institution for children in Lebanon.

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **GEORGIA**

# **ENOC Annual Meeting**

## **Stockholm, 15-17 October 2003**

### **GEORGIA**

#### **Country Update**

Child Rights Center

The Child Rights Center was established within the Public Defender's Office. The UN Convention on the Rights of the Child and international conventions and agreements on children provide the basis for the Center's program of actions.

The branches of the Child Rights Center were established in the regions of Georgia. This made possible to take care for child rights status all over the country.

#### **1. Objectives of the Child Rights Center**

1. To help the various governments departments to develop an overall strategy for the development, survival and protection of children. Ensures the close coordination between the departments relevant to children interests and that the impact of their policies on children is properly considered.
2. Undertake and promote research into any issue relating to children and adolescents welfare.
3. Represent and support children and adolescents in any public debate.
4. Play a lead role in promoting awareness and public discussions on matters of concern to children.
5. Play instrumental role in the initiation of research to relevance to children interests and well being.
6. Initiate and adopt proposals for the reform of the legal system in harmony with the CRC provisions. Propose measures and reforms that strengthen children's safety and prevent conflict with the law and the society.
7. Ensures that the reforms have been implemented in actual life.
8. Provides overall monitoring for the application of the CRC in Georgia.
9. Ensures that high priority is granted to children in governmental policies at various levels; national, regional, local, municipality and civic society.
10. Provides appropriate forums for children's views and concerns to ensure their participation.
11. Promotes awareness of human rights among children and adults.
12. Responds to individual complains from children or those representing such as families and NGOs. Conducts the necessary investigations on behalf of children and for their interests in coordination with relevant governmental and non-governmental institutions.
13. Promotes coordination between various governmental and non-governmental institutions in relation to children issues, concerns and policies and ensures that resources for children are effectively used.
14. The Center will take the responsibility of collecting and disseminating the views of children and young persons on current issues of concern to them through mail, telephone communication, Internet as well as by help of Youth Parliament and other children organization.

15. The Child Rights Center will try to positively influence and change the attitudes of politicians, decision makers and the general public on issues concerning children and young people. The Center will pursue that through a wide range of activities such as writing debate articles, lobbying commissions and arranging conferences and seminars. The Center will carry out annual review meetings to present its annual report and to jointly with partners assess results, analyze constraints and draw general guidelines for the next year's plan.
16. The Center will also serve as a think tank on the issues of children through the compilation of reports and statistics on latest knowledge on children and young people, and disseminate this to the relevant institutions and groups in the country.

## **2. The Structure of the child rights Center**

The Head of the Center will take the lead of the office. In her activities, the Head will be helped by her deputy and staff, also staff of volunteers affiliated to the Child Rights Center.

The following units are suggested within the Child Rights center:

1. Unit of information, Communication and Advocacy.
2. Unit of training, capacity building and research and documentation.
3. Units of Programs with governmental and non-governmental organizations.
4. Unit of outreach services for children and youth, which includes youth parliament, children clubs, councils and federations.

## **3. Institutional Relationship with Others**

### **3.1 Relationship with the Governmental structures**

- i. Cordial and formal working relationship is established between the Child Right Center and the different ministries and governmental institutions.
- ii. The Ministers do not have control of the Child Rights Center.
- iii. The relationship is based on mutual commitment to children through dialogue and respect which is expressed through the following modalities:
  - Regular updates of relevant Ministers on the Centers activities
  - Give feed back to government consultations on issues of concern
  - Report and alert ministers on policy issues that may affect children.
  - Must be consulted on government initiatives that affect children.
  - Discuss strategies necessary for the implementation of the CRC with the relevant government institutions.

One chapter of the report of the Public Defender's office will dedicate to the Child Rights Center's activities.

### **3.2. Relationship with the NGOs**

1. The Child Rights Center shall design appropriate modalities for the collaboration with the NGOs.
2. The Child Rights Center shall help the different NGOs working on children issues to establish a forum in order to ensure coordination and collaboration through regular periodic meetings.

3. The Child Rights Center, through submission of sound proposals, shall request funding from NGOs and other donor organizations on projects related to children.
4. The Centre involve the national and international NGOs in its annual review meeting in order to review and assess the situation of children in the country and to draw appropriate policy options for them.

### **3.3. Relationship with Children**

- Various strategies are designed to ensure the participation of children and provide them with avenues for direct contact with the Center.
- Formation of Advisors Group from specialist on children issues and concerns.
- Utilization of the existing institutions to affect participation of children in various aspects of life (e.g., schools).
- Use of the internet and mail devices to ensure participation of children and their linkage with the Child Rights Center.
- The center can device other strategies of proven effectiveness and efficacy for the participation of children.

The views and proposals of children are accessible through the private contacts, “Telephone of Trust”, also via “Trust Boxes” located in the schools.

The Center reviews individual complains, conducts recording and registration of the facts on the child rights violation and the work on the recommendations for the appropriate structures. The Center conducts the analytical activities in the sphere of the child rights defense focused on revealing the existing problems and improving the conditions, work on proposals on editing and changes in the Georgian laws.

The Center arranges conferences, working meetings, the series of the training – seminars for staff the educational, medical, law departments in the city, and as well in the regions.

The Center provides an informational data bank and library, which can be approached the society.

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **GREECE**





## The Greek Ombudsman

## Department of Children's Rights

### About the Department of Children's Rights

The Department of Children's Rights is one of five Departments within the Independent Authority "THE GREEK OMBUDSMAN", established by Law 3094/2003, by analogy to the internationally approved institution known as the "Children's Ombudsman".

The responsibility of the work of this Department is entrusted to the Deputy Ombudsman for Children's Rights, an individual appointed by the decision of the Minister of Interior, Public Administration and Decentralization on the recommendation of the Greek Ombudsman.

The Department is staffed by specialized professionals, including senior and assistant investigators.

The Department of Children's Rights mission is to protect and promote the rights of the child. Children are considered to be all individuals under the age of eighteen.

Within the framework of its mission the Department:

- **Mediates** after the submission of signed complaints on specific cases of violation of children's rights, aiming at their protection and recovery. If deemed necessary –in cases of severe or extreme violations- the Department acts on its own initiative by conducting the proper investigation.
- **Undertakes initiatives** for the monitoring and implementation of national legislation as well as international conventions pertaining to children's rights, promotes the best possible provision of information to minors and adults regarding these issues, conducts investigation and research on selected areas of vital importance and participates actively in the social dialogue.

**Complaints** regarding violations of children's rights can be submitted to the Ombudsman by:

- any directly concerned person or legal entity or union of persons
- any directly concerned child
- any person entrusted with parental care or the child's guardian
- relatives by lineal or collateral descent down to the second degree
- any third party having direct knowledge of the infringement of the child's rights.

The Department of Children's Rights has jurisdiction to investigate acts, omissions or matters involving public and local government agencies and private individuals, physical or legal persons, who violate children's rights.

The complaints are submitted in writing (in person or via mail or fax), and should have all the accurate data -including the signature- of the person filing the complaint. The complaint must also include specific information about the case, the persons, entities or union of persons, as well as the bodies involved, and must be accompanied by all relevant evidence, that will facilitate the investigation.

A complaint can be submitted:

- In person at the office of the Greek Ombudsman (5 Chadjiyianni Mexi street, 11528, Athens, GREECE)
- By mail to the above mentioned address
- By fax (#210-7292129)

Further details can be provided to anyone concerned on # 210-7289600, Monday-Friday 8:30-14:00.

Minors wishing to discuss an issue or submit a complaint regarding violations of their rights, are seen in person by trained professionals of the Department of Children's Rights, within a designated child friendly area, that ensures privacy.

Minors can, also, communicate with the professionals of the Department of Children's Rights by calling the above-mentioned number.

### **Procedures and actions taken by the Department of Children's Rights**

When the Department of Children's Rights examines submitted complaints concerning violations of children's rights by anybody of the public sector, or when it takes the initiative to investigate such cases, it may request public

services to provide any information, document or other evidence relating to the case, may take evidence directly from the children involved, or conduct on-site investigations and order expert's reports. On completion of the investigation, if required by the nature of the case, the Ombudsman draws up a report on the findings, to be communicated to the relevant Minister and authorities, and mediates in every expedient way for the abrogation of the violation or the resolution of any recorded problem.

When the submitted complaints involve private individuals –persons or agencies- that violate children’s rights, the Department takes all necessary action to resolve the problems brought to its attention and propose all appropriate measures for the protection of the children concerned and their rights.

For the best possible resolution of the problems observed, as well as for the defense of the rights of the affected children, the Department may ask for the collaboration of all appropriate and relevant public services and bodies (i.e.welfare services, mental health services, counseling and support services, medical services, etc.), or the intervention of the proper judicial authorities.

Confidentiality and protection of the identity of the minors are ensured against third persons – but do not obstruct the collaboration of all parties involved for the best possible resolution of the problems related to the complaint.

### **Other activities of the Department of Children’s Rights**

- It overlooks the implementation and promotes the dissemination of the U.N. Convention on the Rights of the Child (CRC, 1989) and, also, monitors the impact of the existing legislation on children’s lives. For these purposes, the Department may conduct researches deemed critically important and draws up specialized reports
- It provides information and educational material to children about their rights, as well as the ways in which they can defend them. For this purpose, the Department prepares specialized publications, a telephone help line and an interactive website
- It undertakes initiatives aiming at the information, education and sensitization/awareness of parents and professionals involved with the protection of the rights and the provision of services to children and families.
- It organizes meetings with groups of children and youth “on location”, where they live, go to school, play, or get together, in order to hear their views, opinions, ideas, problems, issues and suggestions

- It collaborates and communicates with public bodies, services, institutions and organizations, NGOs, educational communities, etc., that work for and with children and youth
- It participates in relevant scientific meetings, conferences, committees and networks in Greece, as well as abroad.

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **HUNGARY**

*The Activities of the Parliamentary Commissioner for Human Rights in the Protection of the Civil Rights of Children in Hungary*

*Albert Takács*

The Parliamentary Commissioner for Civil Rights (Ombudsman) is a parliamentary institution. According to Act LIX (passed by Parliament on 1. June 1993) "the duty of the Ombudsman is to investigate or to have investigated any abuses of constitutional rights, he has become aware of, and to initiate general or particular measures for the redress thereof (paragraph (1) of Article 32/B of the Constitution)."

The election of the Ombudsmen, General Deputy of the Ombudsman, and of two special Ombudsmen took place on 30. June 1995. Their mandate terminated after six years by the expiry of the term of mandate. The General Assembly elected Barnabás Lenkovics as Ombudsman, Albert Takács as General Deputy Ombudsman and Jenő Kaltenbach as Ombudsman for the National and Ethnic Minorities. They entered office on 1. July, 2001.

Attila Péterfalvi was elected on the 12 of December as Ombudsman for Data Protection and Freedom of Information.

The Parliamentary Commissioner for Civil Rights may investigate the procedures of, and measures taken by, all authorities excepting those of the courts. The scope of these powers extends also to service providers in monopoly-like positions. In the course of his investigations, the Commissioner enjoys broad authority; he may require the submission of documents, interview the parties involved, conduct investigations on the scene and require statements and explanations. He may also request the body exercising supervision over the authority involved to conduct an investigation on its own. However, he may not decide cases brought before him, he may only make recommendations, which, evidently, are not binding for anyone.

Issuing a recommendation equates to making the determination that a constitutional impropriety has occurred. In this way a dialogue may develop in the course of which the authority involved, its supervisory body, in particular cases the relevant Ministry or even the Government, may be addressed. In the light of the arguments presented, the Commissioner himself may modify his position or his recommendations. He must convince the party with the opposite interest, i.e. the authority, that on the basis of the lessons of the case, the incorrect procedures or inappropriate attitudes should be abandoned and that there should be no departure from the correct interpretation of the constitution or, as the case may be, that the modification of unconstitutional provisions of law should be contributed to. The Parliamentary Commissioner for Civil Right remains in communication with the parties involved on a continuous basis and may come back to the issue any time and may ask for an account of the compliance with the settlement based on his recommendation. The Ombudsmen of civil democracies try to ensure through this "weak system" of means that the authorities should apply the professional experience accumulated by them to the service of the interests of the parties. In the effectuation of human and civil rights, a command supported by the power of the authority is, in any event, the last resort, and issuing

such commands belongs, primarily, to the competence of the courts. The Commissioner must achieve by strong and solid arguments that the authorities empowered to decide cases should admit their errors and correct the decisions accordingly. Thus, the "compulsion" applied by the Commissioner is exerting pressure, formulated professionally and amplified, through the use of publicity, that has been given expression in the constitution developed on the basis of democratic values.

The Parliamentary Commissioner for Civil Rights makes an annual report on his experiences obtained in the course of his official activities, concerning, in particular, the situation of constitutional human rights and the attitudes of the authorities concerning the initiatives taken, and recommendations made, by him as well as the result of those initiatives and recommendations.

The most important event in Hungary concerning children's rights was the enactment of Act XXI/1997 on the protection of children and on the administration of guardianship affairs.

The Parliament of the Republic of Hungary declared in the first section of the Act the intention to define the basic rules supporting by provisions and measures the work of the State, local self-governments, natural and legal persons caring for children, as well as non corporate institutions in order

- to enforce the legal rights of the children and the accord and satisfaction of parental commitments,

- to prevent or terminate the assault of children and to replace the missing parental care, and

- to help social adapting of young adults dropping out of children's care.

The Act, - relying on the Constitution of the Republic and on Act LXIV/1991, enacting the Treaty on Children's Rights as accepted in New York on November 20, 1989 - defined the basic rights of children, the guarantees for the effectuation of these rights and the system and rules of the protection of children. The Act laid down as principle that governmental and non state organisations and persons

- are obliged to proceed taking into consideration the interest of the children,

- have to contribute to their upbringing within family home circle by providing the necessary support to the child and its family, and

- have to ensure the safety, nursing, education and healthy development of personality of those children who, by any reason, dropped out of their family. The group of persons endangered the most by social restratification is that made up of children. Every second person among the poor is a child or a minor.

The proportion of children in need has increased particularly in towns. Their chances for social integration have gradually decreased. Knowing the situation, we try to pay particular attention to the civil rights of this layer and to the reinforcement of the network of institutions that may increase their chances for integration. Children and minors do not complain or very rarely.

Since exercising their function the Ombudsmen conducted several ex officio investigations. From among them: comprehensive investigation was performed on the realisation of the constitutional rights of inmates in different children's homes and in shelters for alien children in 1998 and 1999, respectively. In the course of 2000 in Heves county crimes committed against children and minors within the family and the responsibility of the relevant authorities was investigated.

According to the results of investigations, the most critical point of the protection of children is the insurance of their social security. In Hungary the number of endangered children exceeds 320.000, from among them more than 20.000 live within child welfare services. Endangering is mostly due to economical situation or inadequate social environment.

An important improvement in the assertion of children's right is due to the principle declared in the Child Protection Act: "a child shall not be separated from his or her family because of their economic difficulties".

According to the results of the Commissioners' investigations the removal of children from their families due to financial reasons, occurred less frequently. One of the planned modifications of the Child Protection Act - suggested by the Commissioner - might help families e.g. by covering sublease expenses and thus supporting homeless families.

Child welfare services are one of the most important elements within the system of institutions for the protection of children. The Act on the protection of children and guardianship administration defines the ensuring of children's welfare and the setting up of child welfare services as a basic obligation of local governments. However, during the investigations the Ombudsman found that in approx. 10 per cent of the investigated cases serious improprieties occurred related to child protection. This was mostly due to the failure or default of local governments in setting up the basic care system for child protection, or even if they had, they failed to supervise their activities. It became evident that the very different economic possibilities of different settlements largely determined the quality of service. Sometimes even the most basic conditions of operation - like a room to conduct conversations in privacy, or a telephone or fax - are missing.

Signalising and case discussion are no longer unfamiliar concepts within the welfare service, but doctors, policemen, representatives of the schools and district nurses, state attorney's office should be involved as well. The co-operation among these institutions might be aggravated by their different approaching. Such differences might emerge between representatives of the family welfare system and educationalist. Whereas former ones emphasize the importance of keeping the family together, the school - once it wants to get rid of the child who is in trouble and is qualified as being a risk - prefers to take steps to have children removed from the family. Child Protection Act binds the above institutions and individuals to their signalising and discussing obligations.

One of the most important conclusions drawn from a comprehensive investigation conducted in 2000 is that the most important institutions for child protection, hardly ever communicate with each other. Crimes committed against children are reported to criminal authorities. The investigation authority, as it is not obliged by statutes to do so, failed to inform the child welfare organs of the report, thus the latter could not provide assistance to the endangered children. The Ombudsman, as a result of the investigation, recommended that - in order to effectively protect children - welfare services should be informed of conflicts necessitating police intervention.

The Parliamentary Commissioner dedicates distinguished attention to the protection of children's rights in the future as well.

To this end he pays regard to:

- the process of conversion of children's homes of great strength into intimate family-type smaller ones,



- the establishment of special institutes for minors with conduct problems, drug or alcohol addicts
- the assertion of the right to expression of opinion and to complaint of minors living in children's homes
- the activities of authorities and child care institutions in order to prevent and anticipate abuses.

The Parliamentary Commissioner supported the legislation of children's rights. Since entering into force of the Act, based on the results of individual and ex officio investigations, the Ombudsman recommended several modifications, some of which were taken into consideration. Similar results were achieved concerning the amendment of various statutes.

The Parliamentary Commissioner undertakes continuous efforts in order to improve the effectiveness of the execution of the rules of law and to introduce new attitudes to the activities of the local governments with their duty of child protection.

The General Deputy of the Ombudsman in his Annual Report of 2001 emphasized the exceptional importance of the protection of children's rights. In the course of 2001 no ex officio investigation was performed concerning welfare services. However, many individual petitioners complained that inmates within welfare homes had the possibility of alcohol and/or drug consumption, that minors were left unattended, ill-treated, psychically abused. Occasionally even food or pocket-money was withdrawn. Retarded development of infants occurred due to insufficient attention.

According to previous practice, in the case of complaints concerning, child protection institutions, the Ombudsman-prior to local investigation-addressed the head of the relevant authorities or organs responsible for guardianship administration, requesting surveillance. In 2001 the investigations justified the subject of petitions only in one single case.

In 1998 the previous General Deputy of the Parliamentary Commissioner performed comprehensive investigation on the human rights conditions in 13 children's homes. In 2002 repeat control investigation took place in four from among the most condemned institutions and additionally in a nursery home, in order to reveal the effectuation of the previous recommendations of the Ombudsman.

*The General Deputy of the Parliamentary Commissioner found, that from among the above institutions two were closed and one is under reconstruction. In the recently set up homes the previously established constitutional improprieties (e.g. dismal furnishing of rooms, unlocked drawers, inappropriate processes concerning escapes, lack of qualified staff) still subsisted; to this end he forwarded repeatedly recommendations to the head and to the maintainer of the institution.*

In the children's and nursery homes under reconstruction no constitutional improprieties could be demonstrated. In one of the institutions the available financial support covering provisioning and material expenditure was found to be insufficient.

## CHILDREN'S RIGHTS AND PROTECTION OF CHILDREN

The activity of the Parliamentary Commissioners in Hungary is regulated in the Constitution and in the Act LIX of 1993 on the Parliamentary Commissioners for Civic Rights. Upon these provisions, the Parliamentary Commissioner has the duty to examine the (to him known) abuses of the constitutional fundamental rights if these are in connection with the operation of an authority. In this regard, the Parliamentary Commissioner is entitled to initiate the annulment or amendment of the provision causing upon his opinion the constitutional abuse. Anybody who feels that in consequence of a proceeding of an authority or a public supplier caused the violation of his/her constitutional rights or the threat of this is immediate, may apply to the ombudsman. In addition, the Parliamentary Commissioner may conduct an enquiry *ex officio*, as well.

In Hungary there is no special ombudsman for the protection of children, even though children – because of their physical and mental situation – are in need for special protection and treatment which is also a high priority fundamental right in the Constitution. Among other jobs, the General Deputy of the Parliamentary Commissioner is responsible for the enquiries touching upon the effectiveness of children's rights and protection of children which job is underlined in the Child Protection Act, as well. The actuality of problem at this field is showed expressively upon the year-by-year increasing number of complaints. In order to help the enforcement of children's rights, the ombudsman conducted numerous enquiries – among others he monitored the operation of child care institutions – *ex officio*, as well. Unfortunately, the Parliamentary Commissioner was forced to conclude that in certain institutions the right of children to appropriate physical, mental and moral development continued to be violated, just as their right to property, to education and to a healthy environment.

Many complaints were related to the enforcement of the rights to maintain contact with parents, grandparents and the omissions of public guardianship authorities. As a result of the experiences of these enquiries, the relatives being unable to maintain these relations see the ombudsman as their last chance because their rights – even if grounded on a final court decision or a legal provision – cannot be enforced in legal way. The experience of these cases shows that the separated parent, or the grandparent with the parent taking care of the child are unable to co-operate with each other. The public guardianship authorities are in these cases powerless, a penalty or putting the police in force does obviously not serve the interest and development of the child. Unfortunately, the Parliamentary Commissioner does not have an appropriate legal tool to help the separated parent with keeping in touch with his/her child in an effective way.

The Parliamentary Commissioner has been in the past years consistently monitoring the media for reports of suspected violations of children's rights. Following on one of these reports touching upon the good-will of a child care institution, and for the initiation of the its operator, the Parliamentary Commissioner conducted an enquiry to investigate whether the work in this institution meets the human rights requirements.

The ombudsman revealed that the employees are taking care the children with affection and deep humanity, and the quality of interpersonal relations and the atmosphere provides an adequate basis for professional services. On the other hand, the provision of a suitable human resource is necessary, because its lack created the anomaly in connection with the children's constitutional rights for their social security and to their physical and mental health at the possibly highest level. Therefore, the Parliamentary Commissioner asked the manager of this institution and the head of the competent district public service office to provide a remedy for this omission through working out with the local chief psychiatrist an action plan guaranteeing a significant improvement of the medical services in the institution.

The Parliamentary Commissioner has been informed in many cases about the immediate violation of children's rights from the media, in the most serious cases about injuries or injuries causing the death of the child. In these cases, the Parliamentary Commissioner always feels necessary to investigate the responsibility of the authorities whether they took all the necessary actions in favour of the protection of the injured child, or not. This practice was followed by the ombudsman in a case of the death of a five-month-old baby, too. The Parliamentary Commissioner revealed that the family-keeper of the child-welfare service met her job taking all the necessary when she observed the danger. This was true for the physicians and nurses, too. However, the Parliamentary Commissioner pointed out that the physicians treated the infant, by their delayed notification about the jeopardized status of the baby, caused the direct danger of an anomaly relating to the constitutional right of the child to a special protection. In view of the fact, that there is no provision (neither in law nor in the Ethic Code of the Chamber of the Hungarian Physicians) applicable to health care staff which would govern compliance with, or sanction failure to comply with, the notification obligation set forth in the Child Protection Act, the Parliamentary Commissioner recommended the amendment of legislation in respect if the suspect of injury appears in the physician's survey of a child or infant, the physician will be obliged to report the case to the public guardianship authority and to the competent district child-welfare service, and in more serious cases to police. Accepted the recommendation by the Minister and the Parliament, the corresponding regulation is now part of the Act XLVII of 1997 on the Handling and Protection of Health and Related Personal Data. In addition, the Minister developed a long term action plan for the employment of child protection experts in health care institutions. Furthermore, the question of the injury and the negligence of a child, and its observation will be an important issue in the professional training of health care and children protection experts and lawyers, as well. From 2004, 26 children's rights representatives will begin their jobs in the framework of a brand-new public foundation established by the Ministry for Health Care, Social and Family Affairs. These children's rights representatives with law school background are entitled to act in any proceeding in favour of the protection of children's rights, but their main task will be the close co-operation with social workers and child-welfare services.

The Parliamentary Commissioner is entitled and obliged to examine or let examine the (to him known) anomalies of the constitutional fundamental rights. He obtains knowledge of the anomalies or their suspect from the complaints and complainants so the reception of the complaints has extraordinary importance. However, getting in touch immediately with infants has generally not yet been taken because the parents or grandparents are mostly filing complaint to the ombudsman. Of

course, the ombudsman is keen to build direct communication with children through his personal visits and investigation all over the country. This PR-activity of the Parliamentary Commissioner has also relevance in getting acquainted the ombudsman's institution among the people.

In order to enforce and protect children's rights, resp. to pass further legislation for the protection of their rights, the Parliamentary Commissioner closely co-operates with other human rights organizations, foundations, and other institutions and bodies. Such a quite new field is the protection of children in the media. The importance of this problem was also stressed by the European Union – with special regard to protection of the human dignity of children and *in concreto*, the strict limitation of access to TV-programs being dangerous to the development of the children; this approach should be essential for the development of audiovisual services and regulations. In his co-operation with the National Broadcasting Body, the Parliamentary Commissioner is making efforts to insert the enforcement of children's rights protection as a criteria in tenders for providing new broadcasting rights.

As one of their most important duties, the society and the family has to create the conditions to grow up children being able and prepared for independent life. Therefore, it is essential to provide the family – as fundamental unit of the society – all support needed for his function in the community. In addition, we should protect our children – because of their special status and role in the society – in an effective way. In connection with these before-mentioned reason, we plan to establish under the auspices of the Minister for Children, Juvenile and Sport Affairs a new institution targeting only the protection of children. The Children Protection Commissioner to-be – working in the structure of the Ministry but not under the instructions of the Minister – would be supported by the professional experiences of the Parliamentary Commissioner. The planned competence of the Children Protection Commissioner would be the prevention of injuries and anomalies completing the competence of the Parliamentary Commissioner who has the duty to repair them subsequently. Incidentally, the Parliamentary Commissioner could be entitled to supervise the activity of the Children Protection Commissioner.

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **ICELAND**

# The Ombudsman for Children in Iceland

## Thórhildur Líndal

### *The Office of the Ombudsman for Children in Iceland*

As has been the case for the past several years, the staff of the Office consists of myself - the Ombudsman for Children - and two others: a full-time legal specialist and an office manager in an 85% position. Following repeated requests to governmental authorities, funding to the Office was increased from ISK 18.1 million to ISK 24.3 million for the year 2003. This increase in funding has provided the Office with enhanced flexibility; for example, it is now possible to hire specialists on a temporary basis. In late 2002, I hired one such specialist, a young political scientist who oversaw the project entitled the *Ombudsman for Children's Advisory Classes* for a period of six months. In recent months, a computer scientist has worked on improving the Office's Website. In addition, a law student worked for the Office this past summer, handling special projects, including reports on several subjects such as subsidy payments to parents of children with long-term illnesses, parole supervision for young persons convicted of crimes, government measures regarding children with long-term illnesses, and children and pension plans.

The number of matters handled by the Office has increased steadily over the past several years. The number of written requests received by the Office was roughly the same - 160-170 - for the years 2001 and 2002. Thus it appears that a sort of balance has been reached: in 1999, written requests for assistance were 86, while in 1998 they totalled 41. The number of telephone requests has diminished slightly, which is most likely due to the dramatic increase in the use of e-mail.

Despite the increased funding to the Office, I consider the chief obstacle in my work to be the financial difficulty involved in reaching such a broad group of clients; i.e., children from birth to age 18. It is an extremely large and broad group with a diverse set of needs - and I consider it extremely important to reach them all in one way or another. The importance of the office of the Ombudsman for Children lies chiefly in its role of making contact with young people and hearing their views on the issues of both the present and the near future.

### ***Several Collaborative Projects***

- ✓ ***Article 12 of the CRC*** - Last year, I enjoyed a fruitful collaborative relationship with several groups and individuals, especially a group of law students who are participants in ELSA, the European Law Students' Association. These students have been collaborating with the Office on a project relating to Article 12 of the Convention on the Rights of the Child (CRC).
- ✓ I have also worked quite effectively with the leaders of nine non-governmental organisations, whom I met at breakfast meetings at my office in the fall of 2002. A number of interesting issues were raised at these meetings, but the importance of parents and children's having time together was uppermost in the minds of many. In light of this, it was decided to collaborate on an advertisement encouraging parents, children, and teenagers to give each other the best possible Christmas gift: time together. The advertisement appeared in Iceland's largest newspaper, *Morgunblaðið*, on Christmas Eve.
- ✓ ***Article 19 of the CRC*** - In February and March 2003, I invited several parties to meet with me to discuss domestic violence against children. Those invited to these meetings all work in the interest of children in one way or another. The primary conclusion drawn from these meetings was the critical need for an in-depth study on domestic violence directed at children. Following the series of meetings, it was decided to examine the possibility of conducting a study on the subject. As a result, the Office of the Ombudsman for Children and the Centre for Children's Health in Reykjavík began a collaborative effort. An anthropologist was hired to conduct the preliminary survey for the study, which is subsidised by the Prime Ministry, the Ministry of Justice, the Ministry of Social Affairs, the Ministry of Health, and the Ministry of Education, Science and Culture. The primary objective of the study is to glean information on Icelanders' ideas concerning punishment and domestic violence against children in Iceland, in both an historical and a modern context. The terms punishment and domestic violence refer to emotional/psychological and physical violence, exclusive of sexual violence, that occurs within the home and is directed at children. Moreover, the objective of the study is to examine attitudinal changes through the generations concerning violence and punishment of children, including what forms of punishment can be considered just. It is expected that the results of the study will be available at year-end 2003; they will then be presented in report form and published.
- ✓ ***Article 16 of the CRC*** - Next month, I will present a public report that I have had prepared on children's right to the protection of privacy, cf. Article 16 of the United Nations Convention on the Rights

of the Child, and the right to confidentiality on the part of public employees. This issue has not been discussed to date in Iceland, and it will be interesting to hear the reactions of parents and professionals to the results of this report.

***The Juvenile Justice System in Iceland - steps taken by the Ombudsman for Children***

**Articles 37 and 40 of the CRC** - As a result of comments made to me concerning the conditions of young prisoners in Iceland, I paid a visit to two prisons in 1998. The primary objective of my visits was to familiarise myself with young prisoners' conditions and to determine whether the provisions of the Convention on the Rights of the Child regarding the rights of young prisoners were being met.

When I had made an in-depth examination of prisoners' issues, I saw that there was room for improvement in a number of areas and sent an *opinion* to the Minister of Justice. In this opinion, I presented supported suggestions and recommendations to the minister regarding the rights of young persons found guilty of punishable conduct, as they appear in the UN Convention on the Rights of the Child. I stressed strongly the importance of using all possible measures to prevent the sentencing of people under age 18 to prison, and I emphasised the importance of founding an institution whose role would be to handle the treatment and rehabilitation of young offenders aged 15-17.

Following my report, the Prison and Probation Administration entered into an agreement with the Government Agency for Child Protection to place young sentenced offenders aged 15-18 in rehabilitation centres instead of conventional prisons.

In recent years, I have received comments to the effect that the implementation of parole supervision for young offenders is faulty in a number of ways. As a result of these comments, I sent a query last summer to the Minister of Justice, the Prison and Probation Administration, and all of the police commissioners in the country. I asked for answers to various questions regarding the implementation of this supervision: how the supervision is structured, what it comprises, how many staff members handle it, how many individuals under age 18 are subject to such supervision, etc. Most of these questions have been answered by now, and over the course of the next several weeks, I will go through them and decide how to proceed.



### *Efforts to Promote the Establishment of New Independent Children's Rights Institutions in Other Countries*

Throughout the years, numerous parties have approached me with queries regarding the establishment of new independent children's rights institutions in other countries. I try to answer these queries as well as I can, and I send such information as is available in English about the Office of the Ombudsman for Children. I have also granted interviews as a result of such queries.

### **List of Achievements for Children 2003:**

Numerous improvements have been made in matters pertaining to the status of children and youth in Iceland, and several of these improvements can be traced to the Ombudsman for Children's involvement during the past year. The following are a few examples of such improvements, but the principal achievement in this area is doubtless the fact that public discussion of issues relating to children and youth has increased dramatically in recent years, due in large part to the efforts of the Ombudsman for Children.

- ◆ The Ombudsman has repeatedly pointed out the importance of a special study on the extent and nature of domestic violence directed at children. Currently underway is a study on domestic violence, conducted in collaboration with the Ombudsman for Children and the Reykjavík Centre for Children's Health.
- ◆ The Ombudsman has been tireless in promoting the content of Article 12 of the Convention on the Rights of the Child and in pointing out means by which the authorities can elicit children's views and opinions on various issues. Last year, the Ombudsman and others worked toward the publication of a brochure on this subject, as well as a *conference on children, youth, and democracy*. In the wake of this effort, several municipalities have established youth councils. The general level of awareness of children and youth's participation in democracy has increased greatly in the society at large.
- ◆ The Reykjavík School Board has approved a new policy on meals in the primary schools in the capital city. Due to the lengthening of the children's school day, the Ombudsman for Children has repeatedly emphasised the increased need to provide children with appetising and nourishing meals at school.
- ◆ Revised laws in respect of children will enter into force on 1 November of this year. The Ombudsman for Children had the opportunity to comment on the bill at various stages of its preparation. Many of the Ombudsman's comments were considered, including a provision banning the use of corporal punishment against children.

***Experience in communicating and working with children:***

Ever since 1995, when I was appointed Iceland's first Ombudsman for Children, I have emphasised listening to the voice of children and getting direct information from them on the matters regarding their well-being. The Office of the Ombudsman for Children has employed various means for gleaning information from its clients. This paper will highlight a few of these methods.

✓ ***Visits to schools and other places where children congregate:***

I consider it important to visit schools and call on the children at their venues in order to see their circumstances myself and to hear, in person, their views on matters that concern them. During my meetings with schoolchildren, I describe my role and sphere of activity, and then I advise them about the rights and duties of children under age 18 according to Icelandic law, as well as their rights as stipulated in the UN Convention on the Rights of the Child (CRC). Furthermore, I give the students a special introductory booklet that tells about the Office of the Ombudsman for Children and how they can contact me. In the summer of 2001, I made my first organised tour of preschools in the Reykjavík area. My primary objective with these visits was to familiarise myself with the children's conditions and facilities in these schools, and I selected schools with specifically defined educational policies, including a Waldorf preschool, a music-intensive preschool, a health-oriented preschool, and an environment-friendly preschool. I visited a total of eight schools, familiarised myself with their operations, spoke to the children, and gave them a brochure about the Ombudsman for Children that they could take home and show their parents.

I have also visited other venues of children, such as teen centres, hospitals, prisons, rehabilitation centres for children with drug problems, and homes for disabled children.

✓ ***Seminars where children play a leading role:***

I have held seminars in various parts of Iceland on matters pertaining to the interests and rights of children and adolescents. The preparation and structure of the seminars focused on the children's playing leading roles; the discussions at the seminars were conducted according to the children's wishes and requirements. Most of the seminars have been somewhat general in nature: the children have spoken about matters of pressing importance to them and have had opportunities to present questions to government ministers, members of Parliament, and representatives of municipal councils. The children's addresses have been published in a report titled *The young are speaking...*

Moreover, I have organised conferences focusing on special issues; for example, one conference was entitled *Children wish to discuss bullying...with*

*adults*, and another took the form of an open meeting on *children's employment*. Earlier this year, I organised a symposium in collaboration with the Icelandic division of ELSA, the European Law Students' Association, on *children, youth, and democracy*. The opening address was given by Iceland's former president, Vigdís Finnbogadóttir. At all these conferences, the children assumed leading roles, and issues were discussed from their point of view.

✓ ***Ombudsman's Youth NetParliament***

In 1999-2000, the Office of the Ombudsman for Children launched an experimental project over the Internet, the Youth NetParliament. The objective of the project was to provide an opportunity for representatives of the young generation to present their views and to communicate in a democratic fashion on pressing matters. The number of youth representatives was the same as the number of members of Althingi, the Parliament of Iceland; i.e., there were 63 participants aged 12-15. This group of children was divided into six committees, each of which addressed youth-related issues under given titles. Regular sessions were held on a closed chat line over the Internet, and the final meeting was held in Reykjavík, where the participants met face to face to discuss the parliament's procedure, finalise its proposals, and present them to the Speaker of Althingi.

As the Youth NetParliament was considered a great success, the Office of the Ombudsman for Children was awarded a stipend from The Information Society Taskforce for the year 2001. I decided to collaborate with the Upper Secondary School Students' Association and the various student unions in the nation's upper secondary schools. The structure of this latter Youth NetParliament was similar to that of the first one; the committees' proposals were presented, discussed, and finalised at a final public session. The Minister of Education attended the final session and received the Youth NetParliament's proposals. Reports containing the results of these two parliamentary sessions were published and sent to a large number of interested parties. A report on Youth NetParliament 2001 was issued in English as well. It is also possible to read it on the website: [www.barn.is](http://www.barn.is)

In its comments on Iceland's second report, the Committee on the Rights of the Child praised the Youth NetParliament and recommended that the government support this project, especially through financial subsidy, so that such youth assemblies can be held regularly.

✓ ***Studies on the circumstances and views of children:***

The Office of the Ombudsman for Children has conducted two studies on the views of children on specific issues.

The first study addresses children's views on the summer seminars and activities that are operated by municipalities during the primary schools' summer vacation. The children were asked questions and were requested to

express their opinions about various matters regarding the operation of these summer activities. A report on the results of the study was published under the title *More sunshine - more pizzas*. The second study was on the procedures of the student councils at primary schools and bore the title *Being allowed to describe and present opinions to adults*. Both reports have generated measures by the Office for the Ombudsman for Children.

✓ ***Advisory Classes:***

In the year 2002, I decided to explore new ways of eliciting the opinions and viewpoints of my young clients, as they are the real experts in issues relating to children and youth. I started an experimental project called the Ombudsman for Children's Advisory Classes and hired a project manager to oversee the project and its development. The participants in the project were 18 classes in an equal number of schools throughout the country. The advisors were 322 students aged 10-12 who completed three questionnaires. The first of these surveys was about the facilities and circumstances in their workplace, the school; the second concerned how they felt at the end of the school day; and the third concentrated on stress in daily life. The results of the first two surveys have been issued in report form, both for adults and for the children themselves; the results of the questionnaire on stress will be released later this year.

✓ ***Website of the Ombudsman for Children - [www.barn.is](http://www.barn.is)***

Children contact the Office quite frequently through its Website, [www.barn.is](http://www.barn.is). The site has recently been updated in an effort to reach out to children even more effectively. Among the offerings on the Website are various ways in which children can contact the Office and express their opinions. These means of contacting the Office include:

**(1) *The Question of the Month***, where children are asked questions concerning issues of current importance. A new question is released regularly; this makes the Website lively and interesting and encourages children to check back on a regular basis to see what is new.

**(2) *Opinion poll***: In the opinion poll, I ask children their opinions on current issues.

**(3) *Let us hear from you!*** Through this option, I urge young people to tell me their opinions and ask questions on matters concerning them. In addition to the above, the Website gives the Office's e-mail, address, and phone number.

✓ ***Article 12 of the UN Convention on the Rights of the Child - collaboration with ELSA:***

The methods listed above are all designed to increase children's impact on the work done by the Ombudsman. From the beginning, I have placed great emphasis on Article 12 of the UN Convention on the Rights of the Child and have tried to press for improvements, especially within the school system and in municipal governments. In the year 2000, I enlisted the aid of a group of

law students at the University of Iceland and asked them to develop ideas and make plans for improved implementation of Article 12 in Iceland. As a result of their work, a brochure was issued in September 2002. This brochure presents several simple methods for ensuring that children will be able to make an impact on the decisions made in matters affecting them. The brochure is entitled: *Those who will inherit the nation ... don't reach our ears!* It has been distributed to all municipal authorities in the country, as well as a large number of other interested parties. It is my sincere hope that it will prove useful to municipal officials and others whose duty to children and youth includes soliciting and listening to their opinions.

Following the issuance of the brochure, my Office and ELSA co-sponsored the symposium *on children, youth, and democracy*, mentioned above.

Last summer, a young law student received a stipend from the Student Innovation Fund to write a report under my direction on the implementation of Article 12 of the CRC in Iceland and the duties of the Icelandic authorities in this context. The objective of the project is to make the authorities aware of the fact that in Article 12 lies a genuine duty that must be fulfilled; the goal is also to draw attention to the right of children and youth to express their opinions on all issues that pertain to them, especially those relating to their immediate environment. It is also important that the authorities, especially municipal councils, realise how crucial it is to teach children democratic work habits while they are still young, to teach them to express their opinions and views in an organised and well-defined way, and to teach them to debate and discuss things among themselves in order to achieve the long-term objective of maturing into well-informed and responsible members of society. It is planned that the report be released before the end of this year. It will be distributed to all municipalities and primary schools in the country, as well as to other interested parties.

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **LATVIA**

## UPDATE OF THE REPUBLIC OF LATVIA

### 1. General update on the Latvian national Human Rights Office

The Latvian National Human Rights Office (LNHRO) is an independent national institution aimed at promoting the observance of human rights.

The LNHRO is contributing to the creation of the society where human rights are respected. The Office is independent in its decisions and activities. The status, functions, duties and responsibilities of the LNHRO are provided in the Law of 5 December 1996 On the Latvian National Human Rights Office. The Office was established already on 18 July 1995 pursuant to Regulations of the Cabinet of Ministers on the LNHRO, passed in accordance with Article of the Constitution.

The LNHRO is a full voting member of the International Ombudsmen Institute.

The Office is headed by a Director, appointed for a term of four years following recommendation of the Cabinet of Ministers.

According to Law on the Latvian National Human Rights Office one of the responsibilities of the Office is to investigate the situation of observance of human rights in the country, especially in the areas concerning the vulnerable groups of society. The children rights issues are one of the LNHRO priorities. Since LNHRO was established our employees regularly investigate conflicts connected to the children rights violation, visit educational establishments and discuss most important problems with pupils and pedagogues.

In its turn since the establishment of the special children rights department this year, these functions will be carried out in new quality. Therefore it will be possible to realize the observance of the children rights, to analyze the situation more effectively, to take part in the improvement of legislation and also realize the informative and educational measures.

The priorities of the Child's Rights Protection Department (hereafter – CRPD) are concerning implementation basic principles of the UN Convention on the Rights of the Child:

- 1) Nondiscrimination;
- 2) Best interests of the child;
- 3) Respect for the views of the child (child's right to freedom of expression).

During the last 5 month of this year CRPD has investigated ...written and ... oral complaints regarding Child's rights violation and inspected ... educational, 2 child care and instructional institutions and one Centre for Streetwise Children in Need.

The aim of inspections was to investigate and verify information mentioned in complaints as well as to size up situation of the children rights.

The officials of the CRPD have received complaints regarding following questions:

- ✓ The Rights of the Child to individuality (From the moment of birth a child has the right to a given name, a surname and acquisition of citizenship. A child shall be registered in conformity with the law.)
- ✓ The Rights to grow up in family;
- ✓ The Rights of the Child to Protection from exploitation and violation;

- ✓ The Rights to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- ✓ The Social Rights of the Child;
- ✓ The Rights to a permanent place of residence;
- ✓ The Rights to free-of-charge health care in the imprisonment;
- ✓ The Rights of the Child to Privacy and Freedom and Security of Person;
- ✓ Others, int.al., determining of custody; exercising of access rights; means of support for children;

Analyzing received complaints in the context of Convention on the Rights of the Child – following problems are identified:

- ✓ The Rights of the Child to individuality;
- ✓ The Rights to grow up in family (right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.)
- ✓ The Rights of the Child to Protection from exploitation and violation;
- ✓ The Rights to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- ✓ The Social Rights of the Child;

The work of the CRPD is stimulated by special Regulations on the Child's Rights Protection Division. With the reference to above-mentioned regulation the officials of the CRPD are obligated

- ✓ to review complaints about cases of child's rights violation and actions against the best interests of the child (attention is focused also on state and local government institutions' illegal actions;
- ✓ to react immediately to facts when child's rights are violated, and on its own initiative determine conditions which may cause such violation (to visit the state and local government institutions (for example, schools, child care and instructional institutions, imprisonments, short-term detention facilities ect.) to get information for reviewing complaint). During the process of reviewing complaints or visiting of above-mentioned institutions, if necessary, officials of CRPD give child a hearing.

In order to investigate complains CRPD is co-operating with other international and national governmental and local governmental institutions.

Another task of the CRPD is to organize discussions, seminars, lectures and conferences to inform society and especially children about their rights and duties. Since establishment of child's rights department the officials participated as lectors in several seminars for social workers, pedagogues, psychologists ect.

## **2. A list of achievements during the last year that would not have happened without LNHRO.**

With the reference to question regarding achievements of the CRPD there will be mentioned some examples.

*1. Case on the Child's Right on the Education and expose of confidential information* - School's authority distributed information about child who has suffered from sexual abuse and child who has committed the crime (matter has been taken to the public prosecutor). Officials of the CRPD participated in the investigation of this



case and made conclusion on the rights of the involved parties and possible solutions on this case. In the same way officials negotiated with authorities and teachers of school in order to prevent violation of child's rights.

2. *Case on the Prohibition of torture and inhuman or degrading treatment or punishment* – The violence against the child at school committed by Watchman. In the result of investigation delinquent has been punished. Officials of the CRPD participated in the investigation of this case and made conclusion on the rights of the involved parties and possible solutions on this case. The officials clarified the principle of proportionality in the context of this case, i.e., everyone has the right to liberty and security of person. No one shall be deprived of his liberty in the following cases and in accordance with a procedure prescribed by law.

3. *Case on the Child's Right on the Education* - Conflict between teacher and student caused by fact that student has been wearing hat during lessons. In the result of the investigation the understanding between involved parties has been reached.

4. *Case on the Child's Right on the Education* - Emotional violence against children committed by school's authorities and teachers. The officials of CRPD time after time negotiated with schools authorities and teachers in order to prevent violation of child's rights. At the present moment conciliation is concluded between involved parties, i.e. schools authorities and pedagogues AND parents and their children. Further to this case the officials follow up to supervise the provision of children's rights on the education in this school.

Furthermore CRPD has been organizing "Children's Opinion Day" where children have chance to express their own point of view on the Rights of the Child on the Education and Rights of the Child to Recreation and Free Time and they have chance to participate in the lectures given by CRPD staff regarding Children rights and Responsibilities. In the scope of this project we have visited several childcare and instructional institution, i.e., "Sprīdītis" and "Annele", and children summer camps in order to find out if the rights of the child have been complied.

***As well CRPD has been participated in several workshops by working on changes in the Law on the Children's Rights Protection and in the Parliament meetings, furthermore CRPD lawyers have been participating in several conferences and seminars. In order to provide and supervise Human and Child's Rights there has been settled a co-operation with several governmental, local governmental institutions and non-governmental organizations. Every month CRPD organizes NGO meeting in order to discuss about current events in the field of the child's rights protection. During last meeting representatives from separate NGO's were discussing about Child's Rights to be protected from violence and about necessity to prevent children from any kind of exploitation.***

There are several new projects started and preceded:

✓ "Children's condition in Latvia and measures to improve situation." The aim of the project is to find out and define problems regarding competences of governmental and local institutions on the rights of the child if there are any contradictions between separate Laws on the child's rights protection.

✓ UNICEF handbook on the "Implementation of the Convention on the Rights of the Child". The aim of the project is to translate

the handbook and to make it accessible to specialists who are working in the field of the child's rights protection.

✓ "Questionnaire in the education institutions" – in order to provide protection of personal data. In the scope of the project recommendations will be worked out for school personnel on organization of questionnaire procedures at schools and usage of obtained data. There is no any regulation defining procedures of interviewing at present moment.

✓ "Children with defective behavior" the aim of project is to work out recommendations for specialists and teachers who are working with children with defective behavior on working methods those can be applied in work and education of the children. In the scope of the project there will be invited specialists from different countries to give their recommendations and share their own experience on this topic.

It is planned to work closely with Schools' personnel and students in order to give education on Child's rights and responsibilities.

### **3. The LNHRO experience in communicating and working with children, including experience in establishing child advisory/consultative groups.**

Since the CRPD has worked for 6 months – there are several projects started up, i.e. "Children Opinion Day" where children express their opinion on children rights protection in different contents. In the scope of this project officials of the CRPD are using special questionnaire where children express their opinion on the Rights of the Child on the Education and Rights of the Child to Recreation and Free Time.

#### **Activities and organization of "Children's Opinion Day"**

Usually the organization of Children's Opinion Day is based on invitation as well as on own initiatives. The aim of these meetings is to find out children's point of view on special questions as well as to inform and interpret them on the Rights of the Child.

During meetings officials are talking on children rights and duties by using interactive methods, i.e. role-play, games, panel game ect. Children, applying experience from their daily life, are trying to find differences between their rights, duties and prohibitions. In the scope of the "Children's Opinion Day" – children are willing to share their experience – by telling stories from school time, i.e. conflicts between teacher and student, violence in family and between equals in age. During 2<sup>nd</sup> par of day children are invited to answer questions those are prepared by officials. These answers help to identify problems that exist in the field of the children rights protection.

In order to illustrate importance of the "Children's Opinion Day" there is some examples, i.e.:

During visit to the child care and instructional institution officials found out that there are children who do not get pocket money that was against the law. In order to solve this problem officials of the CRPD got in contact with competent institutions and mentioned problem was solved.

Another example – during conversation with children officials of the CRPD found out that teachers violate children psychologically and emotionally. In order to

solve this problem the officials of the CRPD got in touch with competent institutions and several decisions had been taken in order to stop violation.

As well Child's opinion was taken into consideration for several cases on Rights to grow up in family. Orphan's Court had appointed a guardian not taking into account child's opinion and psychologist's conclusion. During conversation with Child officials of the CRPD found out that that child wanted to stay with his father. There were no actual obstacles for child not to stay with father. The officials of the CRPD achieved that Orphan's Court reviewed this case repeatedly and child was returned back to the family.

In future CRPD is planning to develop and promote principle of the rights of the child by establishing child advisory/consultative groups. At the present moment there is established non-governmental organization "Latvijas Bērnu Forums" (translated Children's Forum of Latvia) that members are children and youth who are acting in governmental and local autonomy in the field of the children rights protection.

#### **4. Examples of advocacy that LNHRO has done to ensure that the juvenile justice system in our country is in conformity with CRC.**

With the reference to this question we have to mention that there are several improvements achieved. At present moment the basic principles of Convention on the Rights of the Child are settled in Criminal Process Codex of the Republic of Latvia, i.e., In accordance with Protection on the Rights of the Child Law Section 6 *In all activities in regard to a child, irrespective of whether they are carried out by State or local government institutions, public organisations or other natural or legal persons engaged in the care and upbringing of the child, and the courts and other law enforcement institutions, the ensuring of the best interests of the child shall take priority.*

(1) There are several improvements achieved by CRPD in conformity with Convention on Rights of the Child, i.e., officials of the CRPD worked out conclusion on the basic principles on child involvement in Criminal Process - there is an achieved positive decision for juvenile offender, i.e., A court releases juvenile offender (to whom hooliganism was incriminated) who has not attained the age of majority from sentence, imposing compulsory measures of a corrective nature therewith.

The officials of CRPD are promoting organization of work for the Prevention of Violations of Law. The opinion of the officials of the CRPD is that imprisonment is not furthering improvement in personality further more it promotes degradation.

The officials of the CRPD have participated in criminal process clarification, i.e., that during examinations there is required a participation of psychologists and pedagogues as well parents should be informed about detention of child.

#### **5. Any efforts LNHRO CRPD has been involved with promote the establishment of new independent children's rights institutions in other countries.**

According to this question we have to admit that the LNHRO CRPD has not been involved with promote the establishment of new independent children's rights institutions in other countries. We hope to be involved with such kind of projects in future.

**SUMMARY OF OMBUDSPERSON ACTIVITIES  
LITHUANIA**

# Lithuania

## Updates

The Office of Lithuanian Ombudsman (hereinafter referred to as the Office) for children is situated in the center of capital Vilnius, so it is in compatibility with UNCHR recommendation for independent children protection institutions – to be situated in geographical position and to be easily reached by all children.

In November 2002 the Office got a lecture hall. Knowing the duties and responsibilities of an Ombudsman, it is very meaningful fact, because Ombudsman started to organize meetings on all existing issues for regional specialists, meetings with children and for other social projects.

In the Office 2 advisers and 3 specialists are working with the subject matter. In pursuance of commitment to spread the scope of Ombudsman's activities to the mass media, and promoting the child rights protection in the public, the Office recruited the Public Relations Manager.

## Problems and Challenges

Considering the children rights protection topics and highly growing working load, as well as, limited financial resources the Office is lacking of highly educated specialists in order to exercise the Ombudsman's duties and obligations.

Existing number of specialists is not optimal to proper analyzing of all fields of children rights protection; it is not possible to implement new concepts and new projects and etc. To create tangible benefits and to embody opinion about children's place in a society the Office needs wide-ranging financial opportunities in order to call the specialists from other spheres, from NGO's and experts.

The main difficulty for implementation of the Ombudsman's functions is deficient provisions of Law on the Controller for the Protection on the Rights of the Child. Provisions of the above-mentioned law foresee that the Ombudsman can make the conclusions only after full investigation of the complaint, and do not let to influence the situation at an early stage. The mission and functions of an Ombudsman are not yet clearly defined. Some do not know the Ombudsman's position in institutional system or Ombudsman's mandate, and so on. In practice we know that sometimes it is cheated on Ombudsman's concept and people (authorities) interpret Ombudsman's role in different ways. Therefore this study is dedicated mostly to Ombudsman's institute, functions and powers.

## Achievements

The Ombudsman institution, in its two years of an existence, has lead to positive changes in children's rights protection.

A. The status of regional child rights protection agencies has become steady. Ombudsman for Children has urged municipal mayors to pay attention to the significance of regional children's rights protection agencies as a part in whole system of children protection. The Ombudsman has also called them to pay attention to solving children's problem, and it has given quite positive results: regional children's rights protection agencies were established in the municipalities; 50 from 60 agencies are independent; they have their own premises, equipment and transport.

**B.** On purpose to influence political changes in a country, concerning with the child rights protection, to have an open and incorrupt view about children's legal position in regions and to know about existing problems and their solutions – the Ombudsman's Institution organizes meetings and discussions with responsible specialists, regional children's rights protection agencies, representatives from public organizations. Meetings organized for the discussion on current challenges and current appeals among the children's rights specialists still remain the underlying streamline of activity.

**C.** There is no possibility to organize the work by thematic classification of any issue (education, culture, social security, health service and etc.). Due to having too little specialists, the Institution's activities are specialized and structured as following: a) investigation of appeals, research and analysis; b) public relations and reference; C) supervision of implementation of legislation and its harmonization with the Convention and other legal standards, drafting the legislation.

**D.** The Institution is preparing to establish, under Ombudsman Institution, the Committee of Experts. The main functions of such a Committee would be to help and consultation while drafting the legislation and harmonizing the modified laws. This Committee would work in rotation. The members of a Committee (specialists from governmental institutions, NGO's) will meet once in a quarter of a year or more often, if so needed.

**E.** The Institution is in the preliminary stage of establishing, under Ombudsman, the Child (below the age of 18 years) Consultative Council. The cooperation with akin foreign institution for child rights protection, discussions in seminars and conferences, and our practice have showed the real necessity to accomplish the legislation, to depolarize the Institution with children, and to implicate them into dispute settlement process. Institution is going to call 10-18 years old children from different social spheres. Through this project Ombudsman will know and will identify children's opinion on the governmental activities. Ombudsman will also motivate the children to participate in all processes of governance. The experience of other countries, that have established such councils, is very useful.

**F.** The Institution has already established a new and potted web site for children. By using the Internet, the children can propose questions or requests on interested issues, and to have consultations from specialists. On Ombudsman's initiative, the Children will find questionnaires in the web site and will be involved in discussions on important issues. This will improve real intercourse between the Ombudsman and children.

**G.** Exclusive attention is paid to the improvement of child's legal interests and security in the school (bullying, physical and emotional abuse, chasing). The project "Child's Rights in Lithuanian schools" is under exercise. Based on our practice (complaints, the information from visits) the Institution promptly organized such a project, where all the attention was paid to child's safety in a school. During the visits – children were also informed about the Conventions, child rights and legal interests.

**H.** The Institution has activated research on questions concerned with children's medical care system. At this time the situation in medical care system is paradoxical, for example: to the Ministry of Health of the Republic of Lithuania has been directly addressed functions for children's rights protection, all though the Ministry does not have solemn subdivision that would be responsible for children's rights protection policy formation and execution while putting into practice public health care policy.

## **Communicating and working with children**

The most specific point of Ombudsman's activities is that all the activities should be based on children's participation in it. Since the main Ombudsman's task is to represent the children, being children's "voice" in a society and nation, the Ombudsman is learning to know about living conditions of children in different social groups, their needs; to get more concrete data on children from their selves and from their parents, as well as, from the institutions working with children. Such flexibility is very important. The Ombudsman gets the information on children during the investigations, phone calls, through Internet, through letters, visiting schools and summer camps and etc. It is important for the Ombudsman to be trusted by children, and to teach them every time to make reports to the Ombudsman at any time and place. To gain such confidence Ombudsman puts many efforts, and it needs much time and patience. After two years of practice, we can see the signs of children patience and hope in the Ombudsman. Children are not afraid to come or to call to the Ombudsman, to bring the oral or written complaints.

While making an investigation, Ombudsman tries to meet with the children and to know their opinion, if it is possible.

The Institution has an open-dialog with children and scholar society via Internet or questionnaires.

## **Institution**

- A. An issue to firm the children's rights protection policy as a priority is under debate in Government.
- B. In order to secure the best interest of a child, as set in the provisions of the Convention – the Government persecutes reform on minimal and average care of minors.
- C. Children's health care system is under reform; medical cabinets are being brought back to educational institutions.
- D. The system on the protection of minors against detrimental effect of public information is implemented; legal drafts are prepared.
- E. Execution process in civil cases is analyzed at the governmental level.
- F. The reform of regional child rights protection agencies is arranged. It is proposed to establish new administrative subject – solid public institution for the child rights protection decomposed from Central Institution and 60 regional agencies.

**SUMMARY OF OMBUDSPERSON ACTIVITIES**

**LUXEMBOURG**



## **Ombuds-Committee for the Rights of the Child in Luxembourg**

*Preliminary comment: The Ombuds-Committee for the Rights of the Child (ORK) in Luxembourg has been set up on November 20<sup>th</sup>, 2002, but the actual fieldwork was only able to start in January 2003. The Committee's address is still temporary. The Committee consists of six people: a chairwoman, a vice-chairman and four members, and it is appointed for five years. The terms of office may only be renewed once. Only the chairwoman holds a full-time job. The members come together once a month in a meeting.*

## **Communication and work with the children in Luxembourg**

The Committee has decided to make it a priority for 2003, which is the international year of disabled people, to take care of the situation and the lot of those children with special needs and/or suffering from a physical or psychological handicap. We are especially concerned with:

- their integration at school
- increasing the teaching staff's awareness of problems linked to blurred perception: dyslexia, ADHD (Attention Deficit Hyperactivity Disorder), hyperkinesia and a dysfunction in calculating
- staying in touch with associations dealing with the interests of children with specific needs
- staying in touch with the management of the Differentiated Education, with the ambulatory rehabilitation service and with the people in charge of the observation centres
- the chairwoman of the ORK has made contact with four classical and four technical secondary schools in order to inform the first-years about the rights of the child. These meetings with children aged between 12 and 14 have been incredibly interesting and the feedback has been extremely positive. In the future, these information- and exchange-meetings will be expanded to other secondary schools as far as possible
- the chairwoman also visits those children who want to talk to her at home and she plays the role of mediator in the case of conflicts
- the chairwoman sees the children, alone or accompanied by their parents, in individual consultations. Her office is permanently manned on Tuesday and Thursday afternoons for such consultations.

## **Activities of the Ombuds-Committee for the Rights of the Child: problems and challenges**

A first analysis of the measures introduced for helping the children has already revealed important flaws.

The Committee will try to make a list of the missing structures in Luxembourg: There are too many children with specific needs attending schools abroad, where they are often placed by judicial measures. Their reintegration into a Luxembourgish class always proves extremely difficult because the teaching is done in two or three different languages.

An unspecified but extremely elevated number of children attend primary and higher education in the neighbouring countries for lack of an appropriate education in Luxembourg, which would take into account their specific needs.

A juvenile psychiatric ward opened in July 2003 with 12 emergency beds; a psychiatric ward for children is however still missing.

Besides, we support the suggestion of creating a boarding school for disturbed children coming from dissociated families in which there is only little collaboration with the social workers.

The Committee also encourages the government bill concerning the reorganisation of the public socio-educational centres, notably the creation of a security unit on the site of 'Dreiborn', where there is a socio-educational centre for young delinquents. This will be an essential option in order to get under aged children out of a prison, which was originally build for adult delinquents.

Luxembourg is forced to follow the recommendations of the European Council's European Committee for the Prevention of Torture and Suffering or Inhuman and Degrading Treatment. Besides, the detention of children under 18 years of age is conflicting with the clauses of the articles 37, 39 and 40 of the Convention relating to the Rights of the Child.

The children who are in confinement in Luxembourg are currently staying in a section that is separated from the adult prisoners, but they are still likely to encounter each other on the site or in the corridors.

We are dealing with individual situations, in which most of the problems are about the right of visit, about the expelling from a school or an educational centre, or about a fostering which the parents have problems to accept.

To that may be added a list of claims and records, which are of public interest. We will limit ourselves to citing only a few examples:

- the right of under aged mothers, placed in reception centres, to touch educational benefits
- the legal basis of identity cards for children under 15 years of age
- the violent police intervention during a peaceful demonstration against the war in Iraq in March 2003, where young people have been injured
- the fate of the refugee children
- the fate of unaccompanied under aged children

There still remains a lot to do. Luxembourg has at its disposal the necessary human and material powers and possibilities and the willingness to tackle the problems should not be missing. Let's roll up our sleeves.

Marie Anne RODESCH-HENGESCH  
Chairwoman of the Ombuds-Committee for the Rights of the Child

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **MACEDONIA**

REPUBLIC OF MACEDONIA  
PUBLIC ATTORNEY

**INFORMATION ON THE WORK OF THE DEPARTMENT FOR  
PROTECTION OF CHILDREN'S RIGHTS IN THE PREVIOUS YEAR**

*General description of the Office and its activities*

The Department for protection of children's rights is working as part of the national Office of the Public Attorney of the Republic of Macedonia and is functioning on the basis of the same principles as in previous years, primarily being authorised to act upon specific complaints for protection of individual rights of children. However, at the moment there is an ongoing procedure in the Parliament of the Republic of Macedonia for the adoption of a new Law on the Public Attorney which would strengthen the role of the institution and would enhance the institution's procedures. It is of particular importance in relation to the protection of children's rights that the new Law defines children and disabled persons as a special category of persons which are provided protection by the Public Attorney not only following a submitted complaint, but also at its own initiative without being obliged to ask for any kind of consent from the parent or the guardian. Furthermore, the new Law obliges the Public Attorney to monitor the general situation concerning the accomplishment of the rights of children and to undertake measures for proper accomplishment, respecting and enhancement of children's rights, also to monitor legislation and to provide proposals and opinions for changes to the legislation for the purpose of harmonisation with the Constitution of the Republic of Macedonia and the international acts, as well as to initiate procedures in front of the Constitutional Court for the assessment of the constitutionality of the legislation and the constitutionality and legality of other regulations. In order to improve the efficiency of the procedure before the Public Attorney, the new law establishes mandatory deadlines for the undertaking of certain actions by the Public Attorney and deadlines within which the competent authorities are obliged to act upon the requests of the Public Attorney. For the purpose of increasing the responsibility of the competent authorities towards the Public Attorney, an obligation is stipulated in the new law for officials who manage state bodies or bodies of the civil service to receive the Public Attorney at his request immediately and without any delay. The new Law also includes an obligation for the competent authorities, following a request by the Public Attorney, for mandatory stoppage of the execution of an individual act until the completion of the appeals procedure or until the completion of a court procedure, if it is deemed that the execution of the said act would cause irreparable detrimental consequences to the citizens. In order to bring the Office closer to the citizens and to enable easier access to the Public Attorney for citizens throughout the country, the new Law provides for

the opening of several offices in the larger cities in the country. The introduction of the new aspects and position of the Public Attorney enables the Department for protection of children's rights to have broader competences regarding the protection of the rights of children, furthermore the new Law strengthens the role and the importance of the Public Attorney and by that the Department for the protection of children's rights.

### **Achievements and activities of the Department in the previous year**

- Two years ago, following our initiative a Law on the Protection of Children was adopted which stipulated the adoption of certain secondary acts relevant for its execution, however this did not occur which rendered part of the provisions of this law inapplicable, thus resulting in the implementation of old provisions which did not take sufficient account the equality of children and their best interest. Due to this the Department intervened several times with the competent authorities for the adoption of these secondary acts. After persistent insisting and requests by the Department, the secondary acts were recently adopted which created the conditions for the execution and implementation in practice of the part of the provisions of the law especially regarding social issues and social care of the children by the state.
- For the past several years, the Department has appealed to the competent authorities for children up to 18 years of age to be freed from participating with their own funds in the provision of the necessary health services with a special request for full exemption from participation in health services and various types of appliances for children with special needs. Our appeals were successful and a step forward has been made with the adoption of acts which stipulate the exemption of children with special needs from compensation of the necessary health services and appliances and also provides for more favourable conditions for the use of orthopedic appliances at the expense of the state.
- During the course of the past period, the Department paid special attention to the protection of children against information detrimental to their psychological and physical development. Following an initiative by the Department, a coordinative body was established where Mrs. Nevenka Krusharovska as the Head of the Department for protection of children's rights is a member. This coordinative body has prepared an Advertising Code and started an initiative to establish a special association of the public information media which will fight against advertising detrimental to children's development. (on the basis of another of our initiatives, there is an ongoing procedure at the moment for changes to the Law on Broadcasting which would result in provisions providing protection against the harmful influence of television on children.
- Lead by the increasing violence among the youth, and increasing rates of alcoholism and smoking among young people, besides our publicly stated appeals for appropriate application of legal sanctions concerning advertising of alcohol and tobacco in inadequate locations and serving alcohol to minors, we have proposed appropriate changes to be made to the legislation concerning the ban on the sale of alcohol and cigarettes to minors in the retail network and limitation of the rights of minors concerning entrance into night clubs and bars working after 11 pm at night. Our proposals have been accepted

and changes have been made to the legislation. Our survey in the retail network has shown that most of the shops posted signs that alcohol and cigarettes are not to be sold to minors, but we still don't have any findings about the results from the implementation of this legal solutions in practice, due to the fact that they were adopted only couple of months ago.

- For the purpose of educating children about their rights and the making more frequent contacts with children, the already established practice of visiting educational institutions and other institutions for accommodating children has been continued, in the course of which we meet children and establish to what extent and in what way their rights are respected and accomplished in schools, families and communities where they live. In the course of this year, we also had more frequent contacts with groups of children who came to our Office to acquire specific knowledge about their rights and the possibilities for protection by the Public Attorney and by other institutions of the system. During those meetings, children presented their opinions and their problems concerning the accomplishment of their rights in everyday life. The children's interest about those meeting is constantly increasing, but because of the volume of our work and our involvement in everyday activities we are not able to meet with all interested children and visit all the schools, which led us to consider forming certain children boards in the forthcoming period, which would then be included in our work and they would be educated in order to be enabled to convey their positions on the rights of children and the possibilities for their accomplishment and protection in their schools.
- In the direction of educating children on human rights and the change of attitudes towards those rights, together with support from the UN High Commissioner for Human Rights, Nevenka Krusharovska has been included in the project for educating about human rights in the educational system, which is to be carried out through introduction of human rights in the school contents and curricula and through the introduction of a special subject on human rights or through introduction of special contents on human rights in various subjects.
- Furthermore, we achieve direct contacts with children through our participation as experts in various NGO projects, where besides educating on the rights of children, we also discuss about their accomplishment in practice.
- For the purpose of the resolution of the issue of juvenile justice with the adoption of a special law, Mrs. Nevenka Krusharovska, as part of the team assigned to work on the drafting of the Law on Juvenile Justice, participated in the information trip to Switzerland, a country with a longstanding and developed juvenile justice system and experience in the implementation of alternative measures and mediation in juvenile justice. On the basis of the findings from that trip, a draft Law on Juvenile Justice is being prepared with the participation of Mrs. Nevenka Kusharovska as an external expert.
- As a contribution to the process of harmonisation of the juvenile justice system with the Convention on the Rights of the Child and its implementation in practice, our Department submitted written materials to the government of the Republic of Macedonia concerning adequate changes and amendments to a great number of laws which concern children's rights. These proposals are gradually reviewed and acted upon, where as on the basis of part of the proposals adequate laws or regulations have already been passed.

***Mutual relations between the Public Attorney, i.e. the Department for protection of children's rights with the Parliament of the Republic of Macedonia, the Government and other state authorities***

During the previous year, the collaboration of the Department for protection of children's rights with the competent state bodies and institutions continued to be on a satisfactory level. For the most part, they are ready to collaborate and respect our proposals and recommendations, however the collaboration with certain bodies is still not at an optimal level. Due to this, measures are being constantly undertaken to ensure that the institution of the Public Attorney is respected and that its requests, proposals and opinions are acted upon.

***Collaboration of the Department for protection of children's rights with the NGO sector***

In order to obtain more detailed information about the exercising of children's rights in practice, we collaborate with various domestic and international NGO's, as well as with numerous other domestic and international organisations. As part of this collaboration, we have signed memoranda for collaboration with several NGO's which allow us either to be directly involved in the projects of these organisations or to act as members of their coordinative bodies.

***Skopje  
11.09.2003***

***Branko Naumoski  
Ombudsman of the Republic of Macedonia***

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **NORWAY**



## **The Ombudsman for Children, Norway**

### **LEGAL FRAMEWORK:**

Norway was the first country in the world to establish a commissioner, or ombudsman, with statutory powers to protect children and their rights. Since 1981, the Ombudsman for Children in Norway has worked continuously to improve national and international legislation affecting children's welfare.

The duties of the Ombudsman are to promote the interests of children vis-à-vis public and private authorities and to follow up the development of conditions under which children grow up.

As a result of the many expectations to be met, the Ombudsman stresses his ability to show flexibility and his aims for a holistic approach as important factors in the work carried out on behalf of the children.

It is important to face the work with an innovative approach and to act proactively, influencing the political agenda in the best interest of the child.

### **STAFFING AND BUDGET:**

The office has 11.5 permanent positions and 4 employees on short-time projects. There are currently 15 employees at the office. The budget for 2003 is 7.4 million NOK (approx. 875 000 Euro), whereby 5.2 million NOK (615 000 Euro) is for salaries. The office's total income is passed by the Parliament as part of State budget.

In order to reach the general objectives, the Ombudsman's office is now organised in interdisciplinary teams focusing on specific areas:

Influencing and being part of *policy making* is essential for the Ombudsman. Due to the modern media environment, it is a challenge for the Ombudsman to be present at the public arena and to be part of the public debate.

**Information/Dialogue** is pertinent to stay in touch with children and youth, from whom the office acquires its real mandate. The communication tools employed by the Ombudsman are fundamental in order to change and improve legislation concerning children.

#### ***Individual cases, law proposals, professional advice***

A considerable part of the enquiries to our office are regarding children's procedural rights when subject to legislative matters, court or administrative decisions. Most enquiries are referred to competent offices when possible, especially complaints in singular cases. The Ombudsman reserves his primary capacities for cases of significant principal value. These individual cases provide guidelines for the Ombudsman for monitoring children's rights in practice as well as highlighting areas that need change of legislation. The staff also gives more personal advice on how to best take care of children and

how to highlight the best interest of the child under potentially stressful circumstances.

The Ombudsman office is an active participant in both ***national and regional hearings*** concerning children's rights. The Ombudsman has also continued to work as an ambassador for various projects to show the media and the public a diverse picture of children's lives in Norway.

**Staff October 2003:**

Trond **Waage** (Ombudsman for Children)  
Knut **Haanes** (Deputy and Senior Adviser )  
Camilla **Kayed** (Personal Adviser and Media adviser)  
Arild **Søgnen** (Adviser health and psychosocial matters)  
Anette **Storm Thorstensen** (Adviser legal matters)  
Charlotte **Jeppesen** (Adviser legal matters)  
Kari *Jevne* (Adviser child welfare and social planning)  
Anette **Meling** (Adviser child welfare and social planning)  
Jan **Mossige** (Adviser education and school politics)  
Thomas **Hepsø** (Adviser Internet/ Media)  
Sidsel **Hommersand** (Project management)  
Frode **Ullebust** (Information Officer)  
Dinh **Van Nguyen** (Financial Management)  
Lillian **Juvkam** (Secretary and Registrar)  
Britt **Fredriksen** (Secretary)  
Joachim **Gunstrøm Hovd** (Office Assistant)

**OBJECTIVES 2003 - 04:**

- to promote full implementation of the Convention on the Rights of the Child, due to the full incorporation of the Convention into Norwegian legislation.
- to promote a higher priority for children and a higher visibility of children in society;
- to influence law, policy and practice, both by responding to green papers and by actively proposing changes;
- to promote proper co-ordination of all services for children;
- to promote effective use of resources for children;
- to provide a channel for children's views, and empowering children to participate.
- to review children's access to, and the effectiveness of, advocacy and complaints systems, including in institutions, schools, and the courts; to respond to individual problems or complaints from children.

Society must work to make children be seen, heard and valued. Children must be looked upon as competent individuals. In order to monitor the Norwegian

childhood, the Ombudsman has close contact with his external professional network.

### **HOW WE COMMUNICATE AND WORK WITH CHILDREN / FOCUS AREAS 2003-04**

The Ombudsman for Children is more than just a public figure with statutory powers. The office aspires to strengthen its partnership with children and youth, continuing to improve various conditions affecting all children in Norway.

*The CRC article 12 stresses children's right to express their own views on all matters affecting them, i.e. empowering children and youth.*

To stay in touch with children and youth the Ombudsman employs several communication tools. These are considered to be the knowledge base, which is crucial in order to change and improve both attitudes as well as legislation concerning young people.

#### **Powerline (telephone/internet):**

To stay in touch with the children in Norway the Ombudsman's office established the Children's Powerline in 1989. The Powerline, which is also on the Internet, represents a valuable communication for the Ombudsman. It gathers information about the lives of children and youth and attempts to provide swift replies and information to the callers.

#### **Internet Parliament and the influence of Student Councils:**

The Internet Parliament (IP) for students in the secondary school was established in 2001. The aim is to empower young people by letting them have their say through mini-referendums on matters concerning themselves. On behalf of their schools, the 25 democratically elected student councils discuss various topics and vote on the issues, and then report back to the Ombudsman. These valuable data will then be used in the Ombudsman's work, whether it is implemented in hearings or used as facts in public debates.

Fall 2002, the Internet Parliament was used in Norway's state report to the UN Committee on the Rights of the Child. For the first time, the voices of children and youth are used as part of this report. In addition to CRC theme days and regional hearings at various schools, the IP student councils influence the report by expressing their opinions via the IP.

The Ombudsman's office has continued to highlight children's rights through distribution of information material, school meetings and through a partnership with the national broadcasting services.

The Ombudsman has also given out grants to innovative ideas to improve the work of the student school councils, continuing to encourage children and youth to partake in political decisions and empowering them to use their voices effectively.

### **Hearings**

National hearings represents a significant part of the Norwegian democracy. The Ombudsman office is an active and important participant in both national and regional hearings concerning children's interests.

The Ombudsman has also continued to work as an ambassador for various projects to show the media and the public a diverse picture of children's lives in Norway.

### **The Convention on the Rights of the Child in Norway:**

The major focus area for the Norwegian Ombudsman is to strive for equality for all children and youth in the environments where young people live their lives. The goal is to reach optimal equality in standards of schooling, health care, social care leisure- and cultural activities. Today, however, the standards within the different laws concerning children are still fragmented, dispersed and lacks consistency.

Norway ratified the UN Convention on the Rights of the Child (CRC) in 1991, and it has been the main objective of the Ombudsman to achieve full implementation of the Convention. The office has participated in a public hearings regarding the implementation of the convention into Norwegian laws and regulations. 1 October 2003 the Convention is incorporated into Norwegian law.

***The incorporation provides a strong and irreversible platform, from*** which the laws concerning children and adolescents can be fully revised. Now, the Ombudsman emphasises the need for the incorporation to not only involve legal processes, but also political and professional processes. It is important that society as a whole become part of, and aware of, the important changes in the rights of children and youth. This year, Norway commences to see children as subjects of their own lives, rather than as objects of adults' decisions.

### **Initiative Against Bullying:**

The Ombudsman recognises the many children suffering from bullying, both at school and in their local area. In the research and campaigns focusing on bullying, the Ombudsman emphasises the need to focus on leadership and to hold the school administrations accountable for the situation in the schools. Rather than launching another anti-bullying campaign, the Ombudsman for Children's office has maintained a continuous focus on the issue, working towards a zero-tolerance for bullying at Norwegian schools.

At the end of 2001, a fruitful public debate started as national media became involved in the Ombudsman's work on bullying. As the Ombudsman focuses on making leaders (i.e. mayors, principals and teachers) accountable, one of

the objectives was to break down some of the taboos around bullying. To advance public debate further, the Ombudsman started co-operating with regional and local media in order to collect the stories of victim and bullying offenders. As this became a success, the Ombudsman arranged a conference to present the experiences from journalists, the bullies and their parents as well as the victims and their families.

Six months later the Ombudsman, the Prime Minister and the organisations representing all parts of the school system, signed the ambitious manifesto against bullying, which goal is to eradicate bullying from Norwegian schools by 2004, establishing a zero tolerance among the school leaders and students.

The manifesto has had an overwhelming impact on the work carried out against bullying. The massive media coverage and hard work from the manifesto partners have triggered the local level. There is now a great activity level within the regions and municipalities, children, youth and adult standing together to fight bullying.

As part of the Ombudsman evaluation-system of the manifesto, we encourage the schools to report back to us, so that we can produce an overview of all municipalities and schools who have signed the manifesto, and those who have not. Another very important evaluation channel will be the student councils, which the Ombudsman is generally trying to revitalise, making them become politically influential. The councils are in a position where they can perform a continuous evaluation of what is being done at their school and in the municipality in general. They will also be encouraged the councils to inform the Ombudsman's office and local media of both great progress, as well as complete lack of such.

#### **Children and their right to be protected:**

In 2002, and still continuing, the Ombudsman for Children initiated a project aiming to investigate the limitations that apply to the legal rights of children to protect themselves against violence in the family. These limitations are especially visible where parents are divorced and a child is forced to spend time with an abusive parent. Usually it is hard to establish proof for this abuse in a court of law.

The official justification for this is that a child cannot make independent decisions regarding contact with parents after a divorce. The Ombudsman investigates whether this assumption is based on professional knowledge about children, or whether it is a belief contingent on cultural and historical factors.

#### **The Courts and extenuating circumstances:**

The Ombudsman for Children has commenced a project where sentences within the criminal justice system is revised in order to uncover what the legal system defines as a "harmful childhood".

It should be important to pinpoint negative experiences leading to extenuating circumstances, as these problem areas would imply where the authorities should put the resources in order to improve the lives of children and youth in Norway.

**The new Media landscape:**

With the Internet and the fast moving technology within the movie and computer games industry, children of today is approached by a completely different media landscape than the generations before them. As a response to this, the Ombudsman for Children is engaged in the debate concerning rating of movies and computer games. In 2000, the Norwegian rating system for movies in theatres and for home entertainment was revised. Since 2002, the Ombudsman has the right to appeal any ratings made by The Norwegian Board of Film Classification, a prerogative which has already been employed in a number of cases.

Last year, The Ombudsman for Children and the Consumer Ombudsman and the Market Council filed a complaint against Grand Theft Auto 3 because of unjustified use of coarse violence. The Ombudsman regards such actions as appropriate in order to stay true to the responsibility to the UN Convention on the Rights of the Child.

**Promoting independent children's rights institutions in other countries**

The Norwegian Ombudsman has been active in giving advice in the process of drafting legislation concerning independent children's rights institutions in several countries. In addition to this the Ombudsman has established a practice of inviting new ombudspersons to visit the office in Oslo for meetings with the staff there. This provides for a good opportunity to discuss various topics on children's rights, both on the legal and practical level and to share the Norwegian experiences with representatives from new institutions.

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **POLAND**

ZBA-074-4/03/MKr

### **Information for the 2003 annual ENOC meeting**

As the Ombudsman for Children, independently realizing tasks imposed on me by the Law on the Ombudsman for Children, dated January 6<sup>th</sup>, 2000 (Journal of Laws No. 6, 2000, item 69), I very much value the promotion of the rights of children among the children, youths, persons working with the children, and among the entire society. I am convinced that knowledge of their own rights will help the children to execute them consciously, and will allow the adults to fully respect the principles of child's subjectivity and dignity.

Ever since I have been appointed the Ombudsman for Children, I conduct extensive popularization of the children's rights and information campaign regarding my activities and objectives realized. The activities involve systematic distribution of materials (brochure, leaflets, other publications), dissemination of information via media, organization of meetings, and participation in the domestic and foreign conferences.

I basically provide information regarding the rights of the child and the measures taken by me to protect them in my annual Information of the Ombudsman for Children on its activity, with Commentary on Observing of the Rights of the Child in Poland, delivered to the Polish Sejm and Senate. It is also published as a book and placed on the Ombudsman's website.

In 2001, my Office prepared materials in form of a leaflet (400,000 copies) and "*Informator RPD 2001*" ("Brochure of the Ombudsman for Children") (12,000 copies), which were distributed in schools and in the major institutions dealing with the problems of the children, and to the press editors Poland wide. They contained basic information regarding the Ombudsman's activities and precise guidelines on the ways to contact the Ombudsman. The Brochure of the Ombudsman for Children also covered characteristic features of the institution (discussion of the cases and general speeches) and specification of the major legal deeds regarding the rights of the child (Convention on the Rights of the Child, and the Law on the Ombudsman for Children). The publication also contained proposals for system solutions regarding counteracting child abuse, and the "Transformation of the Institutional Educational Units into Family-type Forms of Child Care" program. Additionally, the Ombudsman's Office developed the report about "*The Child in the Poviats Objectives*" that has been delivered to the Sejm commissions, Ministry of Labor and Social Policy, the Voivodes, Voivodeship Marshals, and Poviats Starosts.

In 2002 I took particularly intensive measures aimed at the most extensive popularization of the rights of the child in the society, in particular among the children, youths, and persons working with the children and with the youths.

In thousands of its letters and studies, the Office of the Ombudsman for Children popularized knowledge about the children's rights, and the Office employees provided comprehensive information in this respect in numerous phone conversations.



The Office of the Ombudsman for Children prepared and reviewed a new, supplemented “2002 Brochure of the Ombudsman for the Rights of the Child” printed in 10 000 copies, and delivered to the schools, as well as to the interested persons and institutions. The yearly updated “Brochure of the Ombudsman for Children” will reach all schools in Poland within 3 years. In October 2003 the English version of the “Brochure of the Ombudsman for Children” will be published.

In 2002 I conducted the campaign of the rights of the child promotion, which involved printing of 35 000 of posters with “**Human rights begin with children’s rights**” motto, and distribution of the same, together with my letter to all types of schools at the inauguration of 2002/2003 school year. The materials constituted grounds for organization of school debates regarding protection of the rights of the child. Additionally, the posters are used for promotion of the children’s rights during my meetings with the children, young people, parents, teachers, and other persons concerned about the issues of children’s rights. The posters were given to all interested persons and institutions.

As continuation of the poster campaign, I realized the promotion of children’s rights in cooperation with UNICEF, during which 1350 “city light” posters with “*Human rights begin with children’s rights*” motto were printed. The posters were exhibited on 1100 billboards in several largest Polish cities. In majority the campaign was financed from UNICEF assets. The Ombudsman for Children covered costs related to preparation of the poster design, and a part of poster distribution costs. Advertising boards were made available by Clear Channel. Some of them remain on permanent display.

**Important promotional activities included organization, in cooperation with UNICEF and with the Polish Mediation Center (Polskie Centrum Mediacji), of Poland wide contest called *The contest was addressed to the junior high school students, and it was aimed at explanation of the remedial justice notion. The results of the contest – 15 best works on violence and mediations have been gathered and summed up in the publication-manual (7 thousand copies) addressed to all junior high schools, i.e. the schools in which the problem of violence is particularly important.***

***Promotional operations realized in cooperation with UNICEF and with its financial support required development of detailed programs and presentation of detailed report from their realization. The documents have been highly evaluated by UNICEF and found to be exemplary.***

In 2002 I organized the 1<sup>st</sup> Meeting of the Ombudsmen for Children from the East-Central Europe, under the banner “*Challenges and Opportunities for Promotion and Protection of the Children’s Rights in East and Central Europe*”. It was held on June 24<sup>th</sup>-26<sup>th</sup>, in Warsaw, at the Sejm building and at the Office of the Ombudsman for Children. In answer to my invitation 32 ombudsmen and other persons representing the institutions dealing with protection of children’s rights in a given region, the representatives of the UN Committee for the Rights of the Child, and UNICEF authorities participated in the conference. Also the ombudsmen for children from France and Belgium took part in the conference, as the representatives of the European Network of Ombudsmen for Children (ENOC). The aim of this undertaking was to popularize the independent institution for the protection of the right of the

child, and diagnosis of the children's rights observance in Central and Eastern Europe, with the suggested systematic solutions. The meeting participants adopted a common declaration stipulating the most significant problems of children in the East and Central Europe.

During all meetings that I and my employees hold, the participants receive leaflets containing basic information about the rights of the child and about the Ombudsman's activities, as well as other materials regarding various aspects of the children's rights' protection.

A very important happening in the current year involved my organizing of the National Summit for Children, on May 23<sup>rd</sup>-24<sup>th</sup>. This was the undertaking without precedent, because it was the first time that such large group of experts – theoreticians and practicing experts, and representatives of the national authorities gathered to debate on the problems of Polish children and on the ways to solve them. A group of children and youths took active part in the conference, presenting their problems and postulates in respect of the improvement of the young generation's situation. The results of the Summit have been contained in the declaration "Poland for Children" adopted by its participants. It will not only identify the problems of young generation, but will also establish a detailed plan of operations for the coming years.

In my opinion, this document should become the basis for the development of the National Plan of Operations for Children. All Summit materials can be viewed on the website of the Ombudsman for Children.

In consideration of the threats resulting from irresponsible usage of the Internet, I ordered the first in Poland studies on *Exemplars of Internet Usage by Children between 13 and 15*. The results of the said studies were presented during the conference on "The Child vs. Internet. Opportunities – Threats" organized by me in the Sejm on December 9<sup>th</sup>, 2002, and encountered great interest of the media, scientific world, and of persons directly engaged in work with children.

Recognizing the issue of poverty among the children to be one of the most important social problems, I applied to the Institute of Sociology of the Łódź University for realization of detailed research regarding the scale of the problem. The results of the research were presented at the conference on "Child's Right to Decent Social Conditions" held on December 2<sup>nd</sup>, 2002. The research of the Łódź scientists verify the common opinion that the problem of poverty primarily refers to elderly people, families with many children, and to persons who bring up their children alone. They prove that poverty chiefly relates to the children. The materials of the conference and the results of the research were published, and the publication rose great interest of both the social workers and of the representatives of the media. The edition was sold out.

In 2003 the Office of the Ombudsman for Children published a book "The Child in the Family", which constitutes the first volume of the publishing series "Protection of the Rights of the Child". The series is planned to cover further publications regarding the most important spheres of the child's life. The next two publications, due this year, include: "Child in School" and "Protection of the Sick

Child's Rights. Rights of the Patient". Next year, the series will be supplemented by the analysis of further important standards of the children's rights protection.

Ever since the beginning of the Office of Ombudsman for Children, I have my own website ([www.brpd.gov.pl](http://www.brpd.gov.pl)) informing about the ongoing activities and containing the basic materials regarding my work. In 2003 I initiated the website addressed to young Internet users ([www.strefamlodych.pl](http://www.strefamlodych.pl)), which is to be co-created by the children and the youths. Its chief aim is to assist young people in solving the most current problems related to violation of their rights.

During the entire period of my activity I maintain continuous contact with the press, radio and TV. Press services (Polish Press Agency and Catholic Press Agency) receive current information from my Office, regarding the actions undertaken. I personally, and my staff many times participated in informational and thematic TV and radio programs.

In 2002 the number of cases and problems notified to my Office significantly increased. On one hand this proves that the scope of problems related to violation of the children's rights is very extensive in Poland, and on the other hand it proves that the position the Ombudsman for Children as one of the most important institution obliged to protect the rights of the child became well established and that the social confidence in it increases. In general, last year I dealt with 6035 cases, including the following:

- Individual cases undertaken in consequence of written applications – 1377 individual application;
- Individual cases undertaken in consequence of phone conversations – 3180 (there is a special informational-intervention hotline functioning in my Office, every day between 8:00 a.m. and 8:00 p.m., playing the following functions: informational, interventional, supporting-therapeutic, signaling-initiating);
- Cases undertaken after the clients' visits – 449;
- Cases regarding systematic changes addressed to the Ombudsman in a written form, in respect of cooperation with the domestic and foreign organizational units – 734;
- Cases regarding systematic changes undertaken in consequence of meetings with the representatives of domestic organizational units – 134;
- Cases regarding systematic changes undertaken in consequence of meetings with the representatives of foreign organizational units – 32;
- Cases regarding promotion and protection of the rights of the child – 129.

In 2002 I realized 59 general applications addressed to the public authorities, aimed at their taking up of the legislative initiative, or issuing or alteration of other legal acts focused on provision of effective protection of the child's rights and wellbeing in respect of the following: the right to life and healthcare, the right to live in family, the right for decent social conditions, the right to learn, the right for protection against violence, cruelty, exploitation, demoralization, neglect, or other ill-treatment, the rights of disabled children, rights of the minors before the prosecution authorities. In all cases I received response from the relevant state bodies. I consider the following to be the most important: covering of all children by common health insurance, taking measures aimed at elimination of non-realization of the schooling obligation, drawing of public

attention to the problem of poverty among children and youths and consequent relevant measures, recovery of free transportation to and from school for the disabled children.

Among numerous meetings that I held in 2002, over 50 were the meetings with the children and youths. They took the form of debates referring to the children's rights and served the purpose of informing about the Ombudsman's work and about the possibility of notifying any problems and claims to him. What is particularly important, I participated in numerous meetings with young people, regarding the children's rights after the European Union accession.

Fulfilling the statutory tasks I maintain permanent monitoring of observing the rights of the child and the level of knowledge about these rights in Poland. I am concerned that my experience achieved during my work, and primarily analysis of issues submitted in my Office show that the society has insufficient knowledge about and awareness of the child's rights. Unfortunately this conclusion also refers to operations of numerous institutions obliged to work to the benefit of children. I expressed my concerns in my Notes on Child's Rights Observance in 2001 and in 2002. I am aware that the relatively low assets I have at my disposal restrict the activeness of the Ombudsman's for Children office regarding popularization of the child's rights. The popularization of the said rights is the primary duty of the government administration, which should intensify its activities in this respect.

**SUMMARY OF OMBUDSPERSON ACTIVITIES**

**PORTUGAL**

**Portugal Report**

**for the Annual Meeting of ENOC  
Stockholm, 15-17 October**

**Introduction**

The Portuguese Ombudsman aims at defending and promoting the citizen's rights, freedoms, safeguards and legitimate interests by appreciating, without power of decision, complaints concerning acts or omissions on the part of public bodies and issuing recommendations in order to prevent or make good injustice (Article 23 of the Portuguese Constitution). The actions of the Ombudsman are independent of any acts of grace or legal remedies provided for in the Portuguese legal system.

Being accessible to the whole of society, including children, the Office of the Ombudsman intervenes to ensure that competent entities take action and adopt the proceedings which best guarantee citizen's rights and fundamental freedoms.

**1- A general update on our office and its activities including recent key developments, problems and challenges.**

**1.1-Activities**

Activities of the Office of the Ombudsman concerning children include running a telephone Free Line named "Messages from children", through which the Office receives complaints that, if applicable, lead to the opening of formal procedures aimed at ensuring the protection of the rights of the child concerned, as well as issuing recommendations of a general nature addressed to specific entities on the best way to ensure certain rights. The Office also undertakes activities aimed at diffusing the hotline among public in general and especially among children.

**1.2-Recent Key developments**

A structural development occurred recently, since the Ombudsman appointed a member of his Cabinet to work closely with the Free Line.

There has been an improvement of the organization and follow-up of each file, in order to engage the entities to act in an more efficient and timely manner, taking into account the need to protect the child in question.

**1.3-Problems**

One of the most frequent difficulties is leading public entities to take prompt action whenever they are in presence of a violation of the rights of the child. It is also difficult, sometimes, to obtain a better interaction of various entities in cases where solving the problem calls for the action of more than one of those entities.

**1.4-Challenges**

Being able to combine and to co-ordinate the various laws referring to the protection of the rights of the child and giving these laws practical effect by leading public

institutions who are supposed to apply them, to do so in the most practical, effective and adequate way.

## **2- A listing of achievements in the last year that would not have happened without our office**

Situations reported to the Free Line, as well as written complaints sent to the Ombudsman, frequently gave notice of irregularities that justified an intervention to correct them. Therefore the Ombudsman has issued a number of recommendations concerning the implementation and guarantee of the rights of the child, addressed to the organs competent to alter the legislation or to correct unjust acts committed by public powers, of which we highlight the following:

- A recommendation, addressed to the Regional Director of Solidarity and Social Security regarding the violation of the rules concerning adoption (consubstantiating a situation of sale of children). It was recommended that adoption services ensure that all placements of children are justified and communicated to the competent court and social security services, that all placements decided by host institutions are followed by the social services and that social services staff all situations as soon as possible in order to facilitate the adoption procedures;
- Regarding the same issue, the Ombudsman recommended to the Ministry of Justice that the Civil Code be amended so that the exhibition of the medical declaration certifying birth be made compulsory for the purpose of registering birth and that, in all situations without exception, institutions where birth has taken place, or people who have witnessed birth, are obliged to communicate such birth to the civil registry;
- The Ombudsman recommended to the Minister of Health that compensation be granted to a mother who had suffered injuries giving birth due to medical malpractice;
- A recommendation addressed to the Secretary of State for Educational Administration saying that the State should progressively support expenses of the educational component of pre-school education in all schools.

## **3- Our office experience in communicating and working with children.**

The Portuguese Ombudsman, aware of the particularities of children's problems, as well as of some difficulties they may feel in asking for help, or even in understanding the risky situation they may be in, has established, in 1992, under direct dependence of his cabinet, a service that is especially aimed at the defence of the rights of the children.

This special service is called "Free Line Messages from Children". Its name is closely related to its aim, which is, in the first place, to bring children and their *problems* closer to the Ombudsman. In fact, through a toll free number, children – or adults on their behalf – can communicate directly with the collaborators of the Ombudsman who will investigate, study and try to solve these problems.

This free, easy and informal way of getting in touch with the Ombudsman has made it possible to bring to his knowledge a great number of situations that, otherwise, would remain unknown to him, and, most surely, to other entities with competencies in this field.

This free telephone line is available 24 hours a day, all days of the year. The collaborators of the Ombudsman, who work exclusively in this service, personally receive all calls made between 9:30 a.m. to 5:30 pm, Monday to Friday. Outside these working hours, there is an answering machine and the collaborators of the Ombudsman answer all messages left there, as soon as possible, usually in their next working day.

Sometimes, those who call this free line for Children want to remain anonymous or ask the Ombudsman Office not to call them back: children who report problems at home usually prefer to call this service themselves, so that they can choose the appropriate moment to talk. Since this line is free of charge, children do not refrain from calling and they can do it from almost any place.

The fact that children can – and actually do – get in touch very easily with the collaborators of the Ombudsman who will investigate their situation also allows these collaborators to know, in a very regular basis, how the situation is evolving.

#### **4- Examples of advocacy that our office has done to ensure that the juvenile justice system in our country is in conformity with the CRC.**

The field of children's rights in Portugal has a peculiar characteristic: although the legal system is not perfect, there is no lack of legislation about children's rights. Also, there are a considerable number of entities – most of them public entities – with competencies in this field.

If all these entities applied the existing law in a prompt and correct way, our juvenile justice system would certainly be much more efficient, so we worry a lot more with applying the law we have, then with proposing major changes in the juvenile justice system, which we find rather adequate.

The fact that many entities have powers and obligations in the field of children's rights makes it difficult, sometimes, to obtain a good co-ordination between them all. This lack of co-ordination obviously leads to a less efficient work.

Being aware of this problem, the collaborators of the Ombudsman who work in this line daily, always try to get these several entities to work together, namely by leading them to share information on situations that they may be investigating at the same time.

The following case is an example of a successful attempt to put together a group of people who could, each one in a different way, help a child:



A phone call was received telling about a 15 years old girl who was being sexually harassed by a man who knew her steps and usually met her when she was going to school.

After informal contacts with the Police, the Court of Law, the Public Health Authority and the Commission for the Protection of Children of the council where the girl lived, the Office of the Ombudsman sent a written communication to each one of these entities, asking if they would agree in being present at a meeting with one of the collaborators of the Ombudsman who works in this service.

The suggestion was accepted and that meeting had quite good results: in a short lapse of time, it was possible to change the girl to another school, closer to her home, thus reducing the risk of her meeting the aggressor; Police vigilance was reinforced and a criminal Law Suit was started in order to look into the behaviour of the man and see if he could be accused and judged. Meanwhile, the aggressor was also submitted to medical treatment, since it was possible to get in touch with his family and, with the cooperation of the Health Authority, start this treatment, since he had psychological problems.

**5- Any efforts we have been involved with to promote the establishment of new independent children's rights institutions in other countries.**

As other members of ENOC, we participated in a Conference that took place in Rome which primary aim was to provide input to enable Italy to decide on the most effective structure for its future children's Ombudsman.

**SUMMARY OF OMBUDSPERSON ACTIVITIES**

**RUSSIAN FEDERATION (VOLGOGRAD)**

## **UP-DATE 2003**

### **VOLGOGRAD – RUSSIAN FEDERATION**

The position of children ombudsman for Volgograd region, Russia was founded in May, 8, 1998 in the context of the experimental project of the Russian Children Fund of the UN (UNICEF) and Ministry of Labour and Social Development of Russian Federation.

The Institute of Children ombudsmen in Russian Federation is developed in concordance with the problems the country is faced with in light of ratification of “Convention of Children Rights”, the government policy of improving the situation with children in country and also the problems indicated for all the countries on the Special Session of the General Meeting (UN) in May, 2002.

In 1998 the position of the children ombudsman was implemented only in 5 regions in Russian Federation.

Today there are already 15 of them in Russia and each of them has its own status. Among them are: the ombudsman as a representative of executive power, the ombudsman on a voluntary basis, the ombudsman as a municipal official, the ombudsman working on the basis of the passed law.

The children ombudsman in Volgograd region is an Assistant Head of Administration of Volgograd region and works in the executive power structure.

There are about 614000 of under age children living in Volgograd region and this is the most unprotected category of population. Not rarely public official's activities or inactivities result in violation of children rights and interests.

During last year there have been more than 400 people including children who have asked for help from the children ombudsman in Volgograd region.

When going to different regions of Volgograd the children ombudsman organizes individual consultations, visits different child institutions (specialized, correctional, orphan, penitentiary) where meetings with children, consultations and work with different juvenile groups are also organized.

In concordance with a great number of requests of people and children ombudsman works hard to draw attention of different departments and public officials to solving each problem only in the interests of children and for non-admission the situation when the rights of children are violated.

As children are the most unprotected part of the whole population they need a special support from adults. One of the main priority in

working of children ombudsman is his (her) participation in Court when different civil cases connected with rights and interests of children are under consideration. Being of interest of the child, preparing a final conclusion of the suit, attending at the trial – above all ombudsman stands up for child's fate.

Now the legal principles formation of children rights protection is starting to grow on the regularly basis in Volgograd region. For instance, there are already two ombudsmen working on a voluntary basis in two large regional centers of Volgograd region – Volzhsky and Kamuishin.

The new project starts from the new school year (2003/2004) in Volgograd on the children ombudsman's own initiative – “Ombudsman for Children Rights in School”. In 19 schools of the city the new position of ombudsman will be implemented what will allow to solve children problems in schools, protect their rights, teach children how to protect themselves accordingly with the “Convention of Children Rights”, reestablish their violated rights. The statute of an ombudsman and procedure of his (her) election have already been approved. Up to October, 30 each of 19 schools will elect its ombudsman where children will be the main voters. They will realize their right to be heard and will be able to express their confidence only to the teacher they sincerely trust. The candidatures for ombudsmen have already been nominated. Four teaching seminars have already been planned for children ombudsmen in schools for the whole school year. These people shouldn't be dilettantes in the sphere of children rights protection – we should make them professionals. They will get necessary knowledge about family and juvenile policies, children psychology problems, find out more about the rights of children left without parents care, handicapped children, delinquent children. At the end of the school year every ombudsman will prepare a report and analysis of his work and will hand it over to the ombudsman of the Volgograd region for further summarizing. All the materials will be published in a one booklet for the possibility of spreading the cumulative experience to other schools in the city. In a year period the experiment will go on in rural schools and then in kindergartens.

The practice of children ombudsman interaction with different public funds working with families and children is to be paid a particular interest. Joint projects, actions and measures assist in forming public opinion in the interests of children in regions, maintain there a priority treatment policy just to children.

For instance, in cooperation with public organization “UNECKO Club “Child's Dignity”” (“Klub UNECKO “Dostoinstvo Rebenka””) “Child rights protection organization” (“Detskaya Pravozaschitnaya priemnaya”) functions in Volgograd. It is open on the base of law lyceum

by means of what senior pupils have a chance to take part in the working of this organization and be taught to consult their coevals in a proper way. The students of law faculties of the universities and academies of the city are got to take part in working of this organization. Experienced lawyers consult adults and children about the rights and interests of the under age children free of charge.

In cooperation with “Reality Principle” organization (“Princip Realnosti”) ombudsman organized the telephone helpline for children “Stork” (“Aist”). Experienced psychologists, pedagogues and ombudsman consult children and their parents anonymously, help in solving different conflicts, develop an elucidative work on the children rights. Pedagogues communicate with the little ones: kids can listen to a tale, learn a poem by heart, if a kid is ill he has a right to get an additional care from a kindhearted teacher. Handicapped children who have the most hard forms of disablements and not attend school and are limited with communication with other children have a right to be paid a special attention to themselves – using this special telephone helpline “Stork” they can find friends.

From September, 2003 an ombudsman has started a new project which will be realized together with the public organization “UNESKO Club “Child’s Destiny””. Its name is “Children’s Contribution in Democracy” (“Detskii Vklad v Demokratiu”). Children volunteer remedial groups have been formed for teaching boys from correctional school from the October district of Volgograd region how to protect their rights. These are children from 10 to 14 who committed a crime or a tort. The Court sentences them to upbringing being isolated from the society as they are all under age. Our volunteers started studying in the Law lyceum for getting proper knowledge about children rights, International and Russian legislation, gaining skills in holding lessons with such children. The seminars and round table discussions on the subject of “Remedial work with the juvenile delinquents” and also trainings for 60 children who are isolated from the society are planned within the limits of this project. But these children also have a right to receive and than hand the information over, communicate with their coevals, express their opinions, have a right to be heard. Within the project every boy will be able to realize his rights on practice.

Ombudsman continues his work on the program “Behind the cell – Children Eyes” which is realized in cooperation with “Russian Children Fund” (NPO “Rossiiskii Detskii Fond”). The work in children penal colony where 300 under age children are held under arrest for committing different crimes doesn’t interrupt even for a day. This program has already been realized for three years. Well-organized interaction of children ombudsman with the administration and Head of the children

penal colony allows having not only a chance of certain access to children but also holding legal actions regularly, round table discussions, having a possibility to consult every boy individually face-to-face.

On children ombudsman's own initiative the Committee of Children Rights functions attached to a Volgograd region Administration. The Committee deals with all critical problems connected with children who are in a crisis situation.

Attached to a Kamishin children penal colony a tutorial committee founded for all-round support of under age delinquents has been held from 2000. All the questions connected with rights and interests of children are solved by means of active support of Committee and children ombudsman. For example, there is a special sector in colony opened for HIV-infected juveniles where a special "zone of increased attention" is based on psychological laboratory where 2 specialists work. Condemned children have a right to be individually consulted, take a seance of relaxation. They also have a right to be educated and get a profession in a special school which is situated on the territory of the colony. The foundation of the chapel and greenhouse will be finished up in the very nearest future.

Senior pupils who work as volunteers come to the penal colony for holding discussions on rights of children. So delinquents have an opportunity to find out more about their rights and duties, become acquainted with the Convention of children rights. At the suggestion of children ombudsman the program "Legal Education and Upbringing of the Penal Colony Delinquents" was worked out and now realized in the form of elective. Condemned children study Russian and International legislation and law fundamentals. In August, 2003 jointly with "Achievements of the young" organization (NPO "Dostizheniya molodih") children ombudsman has brought to the colony an absolutely new control-teaching program "Children Rights". This program was worked out on CD and now children will have a chance to get acquainted with their rights in legislation even in electronic version.

Ombudsman of Volgograd region, Russia Tatyana Alexeeva

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **SLOVENIA**

## **ENOC – Report for the annual conference in Stockholm**

In 2002 the Human Rights Ombudsman of the Republic of Slovenia set up a special department in his office to deal with the protection and promotion of children's rights. The department is headed by a deputy ombudsman and employs three experts who in the past year have devoted themselves to some of the most urgent problems in the area of the protection of the rights of children and adolescents:

1. rights of the child after a parental break-up, especially the right to contacts with both parents after they have split up
2. children's rights in educational and care institutions
3. violence in the family as a violation of the rights of the child and violations of the child's sexual integrity.

In the sphere of children's rights in the context of family relationships, the ombudsman's office has mainly dealt with the problem of the child's contacts with parents. In practice it often happens that the child's contacts are only counted as a right of the two parents and not as a right of the child, as derives from the Convention on the Rights of the Child. For this reason the Office of the Human Rights Ombudsman has included itself in the discussion of proposed changes to family legislation which is supposed to mean harmonisation with all international documents adopted and ratified by the Republic of Slovenia. Envisaged within the framework of changes to family legislation is the institution of a representative of the child in judicial proceedings. It is expected that judicial proceedings involving children will be run by specialised courts and no longer by social services centres. The Constitutional Court of the Republic of Slovenia has annulled the statutory provisions which gave certain competences to social services centres and has ordered the legislature to transfer this procedure to the judicial branch of authority.

The Human Rights Ombudsman will draw particular attention to these problems during the discussion of his annual report by the National Assembly



of the Republic of Slovenia which will take place at the end of September. He therefore expects the appropriate statutory solutions to be adopted before Spring 2004.

Over the last year the Office of the Human Rights Ombudsman has been actively involved in the promotion of the Convention on the Rights of the Child and in informing the public about children's rights. To this end the ombudsman is actively cooperating with a number of non-governmental organisations, in part by providing financial assistance for individual projects which enable the promotion of children's rights. The Office of the Human Rights Ombudsman held an open day where, in conversation with primary school pupils, it discussed their problems and proposals. Experts from the Office and pupils from grammar schools organised 'rights action' workshops. They dealt with the problem of violence among children and adolescents, they talked about their peers who have committed criminal offences and assessed applicable criminal legislation. Together with the ombudsman, the youngsters also publicly presented their proposals for addressing these issues.

In familiarising children and adolescents with their rights, we are working closely with the ministry responsible for education. The ombudsman's office works with individual schools where through direct contact it presents the ombudsman's work to children and adolescents and explains how to draw attention to violations of their rights. At the same time it trains teachers to teach about children's rights.

The ombudsman is constantly drawing attention to the specific area of the rights of children and adolescents with special needs, an area which is still not appropriately normatively regulated. As well as with educational (didactic and pedagogical) issues, the ombudsman has been involved with the problem of architectural obstacles to some young people with specific mobility difficulties. The ministry responsible for education has invited the ombudsman to carry out a review of all structures where participants in education are unable to take an equal part in the life of the school if they have problems of mobility,

and has also proposed that the ministry prepare an appropriate programme for addressing this problem.

The ombudsman has taken an active part in the work of the children's parliament organised by the 'Zveza prijateljev mladine', an NGO providing services for children and adolescents. Young people use the children's parliament to discuss their problems and formulate proposals to be realised by ministries and other state bodies. The ombudsman helps the children's parliament by supervising the adopted resolutions. The theme of this year's children's parliament was violence against and among children and adolescents.

The Human Rights Ombudsman is not involved in children's advocacy but does support activities in the direction of establishing a special advocate or adviser for young people in every school. This was also one of the resolutions of the children's parliament in May 2003. The ombudsman is planning to establish a link with advocates and assistance for the advocates' network at the local level in the sense of cooperation with other NGOs and education on children's rights.

The Human Rights Ombudsman communicates with children in various ways, from direct contact when dealing with individual complaints, to cooperation at events organised by individual schools or by the Human Rights Ombudsman in conjunction with NGOs or schools, which has already been mentioned. Additionally the ombudsman provides a free telephone helpline and access to electronic mail.

The greatest challenges await the Human Rights Ombudsman in the field of violence in the family and sexual abuse of children. The ombudsman considers that there is a lack of interdepartmental cooperation in this field and that suitable protocols are needed for the work of all professional services, from social services centres to the police and health care. Most important of all in the field of sexual abuse is the strengthening of the provision of information to the professional public, in particular doctors and social workers,

the statutory regulation of the obligation of professional personnel to report cases of abuse, and the adaptation of the work of the bodies responsible for detection, prosecution and adjudication to the needs and benefits of children (victims). It will also be necessary to design a system of monitoring and professional (therapeutic) treatment of offenders. It will be possible to put some of this into effect once the data collection system is designed. Over the past year we at the Office identified a major discrepancy between data on the victims of sexual abuse held by social services centres, the police and NGOs. Victims either do not report offences or are not given the necessary assistance when reporting them and afterwards. We estimate that this is also one of the reasons why some offenders remain undetected.

In his desire to actively contribute to the appropriate statutory regulation of the treatment of violence in the family (both victims and offenders), the Human Rights Ombudsman is holding a special conference this November at which experts from various fields will take a multidisciplinary approach to the problem of violence and try to formulate solutions which the legislature should incorporate into the act already being prepared by the Ministry of Labour, Family and Social Affairs. We expect the draft act to be ready by the end of this year and that it will be possible to adopt the act next year. In November we will also hold a series of 'rights action' workshops on the subject of violence in the family. We will communicate the opinions and proposals of the young people taking part in the workshops to the preparers of the act.

The ombudsman cooperates with the competent bodies in other countries within the context of his regular cooperation with human rights ombudsmen, and also with other bodies involved in this field. Last year we worked with representatives from Kosovo who are trying to organise a body to deal with the issue of human rights. We are also helping in the establishing of such a body in Serbia and Montenegro. We are devoting special attention to the regulation of the protection of the rights of children.

**SUMMARY OF OMBUDSPERSON ACTIVITIES**  
**SPAIN (CATALUNYA)**

*COUNTRY UPDATE*  
**Deputy for Children of the Ombudsman of Catalonia**

**Annual meeting of ENOC in Stockholom, 15th to 17th october 2003**

*1. General update and activities*

*The main issues handled in the office the last year have been:*

- Report about residential equipment
- Foster care: ex-officio to promote this kind of alternative care; raising financial help to grandparents fostering children making no difference with other kinds of foster families. Participation in a foster-grandparents group of a poor suburb in Barcelona.
- Equal opportunities in education: creation of a debate about this issue, by asking specific key questions to the Education Department, in order to favour the most disadvantaged population's children to reach the maximum quality to fulfil a real right of education for every child and teenager.
- A specific aspect of the equal opportunities to education is the abandon and the dropping out from school: in specific poor suburbs, and as a general issue as well.
- Another specific aspect of the former: the inclusion of the handicapped pupils in ordinary schools when possible, making this possible be the majority.
- Right to education of the children suffering severe allergic syndromes.
- Non-accompanied children in the street: guarantying service provision including schooling, promoting proper police and practice identifying gaps, repatriation. Recommendations about guardianship, interim care and safe care in the return.
- Children of divorced parents in conflict: sub-iudice issues.
- Police bodies treatment to teenagers: traffic issues; immigrant boys in the street, and others: pedagogical task on the special nature of teens.

*2. Achievements*

- We think that our office's achievements are often a result of a pedagogical task with the responsible of the departments, municipalities and other bodies in direct contact with children. Thus, we are regularly gratified by changes in training of policebodies, of teachers, of professional en in the protection system, and others.

\* Specifically accepted recommendations:

- Raising financial help to foster grandparents.
- Implementation of safe practices with children.
- Safety and well being of the adolescents in residential equipment.
- Equal access to education

- Handicapped children's proper facilities.

### *3. Experience in communicating and working with children*

It keeps being a stone in our shoe, as the direct access to our institution by children without an adult is very scarce.

The communication is through the Deputy's participation in Town children councils; through writings in reviews for children; in presentations and information in schools with small groups; and so on. It's a great concern now.

### *4. Examples of advocacy to insure a juvenile justice system according to CRC*

It was not until 1995 that the Criminal Code fixed the penal adult age in eighteen years, according to the UN Convention. Years after, a new act, of national scope, was approved, the 5/2000, regulatory of the penal responsibility of the minors. However, this was given a years' "vacatio legis" and was therefore not made effective, in practice, until the January of 2001, in which the mentioned law came into force.

Until then, in the Spanish state, had been valid some regulations of the year 1948, very prior to the democracy, with the exception of some aspects that were derogated in 1992 by a sentence of the Constitutional Court.

It must be added that in Catalonia, in 1985, was approved a law of protection of the minor which regulated also the execution of the imposed measures to the minors by the judges in the penal area. This law picked up the rights of the infractor children and established that the respect to these rights it had to guide the action of the Administration that applied the measures dictated by the judges. From this law alternative measures to the internment kept on being implanted like the programs of repair to the victim and those of mediation. New centers were also opened and, a model of juvenile justice was constructed - a quality model, respectful with the rights of children, a pioneer one.

The first year of his appointment, 1997, the Deputy for Children visited all the centers of juvenile justice of Catalonia, and wrote up the corresponding reports, with an appraisal of what characterized them, of what was specially remarkable and of the lacks that had been found, with a positive general result.

In 2002 the Deputy for Children visited again all the educative centers, the office of the team of open treatment and the dependence of the technical judicial assessment. The goal of these visits was to know which was the impact of the entry in force of the new regulatory law of the penal responsibility of the minors that it came into force the January of 2001.

This national act raised the minimum age of application of the penal responsibility to fourteen years -before it was at twelve- and, as it has been said, the penal adult age to the eighteen years.

Thus, the catalogue of measures that can be applied to the infractor children, from the internment in closed residential centres to semi-open and open centres, therapeutic, mental-health treatment, the attendance to day centres, the weekend permanence, and watched freedom. Also he establishes a set of rules for its application by the judge, delimiting the type of measure and its duration depending on the severity of the facts and the age of the minors.

The same nature of this law proclaims itself as formally penal and materially educational and sanctioning one. It recognizes all the guarantees of the penal procedure of adults and it picks up rights of the Convention, but it has an educational inspiration at the same time that it has not often been understood by the population, especially in the moment in which some severe offence committed by minors has had a strong impact in the press.

In this sense, one of the critics which the Deputy for Children has made on the occasion of the entry has made in force of the law has been precisely the lack of a pedagogy of the law on the part of the Administration that has to apply it.

Another aspect that has been observed has been the increase of the number of residents in the already existing centres, in order to face the entry in force of this law that, as must be remembered, implies the incorporation of the population aged 16 to 18 years, until then in adult centers. The Deputy for children has alerted of, has been this new trend of the creation of macrocenters, which the would spoil the valid model.

Other aspects that the Deputy has highlighted have been the lack of a therapeutic center, the lack of a specific center for girls, and the lack of centers in all the territorial areas.

Even though and, it must be taken into account that he visited the centers and other facilities, always accompanied by persons responsible of the Administration, which only allow a partial knowledge of the life of the minors. En this sense, it is necessary to highlight that complaints of boys who are fulfilling penal measures do not reach the Sindic, nor their relatives' - as it happens with the protection services. This can be due to the most intense presence in this area of the Public Prosecutor's Office, that periodically visits the centers and meets each boy and girl separately and receives their complaints.

Maybe because of this, two complaints from two collectives of different professionals who work in relation to the justice of minors have been useful for the Deputy.

One of them, shown by a committee that joints together all unions that represent the educators of the centers, has brought into light material deficiencies for sure in two of the centers, an insufficient staff and scarce inversions that would make the intervention every time more difficult with the boys.

Consequently, the model would tend like this to being every time more repressive and less educational. This observation has also reached us related to the decisions of the juvenile court judges: it seems that every time these are less prone to apply alternative penal measures and to resort to mediation and arbitration procedures, until now very widespread here in Catalonia.

This most repressive wave has had also effect in the new penal law of the **cited** minors, which object of two modifications -national- has been for hardening it. One has suppressed the possibility of the youngsters applying this law between 18 and 23 years that had committed determinate non violent offences. The other has been the application of a specific law to the youngsters accused of terrorism offences.

The other collective that has addressed to the Sindic has been the College of lawyers of a medium city that complains that the courts of minors only have headquarters in the provincial capitals. They report the difficulties that the distance of the courts of minors, for the boys, for the families and for the prolugs entails.

This year the Deputy has begun visiting the centers of juvenile justice again, with a special interest in finding the form of carrying out a type of visit which allows to know as much as possible the day-to-day reality of the residents.

##### *5. Efforts to promote new ICRI*

On-going work of the Deputy with general human rights institutions in the country and abroad .



# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **SPAIN (MADRID)**

## ENOC 2002

### 1. Activity of the Office of the Ombudsman for Children of the Community of Madrid

The institution of the Ombudsman for Children of the Community of Madrid began its activities following the enactment of Law 5/1996 of July 8, regarding the Ombudsman for Children of the Community of Madrid. Main areas of competency of this Parliamentary Commissioner are:

- monitoring Public Administrations in the Community of Madrid, as well as those private entities serving children and adolescents, in order to ensure that their rights are being guaranteed;
- prosecute complaints regarding the violation of any minor's rights;
- propose reforms of regulations and procedures;
- disseminate the rights of children, and carry out studies on the exercise and development of their rights in the Community.

#### **Resources**

This Parliamentary Commissioner, dependent on the Community of Madrid, had a budget this year of EUR 1,894,818.

The Ombudsman for Children is assisted by a Technical Department, directed by the Deputy Ombudsman and composed of seven Consultants (two psychologists, three lawyers, a sociologist and an educator); by a Media Relations Manager; and by the Secretariat-General, whose functions, apart from financial matters, include collaborating in selecting and carrying out studies and investigations. The Institution is made up of 25 people in all.

#### Processing complaints

During the year 2002, a large number of complaints were filed at this Institution, giving rise to 1,011 cases, 369 of which were in the area of Social Integration and Legal Protection; 374 in Education and Culture; 150 in Health; and 118 in the area of Operation of the Public Administration.

The following can be highlighted as most important matters in the year 2002: the safe use of the Internet by children and youth; the dissemination of information in schools about the characteristics and needs of children with celiac disease; the appropriate regulation of practices relating to tattoos, piercing, scarification and micropigmentation; or the analysis of the consumption of alcohol by our youth.

Among the recommendations made from this Institution to the respective Autonomous Community Administrations, the following ones are noteworthy:

- the need to offer different menus in schools for children who may request them for duly justified reasons;
- taking the beliefs of immigrant children into consideration when assigning them to schools;
- taking the specific needs of children into consideration when formulating housing policies;
- promoting the development of legislation regarding the classification and regulation of so-called cybercafés or Internet centers and videogame arcades;
- speeding up the regularization process for immigrant children;
- allowing illegal immigrant children access to Social Rights Programs.

**Information and guidance:**

During the year 2002, 2,813 telephone calls were received requesting information and guidance about specific cases; thus, the percentage increase in calls compared to the previous year was 4.07%. The calls received were mainly regarding the broad and complex subject of family relationships (separation, visitation and child support), always from the standpoint of a family crisis.

Along with this telephone service, the cases of in-person service demonstrate the direct contact that this Parliamentary Commissioner has with people who go to the Office of the Ombudsman for Children of the Community of Madrid demanding personalized service. Specifically, in the year 2002, there were 348 visits to the Institution with no prior appointment, primarily to seek advice, in most cases legal, regarding the subject referenced.

**Institutional Relations:**

As in previous years, the Ombudsman for Children of the Community of Madrid was very active, constituting an important point of encounter to reconcile the interests of the different public and private institutions with the common objective of defending children's rights.

Worthy of note were our contacts with the Madrid Parliament, to which the Ombudsman for Children reports on an annual basis regarding the work carried out in the office; with representatives of the different parliamentary groups, the Ombudsman, jurisdictional bodies, the Prosecutor's Office of the High Court of Justice, and different Councils; and with non-governmental organizations, associations and foundations involved in the development and protection of children and adolescents.

Of all the meetings held, we can highlight the conference made up of representatives from a wide social spectrum in our Community, at which alcohol consumption among children and adolescents, and the consequences of that consumption, were analyzed. The aim was to reach a point of consensus regarding this problem, with the end result being the proposal of a national law regarding the consumption of alcohol and other toxic substances.

The meeting that gave rise to a framework convention for collaboration with public and private entities to promote the safe use of the Internet among children and youth should also be mentioned.

### **Promotional efforts:**

This Institution's priority objectives are to promote and monitor children's rights. To this end, the Ombudsman for Children has carried out interventions and participated in different media, as well as at schools, hospitals and juvenile protection and reform facilities, not only to promote an awareness of children's rights, but also to make the Institution known to all those citizens who may need its services.

The Institution's promotional efforts have also been carried out through publications, which always deal with subjects of general interest that affect children. The following ones were developed in the year 2002:

- "A Basic Guide about Hyperactivity."
- "Child Abuse: Everyone's Problem."
- "From my Hospital Bed."
- "The City for Children: Changes in the City."
- "I Have a Child with Heart Disease in my Classroom."
- "Your Child's Upbringing: A Guide to Improving Family Relationships."
- "Your Child is Changing: A Guide for the Parents of Teenagers."
- "Children with Celiac Disease at School."
- "Children with Diabetes at School: A Guide for Teachers."

### **Studies and Investigations**

The investigations ordered during the past year were:

- *Analysis of the consumption of alcohol by young people in the Community of Madrid.*
- Current situation of children's mental health in the Community of Madrid.
- Family dynamics, organization of daily life and child and adolescent development in families with same-sex parents.
- Violence and the media: the impact of television violence on children in the Community of Madrid.
- The integration of children of foreign origin in the Community of Madrid: needs, rights and action.
- Learning to co-exist with different cultures and religions: immigrant children and their school learning.
- Child labor in Spain.
- Children's Internet habits and safety.
- Conduct disorders in adolescence.
- Report on the development of Law 5/2000 of January 12, regulating the criminal responsibility of minors.

## **2. Positive changes achieved through the Institution's intervention:**

Among other successes, we can highlight the following:

- Promoting national regulations on the consumption of alcohol and other toxic substances by youth.
- Promoting a framework convention for collaboration with public and private entities to promote the safe use of the Internet among children and youth.
- Speeding up the process of providing residence papers for unaccompanied immigrant children.
- Free medical certificates for adoptive parents.
- Promoting respect for the privacy of children by the media and by public administrations and private entities.
- Promoting the participation of children.

## **3. Working with children. Participation**

### **Visits to schools**

The Ombudsman for Children attended numerous talks, through which permanent lines of communication were kept open with schools in the Community of Madrid. This is one of the best channels for promoting an awareness of the Institution of the Ombudsman for Children and making it available to all those minors who feel defenseless or that any of their rights are being violated.

### **Children's Councils**

Among other initiatives, this Institution has promoted the establishment of Children's Councils in some municipalities in the Community of Madrid, with the intention of further extending the use of this model in the future. These Councils are made up of groups of boys and girls, democratically chosen by their peers, who gather opinions, ideas and proposals about different matters that affect their community, and later transmit them to the municipality's governing team.

This initiative presents the need to listen to the children and offers them the chance to actively participate in developing their municipality.

### **Summer Course**

In addition, during the past year, the Ombudsman for Children of the Community of Madrid has taken advantage of the organization of the Summer Course at the Universidad Complutense in Madrid *to give children a voice*. One of the Course's sessions, which was very successful and whose title was a very topical question— "*Who is bringing up our children?*"— was reserved for the children themselves, some as speakers, who explained different ways to participate in their municipalities through the Children's Councils, and others as active attendees of the course.

### **Questionnaire**

Another instrument used by this Institution to encourage the participation of children and adolescents is publications. Taking advantage of the distribution of an information leaflet describing the work carried out by the Ombudsman for Children of the Community of Madrid, this Office attached a questionnaire to this brochure so that children would know that they can express any opinion, suggestion or concern to the

Institution. This mode of communicating with the Office has taken effects, and some questionnaires have already been received with children's opinions.

### **Web site**

In addition, the aim of the web site for children that was created last year is also to build a closer relationship between children and the Institution itself, providing information about the Ombudsman for Children's objectives in the Community of Madrid, and the different ways of communicating with the Institution, in a friendly and entertaining form. This section, in Flash format, can be found on the web site created by the Institution ([www.dmenor-mad.es](http://www.dmenor-mad.es)).

### **Ombudsman for Children Award**

The aim of the Ombudsman for Children Award is also to encourage children to participate, to promote solidarity and respect for others among children, and to make adults aware of the human values of even the smallest children. The rules of the competition are published in the Official Gazette of the Community of Madrid, and any minors who so desire may participate in this competition, whether individually or as a group. In the year 2002, the award was given to Daniel Vázquez Díaz Public School, for showing solidarity in promoting interculturality and the integration of immigrant minorities.

### **Child Friendly cities program**

This program try to promote policies developing children rights in the municipal context and to establish ways of children participation in the municipality. In addition, it intends to involve all publics institutions with the common objective of defending children rights.

The Program was promoted by UNICEF and some other institutions have taken part in it, such us Employ and Social Affairs Department; IUNDIA; Municipality and Provinces Spanish Federation and The Local Net for Children Rights. Main areas of this Program are: City and Environment; Family; School, and Leisure and Free Time.

## **4. Contributing to ensuring the adaptation of the juvenile justice system to the Convention on the Rights of the Child.**

This Institution constantly watches over the practices of the Community's administration in all areas, and among these, the area of juvenile justice.

As part of the work carried out in this field, we can mention visits to juvenile reform facilities, ensuring that they are in compliance with current legislation regarding the training of educators, the suitability of educational projects, security measures to prevent escapes, etc.

In addition, the adaptation of the law regarding the criminal responsibility of minors to the basic rights contained in the Beijing Rules, in the Convention, in the Spanish Constitution, in the law regulating the prosecution of adults, etc., is also monitored. To this end, this Institution is currently organizing a meeting of all of the sectors

involved (Autonomous Community administration, Prosecutor's Offices, Courts, General Council of the Judiciary, etc.) to review some controversial aspects of Spanish law, such as the penalties for the most serious offenses, or for children under 14; the duration of precautionary measures; the lack of human and material resources to enforce the law; etc.

#### **5. Difficulties in carrying out its responsibilities**

The Office of the Ombudsman for Children of the Community of Madrid has encountered no obstacles in carrying out its functions. In fact, the spirit of collaboration and coordination that this Office has always received from Administrations, Institutions and other independent bodies should be emphasized. All have shown a complete willingness to provide whatever information was requested of them any time now by this Parliamentary Commissioner.

Madrid, September 2003

# **SUMMARY OF OMBUDSPERSON ACTIVITIES**

## **SWEDEN**



## **Report by the Office of the Children's Ombudsman, Sweden**

During the last one-year period, the Children's Ombudsman of Sweden has to a greater extent than before given children the opportunity to define the priorities of the office of the Children's Ombudsman. Issues that the Children's ombudsman has focused on at the initiative of children include stress and the general climate in schools. Particular emphasis has also been put on the psychological health of children in school. The priorities of the Children's ombudsman have furthermore included reaching out to children who are in particularly vulnerable situations, such as children who apply for asylum without being accompanied by an adult, children of imprisoned persons and children in public care. The Children's Ombudsman has also recently launched a project relating to indebted children. An issue that continuously is the subject of a large part of the many letters and telephone calls to the Children's Ombudsman is proceedings concerning custody and contact rights. This is also an important priority in the work of the Office of the Children's Ombudsman.

### **General activities**

#### **Report to the UN Committee on the Rights of the Child**

In November 2002, the Government submitted its third periodic report to the UN Committee on the Rights of the Child. The Children's Ombudsman was requested to submit its comments on the draft Government report to the Government. The comments of the Children's Ombudsman have been forwarded to the Committee by the Government.<sup>3</sup> Sweden has made good progress in the implementation of the Convention on the Rights of the Child, but a lot remains to be done, in particular as regards applying a child perspective in the decision-making affecting the child and in reducing socio-economic inequalities. Increasing psychological problems among children constitute a growing challenge. Proceedings relating to contact and custody continue to be a major problem for many children. The Children's Ombudsman has highlighted the weak status of children in these proceedings and questioned whether the current situation is in line with the requirements of Article 6 (right to a fair trial) of the European Convention on Human Rights and Fundamental Freedoms.

### **International co-operation**

The Children's Ombudsman of Sweden is a member of the three person bureau of the European Network of Ombudsmen for Children (ENOC) and will host the annual meeting of ENOC on 15-17 October 2003.

In August 2003, the Children's Ombudsmen of the Nordic countries met in Oslo to discuss the possibility of joint activities and the need for exchange of experience. Co-operation with the other European Children's Ombudsmen has also been intensified. The Office has continued to receive numerous international study visits concerning the work of the office and the situation of children in general in Sweden.

### **Children with a foreign background**

The mothers and fathers of sixteen percent of all children in Sweden are born abroad. The Children's Ombudsman has in her activities in 2002 and 2003 highlighted the need for a greater understanding for the situation of children with a foreign background and refugee children in Sweden. The Children's Ombudsman has suggested that the immigrant parents receive stronger support through educational activities in the Swedish language, local culture and the UN Convention on the Rights of the Child. Women must be encouraged to participate more frequently in language training. Parental support could be combined with activities for children and particular emphasis should be put on stimulating the children's participation in the open day care and in activities on the local playgrounds.

### **Children whose parent(s) are in prison**

In December 2002, the Children's Ombudsman submitted a questionnaire to eight regional prison commissioners in Sweden. The purpose was to identify to what extent guidelines for the improvement of the situation of children whose one or both parents are deprived of liberty

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<sup>3</sup> The complete text of the comments by the Children's Ombudsman is available at <http://www.bo.se/adfinity.aspx?pageid=88> and the Government report is available at <http://www.unhchr.ch/html/menu2/6/crc/doc/report/srf-sweden-3.pdf>

have had the desired effect. The replies show that many improvements have been made, but in the opinion of the Children's ombudsman it is still necessary to guarantee that all prisons have a special room for visits by children of inmates, that each prison has a person with the necessary competence who can be present at all visits, that the inmates shall have the right make a certain number of telephone calls per week to their children (provided this is not against the best interests of the child) and that inmates with children shall have a possibility, regulated by law, to be granted leave on the basis of the needs of the child to have contact with the parent.

### **Promoting the Convention on the Rights of the Child**

The Children's Ombudsman has taken part in numerous educational activities aimed at strengthening the knowledge of the Convention on the Rights of the Child. Authorities that have benefited from these activities include the National Agency for Migration, the Swedish Work Environment Authority, the Swedish National Road Administration, the National Social Insurance Board, the National Board of Institutional Care, the Swedish Prison and Probation Service, the Public Prosecutor, the Aliens Appeal Board, Karolinska Institutet (medical university) and the Swedish National Police Board. The judiciary is currently a high priority and the Children's Ombudsman has paid particular attention to promoting the Convention of the Rights of the Child in educational activities tailored for different sectors of the judiciary. The Children's Ombudsman has also participated in a series of educational activities directed towards municipalities and county councils.

The Children's Ombudsman intensified her work aimed at increasing a child rights perspective in the legislative process by meeting the expert groups and committees responsible for preparing draft legislation. In this respect, the Children's Ombudsman has, in 2002 and 2003, met with e.g. several committees working with assistance for persons with physical disabilities and the committee concerning custody of children.

### **Media and Communication**

The Children's Ombudsman is interviewed or mentioned in approximately 4000 articles in the printed media on a yearly basis. In addition, the Children's Ombudsman was interviewed or mentioned in approximately 200 news stories in radio and television during 2002. The Children's Ombudsman also regularly publishes her opinions in leading daily newspapers in Sweden.

In spring 2003, the Children's Ombudsman published a handbook on the UN Convention on the Rights of the Child, "*I want to say something*", for children between nine and thirteen years of age. The handbook is being distributed, together with a teachers' manual, to schools all around Sweden. The material is also available on cd-rom with a sound record to make the material easily available for blind children. A revised version, for children between six and nine years of age is being prepared. Other recent publications include a report on municipal commissioners for children and young persons and a report on the situation of the child in judicial proceedings. A compilation of all research and opinions of the Children's Ombudsman regarding custody and contact with children will be published shortly. In spring 2003, the Office of Children's Ombudsman launched its new web site and introduced a new graphical profile.

### **Participation in committees**

During 2002 and 2003, the Office has served in an expert or special advisory capacity on several committees and commissions such as:

- the Education Act Reviewing Committee;
- the reference group concerning the introduction of the child rights perspective in higher education;
- the reference group of the National Board of Health and Welfare concerning preconditions for estimating the psychological health of children;
- the advisory group of the National Agency for Education concerning statistics relating to child care, school and adult education and
- the national delegation for child safety.

## Communication with children

### Councils of Children and Young Persons and other direct contacts with children

In 2003, the Children's Ombudsman's Council of Children and Young Persons was transformed into five Children's Councils and one Council of Young Persons. The Councils provide advice and recommendations to the Children's Ombudsman and help determine the priorities of her work. They are recruited from the larger Stockholm region. The Children's Councils are divided into various age groups of children between first and sixth grade of the compulsory school. The Children's Ombudsman or a colleague of hers visits these Councils in their schools at regular intervals. The Council of Young Persons is composed of young persons between seventh grade of the compulsory school and the last grade of high school and meets regularly with the Children's Ombudsman at her office. The main reason for introducing separate councils for younger and older children was to give the younger children better opportunities to present their opinions without being intimidated by the presence of the older children.

The Children Ombudsman has continued to have frequent direct contacts with children during her many visits to schools and participation in various activities for children around the country. In 2002 and 2003, the views of children with disabilities have received particular attention in the work of the Children's Ombudsman. The number of letters from children has continued to grow, however, the vast majority of letters received by the Children's Ombudsman are still from adults. At the end of 2002, the Children's Ombudsman, at the initiative of children who have contacted the Ombudsman, made a competition for children in school in which they were asked to make suggestions on how to improve the food in schools and the general atmosphere in which children have their meals at school.

### "The Right to be Heard"

Within the framework of the project "the Right to the Heard", the Children's Ombudsman has asked 1900 children using questionnaires how satisfied the children are with different aspects of their daily life. Similar questionnaires are being used in Bosnia and Herzegovina, Peru, Sri Lanka, Tanzania and Vietnam within a joint project between the Children's Ombudsman and the Swedish International Development Agency (SIDA).

The results among the children in Sweden show that children are generally satisfied with their physical health, their relations with family and friends, their spare time and their living conditions. The children are much less satisfied with their safety with respect to external threats and violence (including bullying) and with the physical conditions in school. As a consequence of these results, the Children's Ombudsman has suggested e.g. that the influence that children can exercise on issues relating to their everyday life must be strengthened in all possible ways, that all municipalities should establish places for children where they can meet and present their opinions on the activities of the municipality, that the possibilities and rights of pupils to participate in pupils' councils is strengthened and guaranteed by law and that more research should be conducted regarding the working environment in schools from a child perspective.

### **Children in public care**

During 2002 and 2003, the Children's Ombudsman has visited a number of institutions for children in public custody in order to hear the opinions of the children concerned, how they see their situation, what they would like to change and to what extent they felt that their views were taken into account. The Children we have spoken with often felt that they have little of no possibility of influencing decisions affecting them. Many children said that their parents would need more support than they currently get and that their lives would have been easier if they had placed in public care at an earlier age. Most children we spoke to had little or no knowledge of the Convention on the Rights of the Child.

### **New Website**

The Children's Ombudsman's new website contains a section especially designed for children. This includes a part with information on the Convention on the Rights of the Child for children, an interactive part where children and young persons can make proposals to the Children's Ombudsman as well as a discussion forum for children. The new website is

expected to lead to the further increase in the number of letters and telephone calls from children.

**Contact classes**

*The contact classes continue to provide an important input in the work of the Children's Ombudsman. These 140 school classes (up from 120 last year) from the senior grades of compulsory school (ages 13-16) regularly answer questionnaires relating to how children and young persons view their lives. The contact classes will soon be extended to high school.*

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**SUMMARY OF OMBUDSPERSON ACTIVITIES**

**UNITED KINGDOM (WALES)**

## COUNTRY UPDATE

### THE CHILDRENS COMMISSIONER FOR WALES

In his second year, the Commissioner has been able to undertake far more activities as a consequence of the establishment of the staff team. Seventeen staff, all appointed with the direct and meaningful involvement of children, have worked within the three main areas of our remit, Communications, Policy and Service Evaluation and Legal Affairs.

In *Communications*, there has been continued development of links with organisations and groups composed of young people, including 'Funky Dragon' the Wales young people's Assembly. We have launched the e-mail link with children called 'backchat' and moved further towards the development of our website. Young people have been directly involved in our major Review (see below) and we are about to set up one or more Advisory Groups to liaise regularly with the office. This is in addition to the work we have continued with NGOs speaking on behalf of children and young people.

We also presented our first annual report to the National Assembly. The major issue highlighted within it was Child Poverty, although a whole range of other issues raised by children and young people were included.

In *Policy and Service Evaluation* we have completed a major review of systems for Complaints, Whistleblowing and Advocacy for young people in Local Authority Social Services Departments. This report 'Telling Concerns' was a comprehensive review of all 22 such authorities and it looked in detail at their arrangements. We also asked the views of young people in a sample of places and included their experiences in the report. We made over 60 recommendations.

In *Legal Affairs* we continued the holding of a major public inquiry into child safety concerns arising from allegations of child abuse against a prominent Welsh teacher. This has been a major piece of work involving much evidence and many lawyers. This department has also undertaken investigations into other children's rights issues.

The office has also been involved in over 500 individual cases from children or their advocates. Like other ombudspersons, this has put considerable strain on our resources, but has meant we are in touch with issues about rights and welfare that are directly experienced by children and young people.

We have also been closely involved in advocating for, and supporting the development of Commissioners in N.Ireland, Scotland and England and have offered some help in Eire and S.Africa.

## **ANNEX 2**

### **Lucca Letter**

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# ENOC

## European Network of Ombudspersons for Children

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16 September 003

**To: Members of the Permanent Intergovernmental Group “L’Europe de l’Enfance”**

Dear Sir/Madam,

The European Network of Ombudspersons for Children (ENOC) is writing to you regarding the upcoming Informal Meeting of the EU Ministers responsible for Childhood to be held in Lucca, 25-26 September. We take particular note of the agenda item entitled “ The study on the establishment of an ombudsman for Children in the EU”.

As you may be aware, ENOC was established in 1997. Since that time the network has grown and currently includes 23 member institutions from 21 European countries, of which 10 are current EU members (see list attached). In addition to being a forum for ombudspersons for children to share experiences, exchange ideas and develop strategies on common issues of concern, ENOC is committed to promoting the establishment of independent statutory children’s rights institutions in every state.

ENOC has developed a set of standards for independent children’s rights institutions, which incorporate and are based on the Paris Principles relating to the Status of National Institutions, but take into account the special status and needs of children (see ENOC Standards attached). Of particular importance is that children themselves are fully aware of and have direct access to the ombudsman’s office.

It is in this context that ENOC would like to share its views regarding the proposal to establish an ombudsman for children in the EU. ENOC welcomes the increased priority and visibility that would be given to children through the establishment of such an office. We strongly endorse the proposal to have a high-level, independent voice for children in the EU. Such an office could champion the cause of children as well as act as a “watchdog” of all EU activities, monitoring their impact on children.

ENOC’s commitment is to ensuring that national ombudspersons are as close as possible to the every-day realities of children and that they have direct contact with children. Complimentary to this, we would see the proposed new structure as a representative whose role is to promote and protect children’s rights across all EU institutions. In its Resolution of 3 July 2003 (B5-0320/2003) the European Parliament called for the creation of a high-level representative for children’s rights. We warmly welcome the establishment of such a position and believe that it could play a key role in ensuring that EU legislation, policies and budgets are in the best interests of children and that children’s rights are fully respected at the European level.

We look forward to the results of your deliberations. ENOC would be pleased to participate in any working group or consultative process that may be established to take this proposal further.

Yours sincerely,



Claude Lelièvre  
Chairperson, ENOC



## **ANNEX 3**

### **Statement on Communication with Children**

## Statement on Communication with Children

The European Network of Ombudspersons for Children (ENOC) at its Annual Meeting, held in Stockholm 15 to 17 October 2003:

We, as children's ombudspersons from 21 States in Europe, are concerned that the right of the child to express his or her views is not taken sufficiently seriously by those who make decisions affecting the child.

The right of the child, as defined in article 1 of the UN Convention on the Rights of the Child (CRC) to express his or her views, as expressed in Article 12 of the CRC, is absolute. Every child who is able to form his or her own opinions has the right to express those opinions in all matters that affect him or her. This right cannot be conditioned by considerations as to whether the expressing of those views is in accordance with the best interest of the child, as this right stems from the recognition of the child as an active subject of rights.

*It is the obligation of the States, not only to give the child the opportunity to express his or her views, but, importantly, also to guarantee that due weight is given to those views in all decision-making affecting the child. This obligation includes a duty to find and to use the appropriate methods for communicating with children as well as a duty to try to motivate children and young persons to take active part in the debate in society including within the family, in the classroom, in court proceedings and in all other fora that are of relevance for children. The right of the child to express his or her views includes the right to receive information on issues affecting him or her. This is necessary in order for the child to be able form informed opinions.*

*We believe that schools carry a particularly important responsibility for developing education into a two-way process of communication in which children and young persons become active participants. ENOC encourages States to pay further attention to methods for involving children in society through communication with children and by giving proper effect to the opinions expressed by children.*

The right of the child to express his or her views and to have those views taken seriously is a fundamental element of the rule of law. This is particularly evident in any court proceedings affecting the child, especially such that relate to public custody of the child, custody and contact with parents, adoption, filiation, school proceedings, the child as victim of an offence as well as criminal proceedings against the child. It must further be stressed that, in accordance with Article 6 (the right to a fair trial) of the European Convention for the Protection of Human Rights and fundamental Freedoms, the child has an equal right as an adult to have his or her civil rights determined by an independent and impartial tribunal.

*Allowing the child to express his or her opinions and taking these opinions into account, is also a condition for the protection of the integrity of the child. The child*

*must have a say in how the opinions that he or she has expressed and other information relating to the child are used and disseminated, within the limits that may be necessary for the protection of the rule of law and the best interests of the child.*

*We recall the previous statement of ENOC urging the governments of all European States to review their law, policy and practice to ensure consistent respect of Article 12 of the CRC and stating that the governments themselves need to develop procedures for consulting children on all relevant policy development.*

We warmly welcome the inclusion of the rights of the child in the draft Constitution of the European Union. We recall that the transfer of increased responsibilities from the Member States to the EU institutions does not diminish the obligations that the States have for the full and effective implementation of the CRC. ENOC's commitment is to ensuring that national ombudspersons are as close as possible to the every-day realities of children and that they have direct contact and communication with children. With the closer integration of the Member States of the EU and of the 45 member States of the Council of Europe as well as the expanding membership of the Union, the importance of the unique exchange of experiences and co-operation taking place within ENOC grows. In this respect, a closer co-operation with the EU and the Council of Europe is a top priority for ENOC.

We warmly welcome the proposal that the European Union accedes to the European Convention for the Protection of Human Rights and fundamental Freedoms and call upon the Union to likewise consider the accession to the CRC at the earliest possible moment.

**Stockholm, 17 October 2003**

## **ANNEX 4**

### **Statement on Juvenile Justice**

**Juvenile Justice: Europe's children's champions challenge governments to respect young offenders' rights**

As children's ombudspersons in 21 European states, we are very concerned at the tone of political and media debate and the direction of public policy and legal changes concerning juvenile 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.

We believe 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.

Across Europe, ages of criminal responsibility vary from as young as 7, 8 and 10 up to 16 in some states and 18 – but with exceptions – in a few; the definition also varies. We believe that the concepts of “responsibility” and of “criminalisation” need to be separated. The Convention on the Rights of the Child (CRC) proposes a separate, distinct system of juvenile justice; it requires that this must be focused on respect for all the rights of the child and on the aims of rehabilitation and re-integration. This focus and these aims are not compatible with “criminalising” child offenders.

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 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. As proposed in the CRC, states need to develop a range of alternative measures to divert children from the juvenile

justice system. They also need to ensure training and re-training, emphasising the human rights of children, for all those involved with children in conflict with the law. More broadly, states need to develop preventive strategies, as highlighted in the UN Guidelines for the Prevention of Juvenile Delinquency.

While it may be necessary to employ compulsory measures in responding to juvenile offenders, it is neither in the interests of children nor of the broader society to pursue measures which are purely punitive in intent, including the use of custody. Research tells us that rates of re-offending and in particular violent offending are increased by depriving children of their liberty. The only legitimate reason for detaining children, before or after trial, must be that they pose a serious and immediate risk to others. In these rare cases, the use of custody should be constantly reviewed and other alternatives of close supervision considered. Conditions in custody must respect all human rights as set out in the CRC and in the United Nations rules and guidelines on juvenile justice; all children must in particular have equal access to appropriate full-time education. In accordance with the CRC, in all cases children in custody should be separated from adults.

We note that international human rights monitoring bodies and the human rights mechanisms of the Council of Europe share our concerns: the European Committee of Social Rights, which monitors compliance of member states with the Social Charters, has expressed concern at the use of custody, including for remanded children, and also at proposals to reduce the age of criminal responsibility. The European Court of Human Rights has found that methods of trial and sentencing and treatment of juveniles in some states breach the European Human Rights Convention. The European Committee for the Prevention of Torture, following visits to countries and inspections of institutions, has frequently expressed concern about the treatment of juveniles deprived of their liberty and also underlined that deprivation of liberty must only be used as a last resort. The Committee on the Rights of the Child, monitoring states' compliance with the CRC, has echoed these and other concerns in its comments on reports from European states.

**ENOC urges individual states urgently to review their juvenile justice systems against the requirements of the CRC and European human rights instruments. It urges the Council of Europe, including the Committee of Ministers and the Parliamentary Assembly, to give priority to highlighting, developing and enforcing the human rights standards applicable to children who are in conflict with the law in the 45 member states.**

**In addition, ENOC urges the Committee on the Rights of the Child rigorously to examine States' progress towards respecting the rights of children in conflict with the law and to encourage a single-minded focus on rehabilitation and re-integration, not criminalisation, for all children up to 18.**

**Stockholm, 17 October 2003**

### ***Summary of the major implications of the Convention on the Rights of the Child for juvenile justice systems***

Children in the Convention are defined as everyone under 18 (*article 1*);

All the rights in the Convention must be respected and ensured for all children without discrimination on any ground (*article 2*);

The best interests of children must be a primary consideration in all actions concerning them (*article 3*);

Children's views must be heard and taken seriously on all matters that affect them, according to age and maturity (*article 12*).

There must be no torture, inhuman or degrading punishment or treatment, capital punishment nor life imprisonment without possibility of release;

Arrest, detention and imprisonment must only be used as a measure of last resort and for the shortest appropriate time;

Any child deprived of liberty:

- must be treated with humanity and respect, taking account of the needs of people of his or her age;
- must be separated from adults unless not in the child's best interests;
- has the right to maintain contact with family through contact and visits;
- has the right to privacy;
- has the right to prompt access to legal and other assistance;
- has the right to challenge deprivation of liberty through court, etc and to prompt decision.

(*article 37*)

Any child who may have offended has the right:

- To be treated in a manner consistent with the promotion of the child's sense of dignity and worth, taking into account the child's age and the desirability of promoting the child's re-integration and assuming a constructive role in society;
- To detailed due process guarantees;
- To have their privacy fully respected at all stages of the proceedings;

States are required to:

- Promote the development of laws, procedures, authorities and institutions specifically applicable to children who may have offended;
- Promote as appropriate measures not involving judicial proceedings;
- Establish a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
- Make available a variety of dispositions to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

(*article 40*)

Additional standards are provided by the 1985 United Nations Standard Minimum Rules for the Administration of Juvenile Justice (*the Beijing Rules*); the 1990 United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the 1990 United Nations Guidelines for the Prevention of Juvenile Delinquency (*the Riyadh Guidelines*)

## **ANNEX 5**

**Statement on**

**"Childhood and Commercial pressure"**



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# ENOC

## The European Network of Ombudspersons for Children

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### **Childhood and Commercial pressure: statement on EU-proposal for a “Directive on unfair business-to-consumer commercial practices” 2003/0134 (COD).**

We, as children’s ombudspersons in 21 European states, are concerned at the lack of special protection for children from unfair business practices in the proposal for a new EU Directive.

Unfair business practices are recognised as a problem in all EU countries and harm consumers as well as respected companies with established business practices. Through the proposed new Directive, consumers' rights will be clearer and cross-border trade made simpler. The Directive establishes a single, common, general prohibition of unfair commercial practices distorting consumers' economic behaviour (Article 5).

Children and youth are a vulnerable consumer group across Europe. As children’s Ombudspersons, our experience is that children and youth are exposed to enormous commercial pressures. Children and youth of today represent a billion-dollar target. They are the trend-industries main target group, children’s fashion is big business, and consumer goods have been deliberately marketed to become part of children’s and young people’s status symbols. Through online and mobile phone marketing, children can be targeted directly and information collected from them without their parent’s knowledge.

**As children’s Ombudspersons in 21 European states, we are thus concerned at the lack of special reference and special safeguards for children and young people as consumers in the proposal for a new Directive.**

**Article 3 of the Convention on the Rights of the Child requires states to make the best interests of the child a “primary consideration” in all actions concerning children. Also, Article 17 (e) of the Convention on the Rights of the Child states that the parties shall**

***“Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18 “.***

**ENOC urges individual states to view the proposed Directive against the requirements of the CRC and the European human rights instruments and national legislation protecting the rights of the child. ENOC urges the European Union to ensure adequate protection of human rights standards applicable to children across Europe.**

Proposal for a General prohibition of unfair commercial practices.

Article 5 in the New Directive proposes a general prohibition on unfair commercial practices. The benchmark consumer to be considered in assessing the impact of a practice is the 'average' European consumer who is “reasonably well informed and reasonably observant and circumspect” (Article 5 2. Ref. Article 2 (b)). However, where a specific group of consumers is targeted (for example, children or adolescents), the characteristics of the average member of that group, must be taken into account in assessing the impact of the practice (Article 5 2.). There is no specific reference to children and young people, or to vulnerable consumer groups whatsoever. ENOC therefore strongly urges the EU Commission to include specific reference to children and young people as a vulnerable group of consumers in the Directive.

Because the Directive ensures EU-wide standards of protection, businesses will only have to comply with the requirements of their country of origin when selling to consumers around the EU. The Directive prevents other Member States from imposing additional requirements on them. This means that with regard to children, the national legislation for protection of children from unfair commercial practices will have to submit to EU standards, even if these are less conducive to respecting children’s rights. This makes it imperative that the EU standards give sufficient protection for children and youth as a consumer group.

The proposed Directive is weak in the sense that it makes little reference to children. We know that the targeting of children as an important consumer group is increasingly aggressive. In order to protect them, ENOC members strongly emphasise the need for specific reference in the Directive in the following alternative ways:

- The Directive should in Article 5.2 include in the general prohibition a specific reference to children as a vulnerable group
- The Directive should in the “list of specific unfair practices prohibited by the Directive” (supplement 1), introduce a new 8<sup>th</sup> point, referring to practices directly targeting children as aggressive.

Stockholm, 17 October 2003

A full version of the Directive can be found at:

[http://europa.eu.int/comm/consumers/cons\\_int/safe\\_shop/fair\\_bus\\_pract/index\\_en.htm](http://europa.eu.int/comm/consumers/cons_int/safe_shop/fair_bus_pract/index_en.htm)

## **ANNEX 6**

### **List of Participants**

**European Network of Ombudspersons for Children  
Stockholm, 15-17 October 2003**

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