



ENOC Ireland 2008

European Network of Ombudspersons for Children

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ENOC Ireland 2008

European Network of Ombudspersons for Children

Foreword from Emily Logan¹

The Annual Conference of the European Network of Ombudsmen for Children (ENOC) brings together the Ombudsmen and Commissioners for Children of Europe.

This year, under the theme *Towards Implementation of the UN Convention on the Rights of the Child*, I was honored to welcome all participants to Dublin Castle for the 12th ENOC Annual Convention. This event also marks my tenure as Chair of the Network.

The Conference was attended by 32 Ombudsmen for Children Offices from 26 Council of Europe Member States as well as international experts and observers.

The overall aims of the Conference were:

- * to facilitate the *exchange of information and best practice* between Ombudspersons for children in Europe and to provide a vehicle for the network to engage in international level work;

- * to identify tools, strategies and mechanisms to assist individual members of the network to pursue implementation of the UN Convention on the Rights of the Child (CRC) at national level, and to enable the Network to pursue such implementation at international level through its international-level work.

The Conference involved five (5) main sessions examining:

- 1) International level activities aimed at enhancing the implementation of the CRC;
- 2) European level activities aimed at enhancing the implementation of the CRC;
- 3) Implementation of the CRC at national level;
- 4) Using international mechanisms to pursue implementation of the CRC; and
- 5) A discussion between children and young people and representatives of international organizations.←



¹ Ombudsman for Children in Ireland and Chairperson of the European Network of Ombudspersons for Children.



1. Selected Conference Proceedings

1.1. Address by Her Excellency Mary McAleese, President of Ireland

President McAleese opened the three-day annual conference.

Mrs. McAleese said that Irish society had been opened up rapidly in recent years by migration from around the world, among them many children, who she described as “the human building blocks of tomorrow’s Ireland”.



President Mary McAleese

“Their sheer courage and determination is often overlooked or simply taken for granted. We have children who arrive alone on our shores, children who are vulnerable to trafficking and abuse”, she said.

“We already know only too well the appalling price paid over a lifetime for a childhood mired in abuse. The story has been told and retold through the tragic lives of many children abused in what were meant to be caring institutions.”

She added that “the Convention on the Rights of the Child requires more of us than that we merely protect children from harm or vindicate them when abused. It talks about listening to children, respecting their views and ensuring

that, in all matters concerning them, their best interests are a primary consideration, that their voices and views are given a chance to be coherently articulated and developed.”

Furthermore, “The establishment of Offices of Ombudsman for Children across Europe holds great hope that Europe’s children and young people, especially those most marginalised will be drawn meaningfully into the mainstream, where their problems and perspectives will be taken seriously.”

Some children will “sink into half-lived lives” and from their earliest moments in the womb, they can be the “unwitting victims of the avoidable actions” of others, said

President Mary McAleese.

The vocation of an Ombudsman was to be an adult “champion” and vindicator of their rights, she said.

“From their earliest moments in the womb children can be unwitting victims of the avoidable actions of others and the unavoidable ups and downs of nature at work in the world, from the children born

with foetal alcohol syndrome or HIV, to children born with disabilities or into families where illness makes them care-worn carers before their time, or where poverty or dysfunction reduces their life’s chances even before their little lives are launched”, said the President.

«The establishment of Offices of Ombudsman for Children across Europe holds great hope that Europe’s children and young people, especially those most marginalised will be drawn meaningfully into the mainstream, where their problems and perspectives will be taken seriously.»
- President Mary McAleese



“The truth is that children need adult champions, courageous advocates, accessible defenders and vindicators of their rights. Your vocation is to be such champions, to pierce that membrane of silence, to shape the adverse childhood experience into words and actions that lift their lives out of the shadows and into the light. You work in a complex world where

children can be in one continent this morning and another this afternoon”.

The President quoted the Irish Proclamation saying that it “speaks of our resolve as a Republic to guarantee religious and civil liberty, equal rights and equal opportunities to all its citizens and to cherish all the children of the nation equally” and concluded by affirming the need for the best of advice and the best of support from Europe's experts in the area of children's advocacy and protection.

Her final words were of congratulations to Emily Logan who was elected Chair of ENOC by her international peers and will assume the Chair from September 2008 until September 2009 and wished “renewed energy” to the “daily work at the front line of child advocacy and child protection in Europe.”←

1.2 Annual review of ENOC activities²

The number of activities that have been undertaken during this year expresses that we are really in the process of consolidating our network. Whether in international forums or in

decision making processes, ENOC is more visible today than it ever was and our collective work is producing some interesting outcomes. It

is positive to point out the main steps taken after our annual meeting in Barcelona so we can understand together where we stand.

In December 2007, the Special Session on Children took place at the UN headquarters in New York. The session reported the progress of

the *A World Fit for Children*³ program after five years. This was a very good opportunity to run the **2nd Global Meeting of Independent Human Rights institutions for Children (IHRIC)**. Our network produced and publicised an important statement about the role of IHRIC claiming to states and Parliaments to create offices following art. 31 of the Declaration of 2002. While the statement wasn't presented in the Plenary, we lobbied government delegations to support it and to defend publicly the need for creating the necessary mechanisms to monitor children's rights. This meeting was also a very good opportunity to know the situation of HRIC around the world. Since then, there has been new initiatives like the creation of the Latin American network or the attempt to run a meeting in India of global institutions of ombudsman for children.

ENOC has also strengthened the institutional relationship with the **Council of Europe (CoE)**. In November 2007, in Strasbourg, our friend Julien organised a seminar with the participation of CoE staff members responsible for different programmes. We learnt about the legal aspects of the CoE, about how different



Leda Koursoumba (Cyprus) and President McAleese

² Presented by Xavier Bonal Sarró. For further information on members' activities, see ENOC website.

³ United Nations, General Assembly Resolution A/RES/S-27/2 of 11 October 2002.



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programmes worked transversally on children's issues and how a number of CoE resolutions can be used to reinforce and legitimate our actions in front of our governments and Parliaments and that there is a wide field of possible collaboration with the CoE. This collaboration will be of course now more likely with the opening of our office in Strasbourg.

The CoE is now working intensively on the issue of violence. Last June, in Zagreb, the campaign against corporal punishment was launched. In September 2008, in Stockholm, the CoE with the Swedish Presidency of the CoE (through the Ministry of Social Affairs) organised a high level conference on Violence.

Of course ENOC is present in all these events and brings the important voice of European IICHR. The CoE is now inviting us to working groups, like the one on Family Policies in Europe, attended by our French colleague Hughes Feltesse and Marie-Anne Rodesch. They also had a lot of interest in having the ENOC voice in the Conference of the Ministers of Justice held in Lanzarote in 2007. Maria Battle from Wales was there and gave an important speech underlining the need for governments to guarantee access to justice mechanisms for children.

Our efforts to grow and to ensure both minimum **funding mechanisms** for our network and the consolidation of ENOC Secretariat must also be highlighted. We can go one step forward and have the chance to have a space in the CoE and funding for paying somebody to be in. We applied to two EC Programmes and we were told unofficially that we got the Fundamental Rights one. Bureau

members were extremely helpful in preparing that and that we have to recognise the professional work done by Pauline Geoghegan, the expert we hired to prepare the application. Ms Polina Atanasova was selected by the Bureau and will provide **administrative support** and a presence in our office in Strasbourg. We expect also to incorporate the figure of a general coordinator, as it was defined in the application.

After two editions, the **EU Forum on the Rights of the Child** seems to move forward and it is now worth to be an active part of it. Following two steering committee meetings,



George Moschos, President McAleese, Emily Logan and Xavier Bonal.

held in April and June 2008, the EU wants to give more activity to the Forum by running two meetings per year. Two main issues on the table: child poverty and child participation. ENOC position has been very clear from the beginning: we expect more than word, real policies and real action.

To defend children's rights it is important to have institutions that are politically independent, not limited by the legislation and recognised as an institutional figure. On this matter, ENOC should produce a public statement to clearly define a kind of 'best model' or 'best practice' to create independent human rights institutions for children. It is very important that we ensure that the system of choosing the figure and the capacity to act guarantees a real defence of children's rights. And because we think that the legal framework of some institutions can be improved to better guarantee our work, we defined, for the first time, "full membership" and "associate membership". The Statutes now establish a period of three years for every associate



member for trying to change the legislation to become a full member. We know this is not an easy task. But we can guarantee that associate members will find all the support from this network to pressure for the necessary changes.

The ENOC family is now formed by 25 full members and 7 associate members. The application and review processes of membership have to be understood as an open one. New members can apply to the Bureau at any time and the Bureau will assess the application.

Finally, there is the campaign for an **optional protocol for complaints to the CRC**, led by a number of significant NGOs. ENOC has supported this campaign from its start. Peter will be able to inform us in detail about it but what is important is that all of us try to influence our governments to give support to this initiative. The CRC is in favour of it but the ones that have to approve it are state members of the UN. So, maybe Peter can tell us in which stage negotiations are and advice us about how to pressure governments.



The **EU 'Return Directive'**⁴ is now approved as a statement and it should be used by us to express our position to governments and Parliaments and to pressure them for its change or at least its 'minimum implementation'. ENOC position is very clear on how the rights of unaccompanied minors⁵

should be guaranteed and we have instruments to do it.

All of these are very good news. But ENOC is a supplementary effort to all its members and we are in danger of dying of success. The only way to solve this by a real general commitment to the network and we ask all members to have a sense of belonging and to involve themselves as much as they can with ENOC. ←

1.3 Implementation of the Convention on the rights of the Child⁶

This year marks the 60th anniversary of the Universal Declaration of the Human Rights (UDHR) which laid the foundation for the rights of every human being, covering economic, social, cultural, political, and civil rights. Two decades after the Declaration, two landmark human rights treaties were adopted: International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. These two Covenants, along with the UDHR make up what is

known as the International Bill of Rights. Since then, treaties that address the rights of specific groups of people, including children, women, migrant workers, racial minorities, persons with disabilities, and people facing torture, have also been adopted. Central to these human rights treaties are the following concepts:

1. Universality and inalienability: Everyone in the world possesses these rights, which cannot be taken away.

⁴ «Statement on EU Return Directive of 18 June 2008» was prepared by George Moschos and commented by several ENOC members. The document can be found online: <http://www.ombudsnet.org/enoc/resources/infoDetail.asp?ID=18038&flag=report>

⁵ See ENOC Statement on State Obligations for the Treatment of Unaccompanied Children, approved in the Annual Meeting in Athens on 26-28 September 2006, online: <http://www.ombudsnet.org/enoc/resources/infodetail.asp?id=11850>

⁶ Summary of the key note speech given by Yanghee Lee, Chair of the UN Committee on the Rights of the Child by video message. The integral text can be requested to ENOC.



2. Indivisibility: All rights have equal status and cannot be ranked.
3. Inter-dependence and inter-relatedness: Realization of a right may depend, wholly or in part, upon the realization of others.
4. Equality and non-discrimination: Every human being is equal and is entitled to his/her rights without any discrimination.

But the world is still faced with grave violations and abuses of human rights. The problem is not in the lack of legal instruments, but in the implementation of these instruments both domestically and internationally.

Next year will mark the twentieth anniversary of the adoption of the Convention on the Rights of the Child by the United Nations General Assembly. In what ways have the child become more visible, as a result of the CRC? This can be witnessed in the domestic law reforms and administrative measures that States have taken to comply with the Convention.

In a recent research conducted by the Innocenti Research Center (2007), the CRC has the same value as the constitution or the same legal value as other legislations in some countries.

Most States now have some type of a coordinating mechanism that enables different sectors of the government to address children affairs in an effective manner. Monitoring mechanisms have been set up in many States. Some States have established Child Commissioners as separate office or within the organ of Human Rights Institutions. Others have in place a system of 'Child Ombudsperson'.

The Committee on the Rights of the Child devoted two days of its September Session in

1999 to celebrate the tenth anniversary and to discuss achievements and constraints in the implementation of the Convention on the Rights of the Child. At this juncture, the Committee identified measures necessary to implement the Convention at the national level. Three major issues were discussed:

1. Translating Law into Reality: Status of the Convention in national legislation; reservations to the Convention; legislative review to ensure compatibility with the provisions of the Convention; and practice in courts (including court cases making formal references to the Convention)
2. Putting Child Rights on the Agenda: Dissemination and general awareness-raising; training of professional groups; resource mobilization (including budget allocation); and international cooperation and technical assistance.
3. Building partnerships for the realization of rights: The reporting process as a catalyst for domestic review and debate about implementation; coordination and independent monitoring structures; involvement of civil society in the implementation; and child participation.

The Committee had begun to adopt General Comments during the subsequent years. The first General Comment was adopted in 2001 and there have been 10 General Comments altogether since.

I would like to draw your attention to the Committee's General Comment no. 5 'General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para.6). 'General measures of implementation' is the first cluster in the reporting guidelines. There is no standard model of how to implement the Convention, nor does the Committee impose any particular model. However, this particular General Comment was



drafted in order to outline the States parties' obligations undertaken by ratifying the Convention, under the framework of article 4: which states "***States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resource and, where needed, within the framework of international cooperation.***"

Although in varying degrees, implementation still remains as a challenge.

The foremost obligation of the State is to ensure that all domestic legislation is fully compatible with the Convention, and that its principles and provisions can be directly applied and appropriately enforced.

There are some aspects that are an ongoing challenge:

Reservations: Many States that maintain the reservations they had made upon ratifying the Convention on the Rights of the Child. Some of the reasons given are the Constitution or legislation, including religious law in some cases.

Legislative measures: The review process has been started at the national level in most cases, but it needs to pick up momentum and become more rigorous. What seems to be the most challenging is the status of the Convention with domestic legal systems, in other words, applicability of the Convention. Incorporation by itself does not automatically

avoid the need to bring all relevant domestic law into compliance with the Convention. Over the years, the Committee asked the States parties whether the Convention has been invoked in the courts. Furthermore, the Committee often asks whether the Convention was cited, or referenced in court decisions. Recently, the Committee has begun to go even a step further. It has begun to ask about the effect the reference of the Convention in court decisions has made. Another point worth mentioning is about consolidated children's rights statutes. We are finding more countries moving towards enacting what is called "Child Act". This is good because such acts can



President McAleese and Marek Michalak (Poland)

include the principles of the Convention. However, all relevant "sectoral" laws must also reflect the principles and standards of the Convention. One very troubling point that needs to be mentioned is the fact that some States are

now beginning to go backwards, in contradiction to the Convention. On the one side, we see more and more States banning corporal punishment in all 5 settings as outlined by the Secretary General's Violence Study. However, we are witnessing some States maintaining 'reasonable chastisement', introducing restraints and other methods such as 'tasers'. What is most alarming are legislations on antisocial behaviors and reintroduction of corporal punishment. The demonising and criminalizing of children continues, if not strengthened in some States. We are witnessing some States that are increasing pretrial detention period, maintaining a low minimum age of criminal responsibility, and even lowering the age of criminal responsibility.



Comprehensive national strategy: The Committee has found that there are many countries that have developed a comprehensive national strategy or nation plan of action. However, in some cases, these strategies have not been updated and sometimes are mere lists of good intentions. It must go beyond to set real and achievable targets for the full range of economic, social and cultural and civil and political rights for all children, with priorities set and adequately resourced, both financially and human. This strategy must be disseminated and be evaluated by all stakeholders. The Committee also suggests that the comprehensive national strategy be elaborated in sectoral strategies. At this point, the provisions and the rights enshrined in the two optional protocols of the Convention also need to be incorporated into either the comprehensive strategy, and or into sectoral strategies.

Monitoring implementation: The need for child impact assessment and evaluation still remains a challenge. Of course this needs to include the impact of laws, policies and programmes, as well as allocation of budget to carry out these policies and programmes, ensuring that the best interests of the children are at the core of all such actions.

Role of National Human Rights Institutions

In 1993, a World Conference on Human Rights was held in Vienna and the outcome document was the Vienna Declaration and Programme of Action. The importance of the role of national institutions for the promotion and protection of human rights was reaffirmed. Establishment of NHRIs, which was repeatedly emphasized by the General Assembly and the Commission on Human Rights (no longer in existence), should be in compliance with the “Paris Principles” (adopted by the General Assembly in 1993).

Three treaty bodies have issued General Comments on the role of national human rights institutions. Currently there are three treaty bodies with a General Comment on this issue: In 1993, CERD issued General Comment no. 17; in 1998, CESCR issued General Comment no.10; and CRC issued General Comment no. 2 in 2002.

In its General Comment no. 2, the Committee on the Rights of the Child depicts NHRIs as an important mechanism to promote and ensure the implementation of the Convention. Moreover, the Committee views the establishment of such bodies falls within the commitment made by States parties when they ratified the Convention. This General Comment makes suggestions on the nature of such bodies, including its mandate, composition, responsibility, and independence. In short, it emphasizes the importance of having the power to consider individual complaints and petitions; carry out investigations; be able to seek to ensure that children have effective remedies for any breaches of their rights; have the power to support children taking cases to court; and be physically accessible to children. NHRIs are urged to contribute independently to the reporting process and engage in a dialogue with the Committee at its pre-sessional working group.

Conclusions of the International Roundtable on the Role of National Human Rights Institutions and Treaty Bodies, held in Berlin 23 and 24 November 2006, were discussed at the Nineteenth meeting of chairpersons of the human rights treaty bodies. It was recognized that the NHRIs and the UN human rights treaty bodies are partners in the pursuit of the promotion and protection of human rights. The outcome document of the International Roundtable spelled out the role of NHRIs in terms of reporting to the treaty bodies, petitions and enquiry procedures, follow-up procedures, international human rights instruments,



thematic engagement, and training. This Roundtable helped clarify and specify the role of NHRIs. NHRIs have an added role in cases where the international human rights instrument does not have an individual complaints mechanism, notably the CRC.

I would like to delve a little into some specific conclusions of the Berlin Round Table.

1. Treaty Body Reporting

(1) Drafting of List of Issues:

CRC conducts a private pre-sessional working group three months prior to the dialogue with the State party. UN agencies, international NGOs, and NHRIs submit written reports to the Committee and also participate orally with the Committee. It is at this occasion the NHRIs, or Ombudspersons, are invited to participate. At the conclusion of this meeting, the Committee drafts a List of Issues that are sent to the State party to reply within a period of two months. Participation of the NHRI is crucial in aiding the Committee to draft accurate List of Issues, conduct of the Dialogue, and to the Concluding Observations.

(2) Assisting Government in understanding of the new treaty-body reporting guidelines:

Passage of time and post initial reports necessitates revisions to the reporting guidelines. The CRC has issued revised reporting guidelines to the periodic reports, and to the two Optional Protocols (OPAC in 2007, and OPSC in 2006). Also worth noting is that within the UN Human Rights reporting guidelines, there is a new guideline for a harmonized core-document that encompasses all the treaty bodies.

(3) In addition to submitting its own report to the Treaty Bodies, the NHRI should contribute to the preparation of State party reports. This

must also be in accordance with the Paris Principles.

2. Petitions and enquiry procedures:

In Cases where the Treaty Body has an individual complaints mechanism, NHRIs must consider facilitating or assisting victim's petitions to the respective treaty bodies. In addition, NHRIs should engage with treaty body enquiry procedures in a cooperative manner.

3. Follow-up procedures:

(1) NHRIs must take the role of informing all relevant actors on the concluding observations and recommendations of Treaty Bodies. At the same time, the NHRIs must also take the responsibility of monitoring State's dissemination of the concluding observations.

(2) NHRIs should support and host follow-up meeting to the Concluding observations and recommendations, including with Parliamentarians, relevant ministries, public authorities, NGOS, and other relevant actors.

(3) The monitoring of effectiveness of implementation of the Concluding observations is another role that the NHRIs must take.

4. Sensitization of the International Human Rights Instruments:

In accordance with the Paris Principles, the NHRIs must encourage ratification and accession to international Human Rights instruments. Prior to ratification of international human rights instruments, the Government, Parliament, and relevant stakeholders must be made aware about the treaty. In doing so, the Parliament must also be informed about the State's obligation to the relevant instrument. In cases where a reservation has been made upon ratification, NHRIs should encourage the removal of the reservations including through



public awareness campaigns. Up to now, this work has been conducted primarily by NGOs in our country.



President McAleese and Elda Moreno

5. Training:

The quality of State Party reports depends on the adherence to the reporting guidelines, collection of data, and other relevant issues. In order to accomplish this, the NHRIs should support the capacity-building of State officials. For example, the Optional Protocol on the sale of children, child prostitution, and child pornography, the State party report lacks necessary data. However, the alternative report, submitted by the NGO coalition was able to provide necessary data. Unfortunately, our National Human Rights Commission had certain misunderstanding as to its role and function. It had wrongly assumed that it should issue concluding observations and recommendations to the State party report. It is correct that the role of NHRIs is to monitor the State's implementation of the treaty as well as the concluding observations issued by the respective treaty body. However, during the State party reporting process, the role of NHRIs is different. It must take a consultative role and assist the State to closely adhere to the reporting guidelines. And in addition, the NHRIs must submit their own report to the relevant treaty body. ←

1.4 Promoting Children's Rights in Europe: Council of Europe – Tools at work⁷

Third Council of Europe (CoE) Summit mandate (2005)

- 1) Mainstreaming children's rights in all CoE policies
- 2) Coordinate all CoE activities concerning children
- 3) Reinforce action against violence

Council of Europe Answer

- * Launching of the programme "Building a Europe for and with children"
- * Promote children's rights
- * Protect children from violence
- * Establishment of a Coordination unit
- * Establishment of a Task Force
- * Appointment of a thematic coordinator

Approach - Better use and combine 5 CoE tools

- * Standard setting
- * Monitoring
- * Policy development
- * Awareness raising, education, training
- * Bilateral co-operation and technical assistance

Standards

- * New Convention on the protection of children from sexual exploitation and sexual abuse
- * Revised Convention on adoption Rights of children in institutions
- * Migrant children
- * Positive parenting
- * Children and internet
- * Disappearance on new born babies

⁷ Summary of presentation given by Elda Moreno, Programme Manager "Building a Europe for and with children".



- * The child in the city

Monitoring

- * examine children's access to monitoring
- * take better into account children's rights, interests and needs

Policy development

- * Human Rights education for children
- * Positive parenting
- * National policy reviews
- * Children with disabilities, street children, children in institutions
- * Internet literacy

Awareness and training

- * Training manual to teach human rights to children (Compasito)
- * Training manual to reduce violence in schools
- * On line game to show children how to use Internet safely
- * Campaign against corporal punishment of children

2009-2011

1. Child friendly Justice
2. Child participation
3. Policy guidelines for integrated strategies against violence
4. A campaign against sexual violence
5. A Pan-European children's rights platform.

1.5. Towards an EU Strategy on the Rights of the Child⁸

The framework for an EU strategy on the Rights of the Child

⁸ Presented by Anna Zito, Coordinator for the Rights of the Child, Citizenship and Fundamental Rights Unit, DJ Justice , Freedom and Security.

- * Art. 6 - Treaty on European Union
- * Art. 24 - EU Charter of Fundamental Rights
- * UN Convention on the Rights of the Child

The European Union response

July 2006 – Commission Communication “**Toward an EU Strategy for the Rights of the Child**”

- * Transversal and cross-cutting approach concerning both internal and external actions
- * Civil and criminal justice, social protection, development co-operation, trade negotiation, education and health...

Four major objectives

1. To identify priorities for future EU action;
2. To improve effectiveness of EU policies vis-à-vis the rights of the child;
3. To increase co-operation with stakeholders, including children;
4. To help children to enforce their rights.

Main specific objectives

1. Capitalising on existing activities while addressing urgent needs

- * To attribute one single six digit telephone number (116xyz) within the EU for child helplines and one for child hotlines dedicated to missing and sexually exploited children;
- * To support the banking sector and credit cards companies to combat the use of credit cards when purchasing sexual images of children on the Internet

2. Identifying priorities for future EU action



- * To issue a consultation document to identify future actions;
 - * To collect comparable data on children's rights.
3. Mainstreaming children's rights in EU actions
- * To mainstream children's rights when drafting EC legislative and non-legislative actions that may affect them
4. *Establishing efficient coordination and consultation mechanisms*
- * To bring together stakeholders in a European Forum for the Rights of the Child;
 - * To set up a Commission Inter-service Group and to appoint a coordinator for the rights of the child;
 - * Children participation.
5. Enhancing capacity and expertise on children's rights
- * To provide the necessary skills and tools to actors involved in mainstreaming children's rights in Community policies.
6. Communicating more effectively on children's rights
- * To design a communication strategy on children's rights;
 - * To provide information on children's rights in a child-friendly manner.
7. Promoting the rights of the child in external relations
- * Continue and further enhance EU's active role in international forums to promote the rights of the child.

Daphne III programme

Specific programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk (€ 116.85 million → 2007-2013).

What next?

"Issues paper"

- * Child rights based approach
- * Aims to identify future areas of intervention for EU action

For more information on Children's Rights, visit Europa website at http://ec.europa.eu/justice_home/fsj/children/fsj_children_intro_en.htm.

For more information on Funding Programmes in DG JLS consult http://ec.europa.eu/justice_home/funding/intro/funding_intro_en.htm.

1.6. ENOC Business Meeting

Election of members to the ENOC Bureau

Section 11.2 of the ENOC Statutes provides:

"The Chairperson-elect, Secretary and Treasurer of ENOC are elected by the General Assembly during its annual general meeting. The Chairperson-elect is elected for a non-renewable one-year term and begins his/her functions at the beginning of the following annual general meeting of the General Assembly. The Secretary and Treasurer are elected for a one-year term and may be re-elected for a maximum of two further consecutive terms (three years in all). They take up their post immediately following election".

Members were invited to express an interest in election to the three available positions. There was one candidate for each of the three positions and the following members were elected by consensus: France was elected



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Chairperson-elect; Greece was elected Secretary and Luxembourg was elected to a consecutive term as Treasurer.

The bureau is therefore composed of the three newly elected members and Ireland as current Chair and Catalonia as outgoing chair.

Themes for the ENOC Conference 2009

Members made suggestions regarding the theme for the annual Conference to be held in 2009. These included: implementation of the CRC in detention and other closed settings; the best interests principle; legal action and the CRC; and family separation and the application of the best interests principle.

There was a discussion regarding the venue for the 2009 Conference. France and Lithuania expressed an interest in the hosting the Conference. It was noted that, in accordance with section 11.3.3. of the ENOC Statutes, decisions regarding the organisation of the Conference will be taken by the Bureau. The importance of facilitating the involvement of members across Europe was noted and the hosting of an additional regional seminar during 2009 was proposed.

Appointment of Representative of ENOC

The Chairperson (Ireland) informed the meeting that, further to an open recruitment process, Polina Atanasova has been appointed Representative of ENOC. Ms Atanasova will work from the Office space provided by the Council of Europe in Strasbourg.

CRIN Website

Veronica Yates of CRIN gave an update about the operation of the CRIN website and ENOC page on the site. Members were invited to update the information relating to their offices on the ENOC page.

Working Group on access for children to international justice

A paper was circulated outlining the role of the working group and setting out queries for the development of the working group's work into the future (see appendix). It was agreed that the working group will continue its work and meet to progress the issues outlined in the paper. Members were invited to join the group at any stage. Cyprus joined the group and Maria Battle was re-confirmed as chair of the Working Group.

Application to the EU Commission Application for funding under the "fundamental rights and citizenship" (2007-2013) call for proposals 2007

The outgoing chair recalled that the EU Commission has informed ENOC that the application for funding has been approved. A letter confirming the approval of the application is expected in the coming weeks.

It was agreed that the completed application will be circulated to ENOC members for their information.

Confirmation of membership of ENOC

Since the last Annual meeting, existing members have re-applied for membership of the Network and new applicants have applied for membership. All applications were considered by the Bureau in line with the criteria and rules set out in the ENOC Statutes. The outgoing chair of ENOC confirmed the membership of ENOC. There are 25 full members and 7 Associate members. The meeting also extended a warm welcome to the 7 new members of ENOC admitted to membership in the period since the last general meeting. These are; Andalusia, Azerbaijan, Cyprus, 11 Million (England), Galicia, Slovakia and Vojvodina.



Financial Report

The Financial Report was presented by the Treasurer, Luxembourg (see appendix). The record of members who have paid their subscription fees will be updated and checked. All members who are not up to date with their subscription fees were requested to transfer their fees as soon as possible. Members were also requested to ensure that their bank transfer documentation clearly indicates the name of their institution so that the treasurer will be in a position to identify lodgments as they are paid into the account.

Participation of office staff at ENOC annual conferences

There was a short discussion about the participation of members of staff of Ombudsman offices at annual general meetings. It was agreed that representation, participation (including who might speak on particular matters) at general meetings was a matter for each delegation to the general meeting. As per the ENOC statutes (paragraph 3.2), the heads of delegation are free to delegate to their representatives any matters they choose.

UN Committee General Day of Discussion

It was proposed that ENOC might consider suggesting topics for the UN Committee General Day of Discussion to the UN Committee. Scotland proposed that ENOC consider suggesting the following topic: the rights of the children of prisoners.

2. Conference Results

2.1. Young People's Participation in the ENOC Conference

Given the roles and work of ENOC members in relation to children's participation, the organisers thought it important to afford young people an opportunity to participate in the conference. As this is not a forum that readily lends itself to children's and young people's involvement, the Ombudsman for Children's Office (OCO) gave considerable thought to the question of how to proceed. Some of the main decisions taken about the approach were:

Theme – Taking into account the overall theme of the conference and a request from one of the proposed international speakers, the OCO identified 'taking part and being heard', including in and by international mechanisms, as the theme that participating young people might share their views on, based on their own experiences of participation.

Participants – With a view to ensuring that participation in the conference would be a meaningful experience for the young people concerned, the OCO decided to approach young people who were already familiar with the OCO's work and had experience of expressing their views in a variety of contexts. Of the young people that the OCO identified as prospective participants, several members of the OCO's first and second Youth Advisory Panels (YAP) were interested and available to take part.

Context – The OCO felt that young people's participation should be integrated into the main body of the conference and that young people should have the opportunity to contribute in similar ways to other conference delegates, i.e. by co-facilitating a conference workshop and by taking part in a plenary session of the conference.

In advance of the conference, the OCO facilitated four of its YAP members to design a



workshop on the Big Ballot (see p. 19 for details). For the plenary session on 'taking part and being heard at international level', the OCO:

- liaised with international speakers to see if they would be willing to take part in a session with young people and to find out what specific issues relating to children's participation they would be especially interested to discuss with the young people;
- held a preparatory meeting with the young people at the OCO, during which the young people had an opportunity to:
 - find out more about ENOC, the conference and the international organisations that would be represented at the conference;
 - reflect and share their experiences of and views on taking part and being heard;
- arranged an informal meeting between the young people and the international speakers so they could meet one another in advance of the plenary session to discuss issues relating to young people's participation.



arising from the process. The main thing is that children and young people feel their participation has contributed to progressing or changing something that matters to

them. Signs that adults are really listening during the process of participation include: giving young people enough time to share their views; taking part in a dialogue with young people; being open to critical comments young people may have; giving young people direct access to people in positions of authority; and seeking to to understand what young people think *and* why. Feedback on the outcomes of a process they have participated in is a further important indicator to young people that their participation is valued and respected. As regards outcomes, young people understand that there can be very good reasons why their wishes may not always be implemented. However, a tangible outcome that reflects young people's views remains the clearest sign to them that they have been heard. An additional sign that their participation is valued is when the process and outcomes have a positive impact on all concerned, including relationships between participating young people and adults.

In advance of and during the final plenary session of the conference, the young people drew on their own experiences to outline their expectations of and perspectives on participation. Key points that they made were:

- Listening to children and young people** – Adults can demonstrate a commitment to hearing and taking young people's views on board through the *process* of providing for their participation *and* through *outcomes*

Safeguarding young people from tokenism – Young people themselves have concerns about being used as tokens and are attuned to tokenism. The risk of tokenism should not be used as an "excuse" for not including children and young people. It is important to remember that young people may see the potential benefits of participation as outweighing possible risks. It is also worth remembering



that tokenism carries risks for organisations too, i.e. it will undermine their credibility among children and young people. To avoid tokenism:

- consider the weaknesses as well as the strengths of particular approaches to hearing children and young people;
- make sure children and young people understand what they are being invited to take part in and manage their expectations;
- try to plan for participation *with* children and young people and involve them in selecting methods, etc.

Building relationships – Children and young people need to feel they can trust the people and organisations seeking their participation. The degree of trust they feel impacts on how much children and young people are prepared to say and on what they say. As securing their trust and confidence takes time, it is important to approach consultation and participation in ways that facilitate relationship building with and between children and young people. It is also worth remembering that children and young people really value the social side of participation, i.e. the opportunity to meet children and young people with different life experiences and to make new friends.

2.1.1. Overview of participation Activity

a) Article by Shauna Watson

The ENOC conference was a great experience for me as a YAP member because I really felt that the Ombudspersons from around Europe and representatives from other organisations listened inventively to what six young people from different parts of Ireland had to say. I felt they were really interested in our views and opinions and I knew that the views we

expressed, which are important to us, were taken further at the conference.

We each talked about our experience of participation, whether it be in school, a youth club or another organisation. The purpose of sharing our experiences was to help everyone to understand our views on how young people's contribution could work when involving them internationally. There was a question and answers session, which gave people the opportunity to ask our opinions on the way the Ombudsman's office in Ireland is run and the process by which YAP was selected.

After this session at the conference, we were approached informally by Ombudspersons requesting our opinions and views further. The ENOC conference made me realise that each representative present was committed to making their country youth-friendly by encouraging children and young people to participate and express what matters to them.

b) Article by Ben English

My name is Ben English and for the last two years I have been privileged to be a part of the Ombudsman for Children's Youth Advisory Panel. During this time I have taken part in various projects and initiatives, which have always encouraged and considered our views as young people. However, last September I was fortunate enough to experience this on a whole new level when I was asked to attend the ENOC conference with some other YAP members.

As young people, we not only have a continuous need to be listened to, but we also want to see outcomes when we express our views. This was the first thing, which made ENOC seem special to me. In addition to this, we were told that there was a conference session planned where we would have a chance to express our views and that conference attendees would then ask us



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questions about our thoughts on having a voice and being heard. When I heard this, it eliminated any initial fears I may have had that my experience in the conference would be tinged with a small element of tokenism.

Instead, before even attending the conference, I already felt like my opinions and ideas were being encouraged and respected. It has been said: "Children, after all, are not just adults-in-the-making. They are people whose current needs and rights and experiences must be taken seriously". Going into ENOC I really felt that the conference was reflecting this ethos.

My participation in the conference was spread over two days. The first day was where we met in a small focus group with professionals who are involved in children's rights at a high level. Again, this encouraged us all as we felt that we were being taken seriously and what we had to say mattered. I found this day extremely interesting as we discussed the best ways to involve young people at an international level without jeopardising their safety or making their experience tokenistic. At first we doubted that this could be done, but I later realised that our experience in the conference was concrete proof that this objective could be achieved. My second day at the conference was even more inspiring. For six hours, I felt so energised to be immersed in an environment fundamentally centred around young people and their voices being heard. It was a fantastic experience to see how serious everyone was and that they genuinely cared about getting the best for children and young people in their respective countries.



It then came to the part where we had our chance to address members of the conference. In doing this, each of us outlined an experience we have had where we felt we had been listened to. These experiences ranged from being heard in school to in our local communities and even as far as at an international level. The common theme in all our stories was that we felt that the most important element of our experience was seeing an outcome.

This was even something as simple as an idea we had being implemented. I saw many outcomes from my participation in the conference. A simple example was, as I looked around the room, I could see Ombudspersons taking notes on what we were saying. As conference attendees went back to their next session that day, I really doubted that they could have fully comprehended the positive influence their enthusiasm had on us that day.

Although I'm sure they got useful ideas and were hopefully refreshed by our addition to the conference, I feel the rewards we got were so much more beneficial. From a personal point of view, a fundamental outcome for me was that we were given a chance to express solely our own views and, furthermore, they were listened to. Sometimes youth participation can be monumentally ineffective in the sense that we do not let young people come up with their own ideas. The analogy I like to use is that, far too often, we give young people cut flowers rather than encouraging them to grow their own flowers. It is with such happiness that I can say that I have never experienced this either as a member of YAP and particularly at the ENOC conference. My participation in this conference



is something, which I know has benefited me and will stand to me in the future.

As the old Irish proverb says:

Mol an óige agus tiocfaidh siad.

Nurture the youth and they will prosper.←

2.2. Initial Results of the Internal ENOC survey on Legal Action and the CRC⁹

A short questionnaire was circulated to member-institutions in July, inviting responses on two issues:

- * The capacity and experience of institutions in relation to legal action to safeguard children's rights; and
- * The status of the Convention on the Rights of the Child and application of it in courts.

By September 2, 21 institutions had responded (see list at end). This report for the annual meeting provides a brief summary of these responses with comments. A more detailed 17-page report including extracts from responses is being e-mailed to ENOC members. The issues covered in the questionnaire are complex and to provide a final detailed report will require follow-up with the respondents (some of which may be possible in Dublin). If ENOC members agree, and more institutions respond, I will be glad to provide a more detailed report in a few months).

Legal action: National Level

Is your institution able to take legal action on behalf of a child/groups of children? To

⁹ Peter Newell, Adviser to ENOC, peter@endcorporalpunishment.org. By September 2, responses had been received from: Bosnia and Herzegovina, Cyprus, Denmark, Finland, Flanders, France, Georgia, Greece, Iceland, Ireland, Latvia, Lithuania, Luxembourg, Macedonia, Malta, Portugal, Scotland, Slovakia, Slovenia, Sweden, Wales.

intervene in legal action on behalf of a child/groups of children? And offer any kind of support for legal action on behalf of child/groups of children?

5 out of the 21 responding institutions stated that they have all these powers: **Georgia, Latvia, Lithuania, Luxembourg** (but the response states that the institution "cannot intervene in judiciary procedures") and **Macedonia**.

But these and other institutions pointed out that under their constitution and legislation, they are unable to use courts directly because of the separation of powers; however they can – and do - advise other bodies – for example public prosecutors' offices – to do so.

Of the other 16, 10 are able to offer general advice and/or financial support with legal action. Five stated they could not offer any kind of support (**Denmark, Finland, Iceland, Scotland and Sweden**).

Is your institution able to intervene in Parliament to propose any necessary changes in legislation to enable legal action to be taken on behalf of a child or groups of children?

All institutions are able to influence Parliament, but a number only indirectly, through comments and proposals made to ministries. One - **Macedonia** - reported that it is authorized to ask the Assembly for authentic interpretation of laws; the institution submits recommendations to Parliamentary commissions for amendment of laws, as do some other institutions; many are required to submit an annual report to Parliament, either directly or through a ministry, which can include recommendations. *NB: The question was perhaps poorly drafted, because a lot of institutions interpreted it as asking about their influence on legislative changes of all kinds affecting children. It was intended to focus on changes to enable legal action to be taken by a child or group of children.*

In your state, does a child have legal standing (that is, is a child, or adult genuinely acting on



behalf of the child, able to take legal action when the child's rights are breached, by applying to court)?

All responding institutions answered "yes" to this question, but comments suggested that in many situations, children are not able to take legal action in reality. A number commented that while the legislation was satisfactory, there was too little knowledge of rights and remedies among children and those potentially representing them. There is a dangerous assumption in some that parents can adequately represent their children. Where parents are abusing a child or otherwise not acting in the child's best interests, there are normally arrangements for the appointment of some form of representative – but several institutions drew attention to the inadequacy in reality of these arrangements.

Legal action – International Level

Is your institution able to use, and/or support a child/children in using international or regional human rights mechanisms (e.g. an application to the European Court of Human Rights; use of communications procedures under international human rights instruments)?

As with taking domestic legal action, a majority of institutions state that they are unable to make applications to international or regional human rights mechanisms (7 "yes"; 14 "no"). Some said they could support an application from a child, but not represent the child. No institution has yet used an international or regional human rights mechanism, although several said they have told children and their representatives about the possibility of making an application to one. Most institutions without the power to make/support an application responded that their powers should be

strengthened, and several said they are in the process of seeking relevant powers.

For example, **Bosnia and Herzegovina** responded that the mandate of the Children's



Lora Vidovic (Croatia) and President McAleese

Ombudsman will be wider and will allow for such activities when the new law is adopted by the end of 2008. **Denmark's** National Council of Children is also working on gaining this power. And **Slovenia** stated: "We are starting to prepare some changes in the Human Rights Ombudsman Act and we'll think the matter over

because there are some constitutional questions to be resolved." **Wales:** "Yes - we should be able to take 'class action' cases."

Status of the Convention on the Rights of the Child

In your state, is the Convention: a) Fully incorporated so that it forms part of domestic law and can be applied in domestic courts when children's rights are breached? (b) Incorporated, but cannot be effectively applied in domestic courts? (c) Not incorporated – domestic law has to be brought into compliance with the Convention? (d) Other?

In 11 of the 21 states responding, responses suggest the CRC is fully incorporated ("monist" states), meaning that it can be applied in domestic courts when children's rights are breached and, in most cases, that it takes precedence over domestic law. In others, the Convention is not incorporated and once the Convention is ratified, domestic law has to be brought into line with it ("dualist" states). But the situation seems to vary widely from state to state, and more detailed research is needed to gain an accurate picture of the status of the Convention in each state.



Has the Convention been effectively applied/used/quoted in national courts, to safeguard children's rights?

13 states responded that it had been used, in some rarely. Some states gave examples of very positive use of the CRC in judgments, suggesting that it would be very valuable to make the detail of such use systematically available to institutions in all states.

General

In your opinion, do children in your state have adequate remedies, including legal remedies, for breaches of their rights?

A small majority of responding institutions suggested that children do have adequate remedies "in principle" or "in legal terms". But there were substantial reservations about the reality of the remedies and several institutions stated that knowledge of children's rights and of the remedies was very limited.←

2.3. Results from the six Conference Workshops

On the second day of the conference, six workshops were held involving presentations from seven ENOC member offices. The presentations are available on request from the ENOC secretariat (see appendix 2 for details of presentation topics).

In the workshops, participants focused on best practice relating to the core principles of the CRC: best interests of the child; non-discrimination; right to participate and the right to life, survival and development.

The rapporteurs of each of the six workshops produced a report of the discussion including any recommendations identified. The workshops reports are reproduced below.

2.3.1. Workshops on the Best Interests of the Child

Research on the protection of children from sexual abuse¹⁰

The Results: The Research was undertaken to study the situation of children who had been sexually abused in children's homes and special schools.

Anonymous questionnaires were given to children and employees. Interviewers were specially trained to present the research to the children.

In total, 3674 children participated. Among those, 2613 (71%) were from children's homes and 878 (29%) from special schools.

In total, 182 members of personnel participated.

The results revealed that 158 children were subject to sexual abuse, mainly in the families, and slightly less in the institutions. 47% of the victims were abused by their peers and older children.

The results also indicated that 2/3 of the victims are boys.

For government depts –

For prosecutor general's office.

NGO's involved.

Contact details for services for children were advertised in the children's homes and schools.

¹⁰ Presented by the Children's Rights Ombudsman of the Republic of Lithuania, "Research on the protection of children from sexual abuse".



Children were very positive about the study and they believed that the adults really wanted to help them.

There are some examples of other activities aimed at enhancing implementation of this core principle of the CRC from Malta, Belgium, Sweden, Luxembourg, Georgia, Wales, Azerbaijan and Cyprus.

Difficulties regarding children's rights and sexual abuse

- * Adults do not wish to see the rights of children as their priority;
- * Difficulty in getting information from children about abuse;
- * To protect confidentiality

Recommendations aimed at enhancing implementation of the CRC addressed to:

- * Need to explain at all levels what best interests means and in particular for those who apply the law – both family and criminal law. This applies also to parents, professionals in children's services, prosecutors, and judges.
- * Need programmes to educate children about sexual abuse and about their rights – that are accessible for children of all ages and both genders.
- * Preventative measures – promoting healthy lifestyles.
- * Children should participate in establishing their own best interests, bringing together articles 3 and 12 of the UN CRC.

Research Project to identify the urgent needs of children in Malta

- To identify the needs of children in Malta and Gozo
- Consultation with professionals and children and young people.

- Undertaken before general elections in 2008

Outcome

- * Proposals made in relation to improving significant issues for children – family, education, health, work, sport and culture, environment.
- * Published manifesto with proposals
- * Public seminars
- * Rights 4U course for children and young people

"Click on the children's right"¹¹

- Parliamentary Commissioner for civil rights has a special responsibility for children based on Child Welfare Act.
- Goal to undertake a number of enquiries in relation to issues affecting children

Issues being focused on Children's rights in:

- Basic child welfare provision
- The media
- In the education system
- Employment of children
- Youth and law enforcement

Summary of Discussion

Discussion focused on the complexities involved in determining children's best interests.

Difficulties

- * Conflict in interpreting what is in children's best interests – no formula. Finland has developed criteria to assist in determining this.

¹¹Summary of the presentation given by Agnes Lux, Office of the Parliamentary Commissioner for Human Rights in Hungary.



- * Children's perspectives – listening to children. Do they always know what is in their best interests?
- * Complexities regarding decisions about children being taken into care of the state and suitable alternative placement.
- * Rights of parents may be in conflict with children's rights.
- * How to hear the voices of children such as children who are in institutions or in conflict with the law.

Recommendations

- * Raising awareness of children's rights and that these are not necessarily contrary to parents rights.
- * Need to put the best interests of children at the centre of all decision making about children.
- * Importance of each case being evaluated individually for the best interests of the child.
- * Preventative work with families
- * Early intervention
- * Raising awareness with families about services
- * Better inter agency and professional working and sharing of information about vulnerable children

2.3.2. Workshops on Non-discrimination

Discrimination of one of the parents in the realisation of a child's right to the highest possible level of health¹²

The Problem

The impact on the child of discrimination in access to paid absence from work for a parent who does not have the same permanent residence as the child

Action: Initiated a constitutional review proceeding of the relevant regulation to ascertain if the law is in violation of Article 18 of the UNCRC [equal responsibility of both parents for the child's education and development] and the Slovenian Constitution.

Outcome

The Constitutional Court withheld the implementation of the contested provisions and the National Assembly adopted the amendment to the relevant legislation.

The regulation is now compliant with the UNCRC.

Types of discrimination raised in discussion

1. Discrimination as a consequence of divorce:
 - * Access to health:
 - * Paid sick leave
 - * Decisions on therapy
 - * Parental leave
 - * Education of sick children
 - * Choice of residence
 - * Parental alienation syndrome
 - * Contact with one parent in mother tongue
2. Discrimination of children born out of wedlock
 - * De facto, not de jure, discrimination
 - * Procedure for custody decisions is more difficult
 - * Court decision needed for exercising parental responsibility
 - * Discrimination against adopted children
 - o Duration of parental leave
 - o Right to privacy
 - o Discrimination in Education
 - o Children with ADHD
 - o Roma Children

¹² Summary of presentation given by the Human Rights Ombudsman, Republic of Slovenia.



3. Refugee children
4. Children with disabilities
5. Cases with an international element

Solutions

- * Amending legislation – proposals to Government or Parliament
- * Proposals to the Constitutional Court
- * Communication with competent authorities
- * Using empirical data
- * Media coverage
- * International Cooperation

2.3.3. Workshops on the Right to participate

The OCO's Big Ballot Project¹³

Aims, Objective and Methodology: Learning from children to become better in implementation of right to participate, to give children opportunity to influence planning, promoting participation

Big Ballot: 3 stages – academic research, focus group consultations, nationwide consultation

Resource materials, campaign, count event, follow-up

Output: Results, follow-up

Summary of Discussion

YAP (Youth Advisory Panel)

Inclusion of marginalised groups in participation

Follow-up activities to the Big Ballot

Examples of any difficulties faced in seeking implementation of this CRC Core principle and how they may have been over come

- * logistics of implementation of the project
- * dealing with raised expectations

Recommendations aimed at enhancing implementation of the CRC:

- * Participation in implementation period, further analysis of the subjects voted on
- * Influencing at both local and national level
- * Use of new media
- * Developing skills

Implementation of the Right to Participate – Practical examples from Madrid¹⁴

The aims: give children the opportunity to participate according to article 12 of the CRC in a meaningful way. This was partly achieved through:

1. Council for Children's Participation;
2. The Community of Madrid Ombudsman for Children award;
3. The Minor's Portal on the Website

Output: Children propose projects and lines of action to the Ombudsman (e.g. "Minors and Television: A Survey into habits, attitudes and use of the media"). Importance was placed on providing recognition for projects that encourage participation.

Participation and Protection of Children from Violence in Media¹⁵

Aims, Objective and Methodology: 1, 500 children expressed their opinion on the influence of the media through a petition delivered to the Ombudsman asking for

¹³ Summary of the presentation given by Children and Young People of the Ombudsman for Children's Office (OCO), Ireland, "The Big Ballot Project".

¹⁴ Summary of the presentation given by the Ombudsman for Children in Madrid, "Implementation of the right to participate – practical examples from the Ombudsman for Children in Madrid".
¹⁵ Summary of presentation given by the Children's Rights Ombudsman, Lithuania



protection from harmful information and violence in the media.

Output: The Ombudsman ran an education campaign for parents and children through radio and press conferences, and facilitated children's discussions with Parliament members and senior officials. A round table discussion was also organised, where a resolution was drafted.

Summary of Discussion

Norway – Establishment of 'expert groups' on topics such as victims of incest, parents in prison, disabilities, and Roma children.

England – Speaking to young people with direct experience of issues being looked into, e.g. asylum seekers and children with mental health problems.

Cyprus – Speaking to children about art. 12 and seeing how they understand it and what inhibitions they have.

Sweden – Developing a model for participation from younger children (4 - 6 years old), partly through the use of art and other pedagogical methods.

Examples of any difficulties faced in seeking implementation of this CRC Core principle and how they may have been overcome

- * Lack of help from other sectors who also have obligations to children.
- * Number of children
- * Adult agenda-setting
- * Getting children enthusiastic about participating
- * Follow up by decision-makers
- * Possibility of children having ideas which conflict with the principles of the convention.

Recommendations aimed at enhancing implementation of the CRC:

- * Be aware of other ways of participation that do not necessarily involve a formal setting

- * Help other professionals working with children to implement this principle
- * Focus on a process rather than an end point.
- * Set feasible goals and do not go overboard.
- * Listen and build trusting relationships.

2.3.4. Right to life, survival and development

Programme of prevention of peer bullying in schools¹⁶

Aims and Objectives

- * To conduct a comprehensive empirical study on peer bullying in schools to establish the degree of bullying and the opinion of children about it
- * Identify the nature and frequency of bullying, raise awareness about the issue, and sensitise teachers and parents to the gender dimension of bullying.

Methodology

Detailed questionnaires were sent to 100 teachers and 910 pupils in primary schools in 5 regions of Republika Srpska.

Findings

- * 79% of primary school students confirmed the presence of peer bullying and 61% confirmed the presence of physical abuse
- * There was an absence of specialised educational programme and systematic work with children on this issue

Recommendations

¹⁶ Summary of the presentation given by the Ombudsman of Republika Srpska, "Programme of prevention of peer bullying in schools".



- * It was recommended that a Working Group be set up to prepare a strategy on the prevention of violence which would include representatives of Government, NGOs and professionals
- * The year following the adoption of the strategy should be named the Year of the Prevention of Bullying.
- * The recommendations were complied with in full.

Summary of Discussion

- * Nature of the challenges faced in each country is very different
- * Bullying – examples from Lithuania and Bulgaria
- * Media – can be a force for good but should be handled with care
- * Easier to tackle issues that don't have resource implications – examples from Kosovo and Greece
- * Ombudsman as a bridge between NGOs and Governments
- * Involving children in decision making and demonstrating to other institutions and organisations how this can be done effectively
- * Ombudsmen should not just raise questions but also offer solutions
- * Ombudsmen sometimes end up carrying out the work of other organisations to show how it can be done.

2.4. Summary of workshop recommendations addressed to Ombudsmen for Children aimed at enhancing implementation of the CRC

On the final day of the Conference, a summary of the workshop recommendations addressed

to Ombudsmen for Children was circulated to all participants. This facilitated a speedy dissemination of the results of the Conference to all members of ENOC in attendance.

The summary which was circulated is reproduced here.

2.4.1. General recommendations

- * Advise government and public authorities on effective interagency working
- * Be fully CRC compliant in our own work in order to be an example of best practice for other institutions and government departments to follow
- * Cooperate directly with other Ombudsmen for Children on domestic issues with a transnational dimension
- * Develop rights-based training for staff and young people on the CRC and other international instruments
- * Develop use and understanding of new media
- * Encourage government to develop educational programmes about rights that are accessible for all children, taking full account of their diversity
- * Encourage government to engage in health promotion work specifically aimed at securing the rights of children to the best available healthcare and protection from abuse
- * Engage in promotional work about the CRC and address concerns about possible conflict with parental and other rights
- * Have a sound empirical evidence base for our work
- * Nurture, maintain and develop effective channels of communication with national authorities
- * Ombudsmen for Children should monitor policy, practice and law to check compliance with the CRC and be particularly mindful of de facto and indirect discrimination
- * Push for implementation of the CRC at both local and national government level



- * Seek to ensure that the State provides adequate and early support for families and children
- * Use our unique position to facilitate engagement between civil society and government on the implementation of the CRC

2.4.2. Recommendations regarding the best interests principle

Engage in promotional work around the best interests' principle with parents, members of the judiciary, professionals working with children and young people in order to enhance their understanding of the principle and address any concerns they have about it. In undertaking this work, Ombudsmen for Children should fully involve children and young people.

2.4.3. Recommendations regarding participation

- * Engage in capacity building and share expertise with other bodies and other professionals working with children to implement this principle themselves;
- * Enhance our own awareness of communication mechanisms that work for children;
- * Fully involving children and young people in all stages of the development of participation work and in follow up work;
- * Keep under continual review other ways of participation that do not necessarily involve a formal setting;
- * Raise our awareness of the importance of participatory processes as well as the outcome;
- * Set attainable goals and manage expectations.←



Annex 1: Conference Programme

Conference Day 1: Wednesday 3 September

8.30 – 9.00	Registration of Participants
9.00 – 10.00	<u>Opening Session</u> <i>Chair: Xavier Bonal Sarró, Deputy Ombudsman for Children’s Rights of Catalonia and Chair of ENOC</i> Welcome from Emily Logan, Ombudsman for Children, Ireland Brief updates on activities from ENOC members
10.00 – 10.20	Address by Her Excellency Mary McAleese, President of Ireland
10.20 – 10.45	Coffee break
10.45 – 11.15	Continuation of updates
11.15 – 12.00	Annual review of ENOC activities: Xavier Bonal Sarró
12.00 – 12.30	Key note speech: Yanghee Lee, Chair of the UN Committee on the Rights of the Child
12.30 – 13.00	Discussion
13.00 – 14.00	Lunch
14.00 – 15.00	<u>Session 1</u> International level activities aimed at enhancing the implementation of the CRC <i>Chair: George Moschos, Deputy Ombudsman for Children’s Rights, Greece</i> UNICEF activities – general measure of implementation of the CRC and preliminary findings of the research on Ombuds for Children - VANESSA SEDLETZKI, UNICEF Innocenti Research Centre UN Committee on the Rights of the Child activities Using the CRC as a legal instrument and the current campaign for a complaints/communications system under the CRC – PETER NEWELL, Adviser to ENOC
15.00 – 15.30	Discussion



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15.30 – 16.00	Coffee
16.00 – 17.00	<p><u>Session 2</u> European level activities aimed at enhancing the implementation of the CRC</p> <p><i>Chair: George Moschos, Deputy Ombudsman for Children's Rights, Greece</i></p> <p>Council of Europe activities – ELDA MORENO, Programme Manager, “Building a Europe for and with Children”</p> <p>Council of Europe Peer to peer Project and activities of the Commissioner for Human Rights – JULIEN ATTUIL, Office of the Commissioner for Human Rights</p> <p>European Union activities – ANNA ZITO, European Commission</p> <p>ENOC working group on access to international justice for children – MARIA BATTLE, Office of the Children's Commissioner for Wales and Chair of ENOC Working Group</p>
17.00 – 17.30	Discussion
17.30	Close of first day

Conference Day 2: Thursday 4 September

9.00 – 10.00	<p><u>Session 3</u> Implementation of the CRC at national level Examples of best practice from 3 ENOC members</p> <p><i>Chair: Emily Logan</i></p> <p>Presentation from Office of the French Ombudsperson for Children: The Big National Consultation “Giving Young People a Say”</p> <p>Presentation from Ombudsman for Children in Finland: Project by the Finnish, Swedish and Norwegian Ombudsmen to promote the rights of the Sami Children – the participation of children</p>
10.00 – 10.30	Discussion
10.30 – 11.00	Coffee
11.00 – 13.00	<p>Parallel Workshops 1</p> <p>Focusing on best practice relating to the core principles of the CRC (topics dependent on presentation proposals from participants)</p>



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	Workshop A	Best interests of the child
	Workshop B	Non-discrimination
	Workshop C	Right to participate
13.00 – 14.00	Lunch	
14.00 – 16.00	Parallel Workshops 2	
	Focusing on best practice relating to the core principles of the CRC (topics dependent on returns from participants)	
	Workshop A	Right to life, survival and development
	Workshop B	Best interests of the child
	Workshop C	Right to participate
16.00 – 16.30	Coffee	
16.30 – 17.30	<i>Chair: Kathleen Marshall, Commissioner for Children and Young People, Scotland</i>	
	Feedback from Workshop Rapporteurs	
17.30	Close of Day	

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Conference Day 3: Friday 5 September

9.00 – 10.00	Session 4 Using international mechanisms to pursue implementation of the CRC
	<i>Chair: Emily Logan</i>
	How to get the most out of Council of Europe mechanisms - ELDA MORENO, Programme Manager, "Building a Europe for and with Children"
	Recent national experience of the UN Committee on the Rights of the Child Reporting procedure – KATHLEEN MARSHALL, Scotland's Commissioner for Children and Young People
10.00 – 11.00	Session 5 Discussion between children and young people and representatives from International Organisations/Ombudsman Office
	Council of Europe (Elda Moreno); UNICEF (Vanessa Sedletzki)



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Ombudsman (George Moschos); Current and former members of Ombudsman for Children's Office Youth Advisory Panel (YAP) (Louise-Marie Byrne, Mícheál Callaghan, Graham Dillon, Ben English, Shauna Watson)

11.00 – 11.30

Coffee

11.30 – 12.00

Closing Session

Presentation of initial results from the internal ENOC Survey on Legal Action and the CRC – PETER NEWELL, Advisor to ENOC

12.00 – 13.00

ENOC business meeting



Annex 2: Workshop Programme

Day 2, Thursday 4 September 2008

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Morning

11.00 – 12.30

PARALLEL WORKSHOPS 1

Workshop A

Best interests of the child

Venue: Main Hall

Chair

Lena Nyberg

Presentation

Children's Rights Ombudsman Institution of the Republic of **Lithuania**

Research on the protection of children from sexual abuse

Workshop B

Non-discrimination

Venue: La Touche Room

Chair

Xavier Bonal Sarró

Presentation

Ombudsman of the Republic of **Slovenia**

Freedom from discrimination in accessing the right of the child to the enjoyment of the highest attainable standard of health care

Workshop C

Right to participate

Venue: Presidents Suite

Chair

George Moschos

Presentation

Ombudsman for Children's Office (OCO), **Ireland**

Presentation by Children and Young People

The OCO's Big Ballot Project

12.30 – 13.30

Lunch

Afternoon

13.30 – 15.00

PARALLEL WORKSHOPS 2

Workshop A

Right to life, survival and development

Venue: Main Hall

Chair:

George Moschos

Presentation: Ombudsman of Republika Srpska

Programme of prevention of peer bullying in schools



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Workshop B	Best interests of the child	Venue: La Touche Room
Chair	Xavier Bonal Sarró	
Presentation	Commissioner for Children, Malta	
	Research Project to identify the urgent needs of children in Malta	
	Office of the Parliamentary Commissioner for Human Rights in Hungary	
	Awareness raising project about children's rights	
Workshop C	Right to participate	Venue: President's Suite
Chair	Lena Nyberg	
Presentation	Children's Rights Ombudsman Institution of the Republic of Lithuania	
	Participation and the protection of children from violence in the media	
15.00 – 15.30	Coffee	
15.30 – 17.00	Chair: Kathleen Marshall	
	Feedback from Workshop Rapporteurs	
17.00	Close of Day	



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Annex 3: List of Participants