

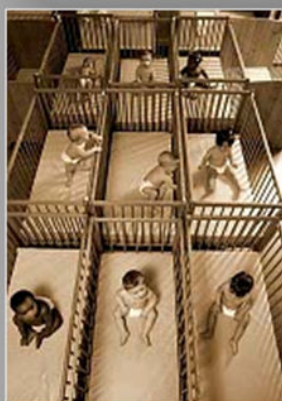
ENOC

European Network of Ombudspersons for Children

# ENOC Annual Conference

Warsaw, 14th – 16th September 2011

*“The respect of the rights of children and young people in institutional care”*



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# **“The respect of the rights of children and young people in institutional care”**

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## 1. Keynote speeches

### 1.1. Welcome

#### *Ms Patricia Lewsley, ENOC Chair*

The ENOC Chair, Ms Patricia Lewsley, welcomed all participants to the Conference- ENOC members, observers, international invitees but also representatives of the Government of Poland, and thanked the incoming Chair, Mr. Marek Michalak for the excellent organization of the ENOC Conference.



*Patricia Lewsley, Marek Michalak and Agnieszka Rolska*

Ms Patricia Lewsley pursued by presenting the main objective of this year’s annual meeting which is:

- To **analyse the situation of children and young people living in institutional care.**
- To **exchange on the main barriers and difficulties** that exist in ENOC member countries that prevent the guarantee of the same level of protection of the rights of children living in institutional care compared to those living outside the institutional context.

Ms Lewsley warmly thanked Mr. Marek Michalak and his staff for their kind hospitality and for the successful organizational arrangements.

#### *Mr. Marek Michalak, ENOC incoming Chair*

Mr. Marek Michalak welcomed the participants of the ENOC Annual Conference taking place in Warsaw, and expressed the hope that the three days conference debates will help all the participants to reach constructive conclusions. He then pursued by welcoming representatives of the Republic of Poland, Mrs. Anna Komorowska First Lady of Poland, Mrs. Katarzyna Hall-Minister of Education,



*Marek Michalak*

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Mr. Krzysztof Kwiatkowski -Minister of Justice, the Secretary of the State Prime Minister, and other representatives of the current Government of Poland. Mr. Marek Michalak reminded that Poland is the country of Janusz Korczak who (quote) “*understood children’s rights as nobody else*”. Reminding his deep respect for Janusz Korczak’s commitment to the cause of children, he underlined that Janusz Korczak should be a model to follow for Ombudspersons for Children. He informed the audience that the year of 2012 is going to be officially dedicated as “Janusz Korczak year” by Poland’s Parliament. The ENOC 2011 Annual Conference was all the more important because of the Polish Presidency of the European Council. The incoming Chair emphasized the importance of the adoption of the Third Optional Protocol by the United Nations for the implementation of a complaints mechanism in the frame of the UN Convention on the Rights of the Child. The CRC Committee was the last one to be provided with such a procedure. Mr. Michalak also added that his country has finally abolished in 2010 all forms of corporal punishment, and has thus joined a small community of countries that have already adopted laws in this sense. He insisted on the advocacy role of Ombudspersons for children to ensure respect of the rights of the child and stated that ENOC can help European countries that do not have such institutions yet and show them how they are important for democracy and for the rights of the child. Mr. Marek Michalak then introduced **representatives of the Polish Government.**



### ***Mrs. Anna Komorowska, First Lady of Poland.***

(A member of the government read a letter from Mrs. Anna Komorowska).

The First Lady of Poland greeted and congratulated ENOC members for their work all over the year and for having chosen to address the subject of children in institutional care in which she is thoroughly interested. Mrs. Anna Komorowska precised in her letter that without Ombudspersons for children’s involvement the UN CRC could not be promoted and therefore the rights of the child not efficiently safeguarded. “Sharing good practices and showing how independent children’s rights institutions’ work is important may and should encourage other countries to develop such institutional models in order to secure a better implementation of the CRC”, she said. Mrs. Komorowska congratulated Mr. Michalak for taking over the chairmanship of ENOC and ensured ENOC members that he would definitively be a devoted and dedicated Chair.

***Mrs. Katarzyna Hall, Poland’s Minister of Education.***

*Mr. Marek Michalak explained that the Ministry of Education is preparing on behalf of the Government Poland’s report to the CRC Committee.*

Mrs. Katarzyna Hall underlined that her ministry was very closely collaborating with the Polish Ombudsman for Children and has been working hard for a greater respect of children’s rights. She reported that the great work, and the positive results achieved over the years could not have been possible without a strong and meaningful cooperation between different Ministries dealing with children and children’s rights. Before becoming a Minister of Education, Mrs. Hall explained that she was in charge of Social Policy and Institutional Care which gave her one more reason to be thoroughly interested in the issue of children in institutional care. She then pursued by describing the situation in Poland where it has been decided to close down the big orphanages that have run before and to build small “homes” which look like family homes in order to create as much as possible an environment closed to the family environment, and where children are better looked after. Many of these homes are run by NGOs actively involved in children’s well being. The fact that children live in such “close to family” structures proved to have a beneficial effect on children in a sense that they adapt themselves much more easily to live in families. They are also better prepared for their future life and professional career since professionals working with them in these small homes structures have much more time and greater means to spend more time for educational but also for individual relationship purposes.

***Mr. Krzysztof Kwiatkowski, Poland’s Minister of Justice***

Mr. Krzysztof Kwiatkowski started his intervention by explaining that he is very keen to present a new good practice in the field of justice implemented in Poland and concerning children and young people... He then mentioned that the first thing he did as Minister of Justice was to read the criminal statistics. He was glad to see that criminality was decreasing in Poland, but the most disappointing point was that juvenile delinquency was increasing. He looked after the reasons to that phenomenon to find out why there is such a high level of juvenile offences. Children living in correctional facilities or in children shelters represent the majority of those children involved in juvenile criminality and once returned to the “normal life” they are prone to commit more crimes. The Minister of Justice wanted then to inquire what was wrong and where the resocialization process failed. What came out from the inquiry was that when those children are returning home nothing has changed, the social conditions in which their families are living are always dramatic and they could not find a job either. In this context the Minister, Mr. Krzysztof Kwiatkowski wanted to introduce a revolutionary change but to make this possible the Government has had to trust more in NGOs and in persons



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working with youth. The Government then decided to test a new project in a few cities/surroundings by setting up hostels for young people where they are living on their own and where they are taught professional skills. The next step to this project is that these hostels would be run by NGOs. The results of this program proved to be higher than expected by the government and the juvenile delinquency rate is decreasing. In fact, there is a failure of reintegration when those children are left alone with their problems. Then, Mr. Krzysztof Kwiatkowski thanked Mr. Marek Michalak for his work and his collaboration with the Ministry of Justice on this specific issue. He emphasized, in relation to last year’s Conference topic on relation between parents and their children, the importance for each country to ban corporal punishment. Finally, he expressed the hope that the Lanzarote Convention signed in 2007 on child abuses and sexual exploitation will be ratified by Poland after the elections. He also very much supported the adoption by the UN General Assembly of the Third Optional Protocol to the CRC establishing a collective complaints’ procedure to the CRC.

Mr. Marek Michalak on behalf of the Minister of Health added that the pediatric issue in Poland is getting better and better. The Health Ministry launched a new measure that secures regular annual checkup of all children in order to better take in charge those with mental health problems. On behalf of the Minister of Labor, Mr. Michalak underlined that the Ministry supports policies and campaigns combating domestic violence. This Ministry is also concerned by the situation of persons with disabilities. The Minister of Labor supports the ban of corporal punishment and is involved in improving families’ living conditions in order to avoid child placement.

### ***1.2. The Council of Europe Strategy on children’s rights***

*Ms. Lewsley thanked on behalf of ENOC Ms Regina Jensdottir, Head of the CoE program “Building a Europe for and with children” for her presence and for the CoE constant support to ENOC and its members.*

***Address by Ms Regina Jensdottir, Head of the CoE program “Building a Europe for and with children”.***

- The program “Building a Europe for and with children”

The program “Building a Europe for and with children” is a trademark, recognized as efficient by European institutions and member states. Throughout the transversal aspect of the program a wide range of legal instruments were prepared since its creation providing respect and protection for children’s rights. The program engaged prompt reforms which encourage governments and national authorities to change their way of acting.

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The program and its implementation mobilized and triggered collaboration with partners which reinforced its power of influence. A constant re-packaging and re-branding of our work is essential to make it more and more efficient.

- The Council of Europe Strategy on children’s rights (2012-2015)

The new strategy on children’s rights for 2012-2015 aims to determine the Council of Europe role and actions in the children’s rights field. The main objectives are to provide guidance, advice and technical assistance to member states in the implementation of existing Council of Europe standards and bearing in mind the inter-dependence and indivisibility of the rights of the child. In concrete, it would support the member states to devise and implement holistic children’s rights strategies and policies and to introduce a child-rights perspective in all Council of Europe activities, the so-called “mainstreaming” approach.

Throughout the platform the states could exchange views and practices in order to implement and evaluate the situation of children and the future challenges in the children’s rights field.

### 5 Strategic objectives:

- Support the member states in implementing standards, particularly through greater mainstreaming of children’s rights into the Council of Europe monitoring bodies;
- Promote child-friendly services and systems, with a focus on child-friendly health-care, child-friendly social services, child-friendly justice and family law and policies;
- Combat all forms of violence against children by promoting integrated national strategies against violence, raising awareness and taking action to counter sexual violence, corporal punishment, domestic violence, violence in schools and in cyberspace;
- Safeguard the rights of vulnerable children, such as children in alternative care, in detention, migrant, asylum seeking, refugee and internally displaced children and children with disabilities;
- Promote child participation at local, national and international level, including through education in democratic citizenship and human rights education.

A consultative group of 5 experts will be formed in order to collect information and good practices, and to analyze the situation of children in member states. They will give advice on the strategy that needs to be put forward in order to reach the objectives, and on the organization of the platform. Through the Council of Europe’s Platform on the Rights of the Child, all stakeholders will be able to share good practices and to evaluate emerging challenges in order to find solutions to them. They would help voluntary states to implement policies in favor of children’s rights. The CoE launched a consultation of external partners on the draft strategy which is ongoing. One of the principal partners of the CoE in this strategy is ENOC.

The Council of Europe Conference on the new 2012-2015 Strategy for the Rights of the Child will take place on the **20<sup>th</sup> and 21st November 2011 in Monaco.**



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- Children in institutions

Quoting a part of the UN CRC Preamble,

*“(...) the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.”*

Ms. Jensdottir stated that it is essential for children growing in institutional care to be trusted and on other hand to rely on adults looking for their well being. In this context, the participation of young people is important. They need to be listened to and consulted on all questions affecting them. In fact, life in those institutions implies the participation of young people who are the first concerned by decisions that are taken for them.

### International standards and guiding principles

- Council of Europe recommendation n°5 on the rights of children in residential institutions (2005)
- UN Guidelines on Alternative Care
- Quality for Children Standards

Ms Jensdottir explained that for the implementation of standards the CoE has been looking for partnerships. They produced a booklet named *“Children and young people in care – discover your rights”*. The CoE has given its support to the *“ONE in FIVE”* campaign to stop sexual violence against children and here it should be emphasized that the issue of sexual violence against children is extremely relevant for particularly vulnerable children as those living in institutional care.

### **1.3. The European Union Agenda for Children’s Rights**

*Ms Patricia Lewsley welcomed on behalf of ENOC Mr. Aleksandar Romanovic, a representative of the European Commission, Directorate General Justice who introduced the latest developments & initiatives of the European Commission in the children’s rights area.*

***Address by Mr. Aleksandar Romanovic, DG Justice, European Commission.***

Mr. Aleksandar Romanovic presented the EU Agenda for the rights of the child adopted in february 2011 by the European Commission. This document has been prepared after a massive consultation with different stakeholders amongst which ENOC but also individual Ombudsmen offices and the CoE. The EU Agenda for the rights of the child is a comprehensive document that contains a Plan for actions by EU member states for the next few years.

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Background: The Lisbon Treaty has already introduced the protection of the rights of the child in the EU. However, the Lisbon Treaty does not grant a general competence to the EU to act in the area of children’s rights which means that as such the EU doesn’t have an explicit competence in the child rights area. However, the EU Charter of Fundamental Rights which enshrines the rights of the child is legally binding for the European institutions and for the EU member states. But this text is not binding when there is no connection with EU law!

The EU Agenda provides specific guidelines for EU action and reflects the main principles of the UN CRC. It contains **eleven specific actions** where the EU can act either by itself or in cooperation with member states, NGOs, institutions and other stakeholders. The EC Vice-President Ms Viviane Redding was insisting on concrete actions which can deliver concrete results therefore the new Agenda is concrete and realistic. The Agenda focuses on three main areas which are “*child-friendly justice*”, “*protecting vulnerable children*” and “*promoting child participation*”. Efforts should be made to collect more data, more figures about the current situation in these main areas. “*Child-friendly justice*” is one of the key areas in particular when it is question to let children involved in criminal proceedings know their rights and the procedures to follow but also to offer them social and psychological support. The “victims’ rights package” that identifies vulnerable groups of child victims has been achieved in May, 2011. Another concrete action has been to create for international couples who divorce and in cases where one of the parents lives abroad, a system which allows maintaining fees and financial support for children that found themselves in such a situation. Another area of concern is “*children in vulnerable situations*”, they are more prompt to have school difficulties, health problems and lack of opportunities for their development. Are concerned first by this issue Roma children, children in institutional care, trafficked children, children with disabilities...etc.

The situation of children in institutions is rather a priority for EU member states but the EC is keen to promote a high quality of living conditions and standards in institutions and is doing so by providing funds to member states involved in the deinstitutionalization process.

The EC is hardly involved in the issue of runaway or missing children. The EC has put in place hotlines for missing children which anybody confronted to such a situation can call; parents can also receive emotional support. These hotlines are run by NGOs in seventeen member states, for that reason EC wants to pursue efforts to implement hotlines for missing children in all the 27 EU member states because their involvement is essential. Poland was one of the first states to put in place the hotline number.

In order to facilitate “*child participation*” and promote greater awareness of children’s rights amongst children themselves, the EC has created an Internet portal for children gathering child’s rights tools and materials that already exist. There is also a Justice website for children to be launched in November 2011. These portals use child-friendly languages and are translated in all member states’ languages.

On November 23<sup>rd</sup>, 2011, the 6<sup>th</sup> EU Forum on the Rights of the Child will take place in Brussels. Mr. Aleksandar Romanovic invited everybody to come to the meeting after the

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Monaco Conference in order to continue debates on children’s rights but especially on issues such as how to gather data, figures and indicators to assess the situation of children in EU countries.

### ***1.4. Respect/violation of the rights of children living in institutions***

***Address by Ms. Maria Herczog, member of the Committee on the Rights of the Child (CRC) and President of EUROCHILD.***



*Marek Michalak and Maria Herczog*

#### **1.4.1. UN CRC on violence and alternative care**

- The UN Study on Violence in 2006 had an impact on the implementation of the CRC, concerning alternative care (pp. 299, 5-59).
- Implementation Handbook on the Rights of the Child
- UN Guidelines on Alternative Care of Children (64/142, 24 Feb.2010)
- General Comment 13 (February 2011) on the Right of the child to freedom from all forms of violence

Ms. Herczog made reference to **Article 2** of the UN Convention on the Rights of the Child (UN CRC, 1989) which asks States Parties to respect and ensure the rights of the child *“without any discrimination irrespective of the child or parent’s race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. State parties should provide protection against discrimination”*

**Article 16** protects *“right to privacy, family and right to be protected by the law and the state”* and **Article 18** reminds that parents are the *“primary caregivers and they have the responsibility to ensure the proper upbringing and development of their children.”* State parties have to support in all possible ways parents to fulfill their tasks and provide the needed services and facilities to do so.”

She explained that **Article 19** specifies that States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical, or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. States have the responsibility to prevent, establish necessary services, provisions of detecting, reporting, referral, investigation, treatment, follow up, if necessary judicial involvement.

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### 1.4.2. Violence in alternative care/institutions

Ms Maria Herczog reminded that the placement of children into institutions is seen as a form of violence. What however remains crucial to reduce the harm that a placement causes to a child is to assess the placement measure, to review it regularly, and to maintain to the greater possible extent child's contact with parents, and to reinforce family support. In child care institutions there is very often an emotional abuse: children's needs are not seriously taken into account and it is essential to educate and rehabilitate those children. Children living in institutions bear a much higher risk of physical and sexual abuse or corporal punishment perpetrated by care takers, staff members and/or by children, themselves, in case of bullying. Ms. Herczog underlined that the special needs of groups of children which are highly vulnerable such as disabled children, children from minorities, refugee, unaccompanied or separated children need to be identified.

Analysis must be done concerning children under certain age (3, 6, 10 years old): what are they doing there, and why?

### 1.4.3. UN Guidelines for the Alternative Care of Children

The resolution was adopted by the UN General Assembly (64/142.) on February 24<sup>th</sup>, 2010 to support, monitor and evaluate the implementation of UN CRC.

- **B/13** explains that “*children must be treated with dignity and respect at all times and must benefit from effective protection from abuse, neglect, and all forms of exploitation, whether on the part of care providers, peers or third parties, in whatever case setting they may find themselves*”.
- **B/14**: “*removal of a child from the care of a family should be seen as a last resort and should, wherever possible, be temporary and for the shortest possible duration*”.
- **B/15**: “*financial and material poverty, or conditions directly and uniquely imputable to such poverty, should never be the only justification for the removal of a child from parental care (...) but should be seen as a signal for the need to provide appropriate support to the family*”.

### 1.4.4. General Comment no. 13 (April 2011)

“*No violence against children is justifiable, all violence against children is preventable*” (UN Study on Violence against Children)

The General Comment n°13 guides State Parties in understanding their obligations under Art.19 of the Convention to prohibit, prevent and respond to all forms of violence against children. Ombudspersons for Children should take all steps needed to monitor and follow up the implementation in all settings.

### **1.5. Message from Marta Santos Pais, United Nations Secretary-General Special Representative on Violence against Children**

Ms. Pais restated the importance of her partnership with Ombudspersons for children to conduct her mandate of UN SG Special Representative on Violence against Children.

Ombuds offices are also mandated to protect children from violence, *“helping to break the silence around*

*situation of violence, advocating for law and policy reforms to consolidate children safety and protection, undertaking research and above all standing leading institutions that children trust and approach”.*



Marta Santos Pais

Ms. Pais stressed that actions of ENOC and individual Ombuds for Children Institutions remain key references for her work.

Ms. Pais reiterated her request for support from Ombudspersons for Children in discussions concerning juvenile justice and concrete reforms aiming to make the justice system an equitable process for all children involved in the judicial system, whenever victims, perpetrators or witnesses. She congratulated ENOC members for highlighting the issue of **children in institutional care** which is really important and expects a lot from the results of the ENOC survey introduced at the 2011 Conference. Improving the respect and protection of children's rights in institutions remains a challenge for millions of children all over the world and particularly affects those from the most vulnerable groups. They are likely to be victims of violence in this context because of their weakness. She reminds that the risk of violence suffered by children in residential care is 6 times higher than for children in other forms of care. She denounced *“the poor living conditions, the inadequate care and the culture of impunity”* still relevant in institutions in charge of children. She declared that efforts are urgently required to improve the situation but for this it is important to provide support to families in need, to prevent children's separation from their parents and their placement in residential care.

*“It is critical to safeguard children's safety at all times, ensuring that children develop their full potential in the respect of their fundamental rights.”*

Ms. Pais talked about the global survey she is conducting on the implementation of the UN study recommendations (to protect children against violence) and to assess the progress achieved. She then asked interested ENOC members to respond to the survey she has shared with ENOC few days before the conference, concerning good practices to protect children against violence. The results of the survey will be presented in a report she is planning to

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submit to the UN General Assembly in 2012. Ms. Pais stressed out that it was also very important for her that the survey reflects the views of children and young people, which is only possible with the help of Ombuds offices, entitled to develop tools in which children trust.

### ***1.6. ENOC survey on children & young people in institutional care***

*Address by Ms. Ankie Vandekerckhove, ENOC expert advisor.*

A wide ENOC survey was commissioned to Ms. Ankie Vandekerckhove to draw up a report on the situation of children in institutional care in a number of European countries.

Andalusia, Bosnia-Herzegovina, Catalonia, Croatia, Cyprus, Denmark, Flanders, France, Ireland, Lithuania, Luxembourg, Madrid, Malta, Norway, Poland, Portugal, Serbia, Slovakia, Republika Srpska, Vojvodina, and Wales contributed to the questionnaire on the basis of which the ENOC expert draw up the main conclusions below.

The survey was based on rules and principles enshrined by the UN CRC, the UN Guidelines for Alternative Care for children (2010) and on national/regional legislation.

The main principles of the UN Guidelines on the Alternative Care for children served as guiding principles. Those are amongst others:

- Support for family environment
- Placement remains a last resort measure, and for the shortest time possible
- Respect for ALL the rights of ALL children during placement
- Legal support (guardian, lawyer...)
- Quality standards needed
- Complaint mechanism
- Deinstitutionalisation

The general impressions that arose from the survey related by Ms Vandekerckhove may be summarised as follows: there is a large gap between law and practice; lack of reliable data; lack of appropriate places & too many waiting lists; too vague legislation with discretionary powers; monitoring is often lacking for ‘voluntary’ placements. The respondents also reported on the interpretation of the ‘*best interests*’ principle which is somewhat problematic. They pointed out that family support during placement is often the exception, and an efficient and effective access to complaints’ mechanisms does not exist in most of the cases and it seems that parents’ rights are better protected than those of children.



Legal framework

Ms. Vandekerckhove came out with the conclusion that relevant laws do exist however they don't provide any practical details. The placement decision results from an assessment of the situation in which the child finds itself. In most cases however, the law states how, why and by whom the decision is taken. This is done most often by the court or a child welfare administration and is usually based on a thorough report on the child's living conditions and the possible reasons for placement. The reasons for placement are rarely mentioned in the law in detail. Several respondents say that the child is involved in the proceedings, but often this is a mere consultation only. Children do not have real decisive powers and cannot veto the placement decision. According to all respondents, child welfare authorities provide the necessary assessment. In most countries this is done by a legally mandated multidisciplinary team. A few respondents added that this assessment contains a description of the best possible type of care, but the reality shows that there is often a lack of available places that is why there are many waiting lists. Children mostly end up where there is a place and not where they should be placed. There is great variety of review systems. Most respondents refer to quality requirements in the law or regulations; only a few explain that these requirements do exist but that they are not binding. The majority of the respondents (13 out of 22) say that the national legislation refers to the UN CRC. In only ten states there is an explicit policy on looking for structural alternatives for institutional care.

Right to be heard

In her conclusions, the expert observed a great difference between law and its application in practice concerning the participation of children in the decision making process for their placement. Child's consent is often not required. Almost all of the responding states say that children are involved in individual care plan and in the reviewing process. Some countries have formally organized ways for children to participate in the decision making within the institution. This happens in the format of an 'assembly' or an association, an expression group, satisfaction surveys, suggestion box, structural resident's meetings or other methods. Some of these deal with important issues, such as defining the house rules.

Right to information

This right is not legally provided in all countries. Most of the time, the offered information depends on care providers. In some countries the implementation of this right is elaborated further in standards or rulebooks, and well executed in practice. Some mention child friendly versions of information booklets and materials. The responses of the Ombuds offices on the different types of received information vary a lot and it is hard to draw general conclusions on this issue. Most children are only informed about what will happen at the moment they arrive in the institution. Access to file is problematic, often limited or depending on age. Access to internet is limited because of limited financial resources but also because it may be harmful for children if there is not a permanent supervision.

Freedom of thought, conscience and religion is mostly respected but some practical issues on food and clothing do exist in some institutions depending on religion for example.

### Right to privacy and protection of family life

There are often clear rules on privacy within the institution linked to the house rules. All Ombudsmen responded that separation of siblings is avoided as much as possible. Communication and contact with parents is encouraged in most settings by telephone, regular visits, going home for the holidays etc... Where the law does contain a right to contact, it is usually only concerning the parents and close family and not other persons the child has a good relation with, such as friends, relatives, and others. Refusal of visit by the child is possible and restrictions on visits as sanction are not allowed. Adding to the protection of the child's privacy, most countries either have laws or deontological codes for the media: the identity of children in care cannot be revealed in the press.

### Right to health care

Health care is mostly guaranteed in all countries. Procurement of mental health care can sometimes be less evident due to lack of specialized staff or scarce resources, or the complexity of the problem or disorder, while in some countries health, including mental health is a priority. Some mentioned existing rules on initiative or consent by the child of a certain age (e.g. 15, 16) or the necessary consent needed from parents. A full choice or initiative by the child does not really exist in most countries.

### Social security

Twelve respondents confirm that children in care enjoy all social security and benefits while living in an institution. It is not always clear whether or how the parents remain eligible for the different types of social benefit, or whether the support is forwarded to the institution. Almost all ENOC members respond positively on the question whether children in care receive any pocket money.

### Right to education

All children placed in institutions in Europe continue to go to school; however, the placement does cause changes in their schooling career. They can make other choices, often towards more vocational schooling. Most children go to school outside the premises of the institution and try to integrate in the mainstream educational centers.

### Right to leisure and daily life

Within institutional life, necessary efforts are made to allow children to enjoy a range of leisure activities. Children in care live in a rather organized setting and daily routines. They often can spend their free time in clubs or organisations outside the institution. Restrictions most often have to do with financial barriers, or the need to ask for permission from the staff or with a parent's refusal for some type of activity. Most institutions have a system of living arrangements in different age groups. Some groups are kept rather small to imitate some kind of family life. As the children get older, they are often divided into living groups according to gender.

Post placement care

A comparison between the UN Guidelines and the reported answers shows that in the area of post placement care a whole lot of work still remains to be done. Too frequent lack of after-care, or rather poor quality of it, can even be considered as a violation of the best interest of the child. Whether the child has reached the age of majority or not, the reality in many European countries seems to be that they leave the institution with hardly any follow up or support at all. Some ENOC members report on good cooperation with social workers, on strong efforts to make a gradual familiarization with the new living arrangements, either back at home or in some type of independent living arrangement.

Protection from violence

Protection from violence and abuse is regulated in all countries, either by general or specific legislation, or by standards for behavior or guidelines. Some states have developed specific strategies, protocols or plans of action on this issue. While officially violence is strictly and explicitly condemned in most countries, the interpretation of ‘discipline’ can still raise questions. In many countries there is an explicit policy prohibiting all degrading, humiliating and violent punishment, but a certain amount of violence or restraint can be deemed necessary in order to keep staff and other children safe. However, few reported information on how this degree of ‘necessary restraint’ is used in practice and the referred standards are quite vague. Separation from the group or isolation is still allowed as a sanction in many countries.

Protection from discrimination: several ombudsmen report a certain overrepresentation of specific, socially vulnerable groups of children in our societies. Although the UN Guidelines reaffirm that *poverty or social vulnerability in itself cannot be a reason for placement*, children from such families still seem to form the majority in institutional care.

(Legal) aid and support: several systems do exist (lawyer, guardian, and legal aid centre) but access is not always guaranteed and there is not always legal aid in cases of ‘voluntary’ placement (parents as legal representative). In some countries, mostly in cases where the placement decision was made by the court, the child has some kind of legal capacity to contact the prosecutor or the court. In practice, most of the children in care still rely on the staff members, or their social worker, as their support persons (other than legal counsel).

Complaints procedure

Almost all Ombudsmen receive complaints from children in care. In some countries several complaints’ procedures exist, either internally in the youth care sector, or in public law and administration as well as within children’s ombudsman. Most offices are directly accessible for children and young people and some make extra efforts to make their services known in institutions, have workshops, meetings with children or visit institutions to get in touch with placed children.

Family relations

Even in institutional care parental authority often remains but with limitations (daily decisions). The respondents observe a lack of involvement of some parents. Most of the ENOC members state that different kinds of measures are being taken to keep the parents as involved as possible in the child's life, unless this would not be in the best interest of the child (e.g. in cases of severe abuse). Regulations on the child-parent contact exist in most countries, sometimes described as a right in internal legislation as well. In most states the support of the families continues during placement, even though most members admit that this is often far from satisfactory. This is due to lack of funding and personnel, a too heavy workload, and lack of parental commitment.

Role of Ombudsmen

The majority of children's Ombudsmen handle complaints from children in care, including investigation of the complaint, mediation, referral and/or advice. Some Ombudsmen also invest in other methods of contact with these children: confidential discussions and visits to institutions, training sessions on children's rights or as part of their monitoring competence in institutions. On a more structural level Ombudsmen can play a specific role as policy advisors, drafting recommendations, or conducting research to report on care settings, organizing campaigns. Added value:

- Combining individual and structural work
- Holistic children's rights approach
- Watchdog for vulnerable children
- Independent status and strong powers
- Awareness raising, campaigns
- Monitoring and reporting
- Informing the CRC committee

**2. Workshop sessions*****2.1. Liberties & protection***

The first workshop started with the presentation of two good practices by Hungary and Georgia. In her presentation, Ms Agnes Lux (Hungary) spoke about organized regular visits conducted by the Ombudsman office that aim to assess the situation of children living in institutions, working afterwards on shortcomings that have been detected during visits so that the living conditions of children in institutional care could be improved.

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The representative from Georgia presented the way how they approach and assess the situation of children living in institutional settings. At the initiative of Children & Woman’s Rights Centre of the Public Defender office a multidisciplinary team has been set up and given the task to carry out assessment and follow-up visits to all existing (children’s homes) children’s institutions countrywide. In this sense all the institutions that host out of family care children are being visited at least one per year and when possible follow up visits are being organized the same year if not the year after. Ms. Arganashvili reported that this practice was not put in place without resistance from some state care agents especially in cases where members of the monitoring team are conducting individual and confidential interviews with the pupils without the presence of a staff member of the institution. In some cases the access of the team to the institution was directly refused by the Director of the children’s home however thanks to the intervention of different ministries and of the Public Defender, the team has been able to carry out efficiently its mission. Ms. Arganashvili also spoke about the main outcomes that regularly came up from this type of visits and that concern the violation of basic children’s rights as the use of child labour for basic stuff like food or clothes, discrimination in the provision of care, lack of enough food or unhealthy food, lack of psychological and other support, serious gaps in the deinstitutionalization process, lack of post care supervision, etc.

On the issue of children in institutional care, the participants of the workshop debated on the role of Ombudsmen and the role of ENOC. They all agree to say that there is already a large number of international instruments on the issue and that it is the role of Ombudspersons for Children to use those instruments in order to make sure that the rights of children in institutions are protected and fully respected. The participants stressed out that they are all aware of the huge gap between law and practice. The role of an Ombudsman for children is to go beyond the law to see what is going on and report on what is really happening and turn those testimonies in policy recommendations. It was also mentioned during the workshop session the need for a training of people working with children, not only institutions’ professionals but also teachers and other people working with children that should give more space to children’s views and opinions. The majority of the participants agreed on the creation of a working group on “*children in institutional care*” to work on the design of an ENOC statement on the issue.

### ***2.2. Legalities & organization***

Mr. Mánuş De Barra, Ireland, has been appointed as a rapporteur of the second workshop on legalities and organization. He reported on the main discussions at the 2<sup>nd</sup> workshop by stating that the reality is that Ombudsmen have different mandates, functions and there are even differences in term of level of support. The discussions in this group could be divided in two categories: the first one on assessment and the options available to child care services and the second was on the broad issue of monitoring.

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Concerning the first one, there were five dimensions of this issue. First of all, how the best interest of the child can be determined. For that it is essential to take into account children's views at all levels of the decision-making process that affects them. The second dimension was about the interaction between families and child protection services. Everybody was agreeing about minimum intervention in family life but sometimes children are left in potential dangerous family situations. Participants of the group discussed models of approaches used to support families as much as it is possible. The third dimension concerned the difference of treatment of the different groups of children, amongst who Roma children or young children. Ombudsmen have to ensure that rights are acquired for all children and even especially for minority groups or vulnerable groups. The fourth dimension was about the use of the term “*voluntary placement*” and the fifth on legislation stating on financial support to families or parents' training courses.

Concerning the great issue on monitoring, this depends also on mandates and powers which are different according to members. Some institutions have not any monitoring role but Ombudsmen do have to control if government is fulfilling its obligations vis à vis the UN CRC.

They were all agreeing on earlier intervention in family context to avoid as much as possible the placement. They also think that it is important to take into account children's views in institutions and involve them as advisors to the monitoring mechanism, especially those who left the institutional care and have such experience.

Back in plenary session Conference participants discussed how ENOC could contribute and further work on the issue of children in institutional care. It has been once again confirmed that a special working group will be set up to work over the next year and to propose at the next annual conference a draft common statement on the issue. The Working Group should however use as reference documents different European and international documents and recommendations that set up the standards in the field of children living in institutional care i.e. Council of Europe recommendation on alternative care, UN Guidelines on alternative care etc.



### **3. ENOC business**

#### ***3.1. ENOC annual activities’ report (period October 2010-September 2011)***

*Presented by the ENOC Chair, Ms. Patricia Lewsley*

From October 2010 to September 2011, ENOC based its activities on the priority issues and objectives set up by its members and the Bureau at the last Annual Conference in Strasbourg:

1. The continuation of the ENYA project in order to strengthen children & young people’s participation in ENOC’s annual work and activities;
2. Discussion & elaboration of 4 Action Plans by ENYA aiming at a meaningful and sustainable implementation of the common ENOC/ENYA recommendations;
3. Discussion and elaboration of a position paper or recommendations based on the main findings of the ENOC survey on the situation and the respect of children/young people’s rights living in institutional care;
4. A closer partnership and collaboration with International and European organizations;
5. Improve ENOC’s financial capacity and ensure a better coordination & communication within the Network.

##### 1. Network of Young Advisors: ENYA

ENYA’s principal objectives are:

- The active involvement of young people and children in ENOC’s work.
- Make sure that children and young people are given the opportunity to be heard at a European level.

Through the 4 different topics of violence, education, health and the internet, young people debated the issues through the e-forum; identified key common issues on each of the them; elected representatives from each country to represent them at the Annual ENOC Conference in Strasbourg and finally, presented their proposals for action / recommendations to ENOC members.

The 2<sup>nd</sup> ENYA meeting took place on 25-26<sup>th</sup> July 2011, Belfast, Northern Ireland, United Kingdom where young people worked on 4 Action Plans for the implementation of a commonly agreed set of recommendations. 20 young advisors and 10 ENYA coordinators gathered in Belfast, with the participation of 5 Ombudspersons for children: Mr. Georges Moschos (Greece), Ms. Patricia Lewsley (Northern Ireland, UK), Ms. Leda Koursoumba (Cyprus), Ms. Maria Jesus Larios (Catalonia, Spain) and Ms. Emily Logan (Ireland).

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The thematic working groups met over two days on the 25<sup>th</sup> and 26<sup>th</sup> of July. The first day was mainly to prepare ideas to action the recommendations from the Strasbourg conference in 2010 and to select two young people from each group to present the findings at the ENOC Annual Conference in Warsaw. The second day of the annual seminar was dedicated to each thematic working group presenting their findings and answering any questions.



At the end of the meeting, each young person was asked what areas they would like to focus on for the next annual conference, after a number of ideas were put forward each young person filled out a voting slip and the votes highlighted 3 main topics:

- Discrimination
- Social networking / Facebook – pornography on the Internet
- Bullying – Media

### 2. Common ENOC/ENYA recommendations

These recommendations are available on the ENOC website. Two ENYA representatives from each out of the four working groups, and accompanied by a small number of ENYA Coordinators had been given the opportunity, during this 2011 Conference, to present the main work that has been done over the year and the main conclusions that came out from the ENYA Belfast meeting before a brainstorming on the future and the better management of the ENYA project is launched.

See below **3.5 ENYA’s feedback**.

### 3. ENOC survey on the situation and the respect of children/young people’s rights living in institutional care

The preliminary results of the ENOC survey on children & young people in institutional care have been presented by Ms. Ankie Vandekerckhove, ENOC expert advisor. All the participants, divided in 2 groups, discussed main findings that came out from the survey. In each workshop, 2 good practices directly related to the main issue have been presented by interested Ombuds for Children Offices.

These documents are available on the ENOC website.

### 4. A closer partnership and collaboration with International and European organizations

While reminding that ENOC has developed privileged partnership with many international and European institutions, Ms. Lewsley emphasized the necessity to strengthen those partnerships and to strengthen any further cooperation with other institutions and organizations working in the children’s rights field.

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Collaboration with the following organizations is continuing and reinforced:

- The European Commission in the framework of the European Strategy on the Rights of the Child and the EU Agenda for the rights of the child
  - The European Union Agency for Fundamental Rights (FRA): advisory body of the European Union. The FRA helps to ensure that fundamental rights of people living in the EU are protected.
  - The Council of Europe transversal programme “Building a Europe for and with Children”
5. Improve ENOC’s financial capacity and ensure a better coordination & communication within the Network

The fragility of ENOC in terms of financial and human resources is still relevant today. The EC funding to which ENOC applied for a 4<sup>th</sup> consecutive year has secured some security and increase in the ENOC incomes which allowed the Network to diversify its activities and to develop new projects, among which the most important one -the creation of the European Network of Young Advisors (ENYA). However the EC funding (co-funding) is operating at annual basis and is decreasing in terms of co-funding percentage. In addition, the procedure to follow for applying and reporting is complicated, long and time/human resources consuming. Therefore, ENOC is still looking for an alternative funding option that would secure permanent and longstanding operational budget.

In terms of communication policy, the ENOC Secretariat continues to play a crucial role in centralizing, collecting and dispatching internal to the Network information related to members’ news, activities, events, projects etc but also by serving as a reference point for external to ENOC partners. It also continues to prepare and publish on a regular basis the ENOC Newsletters and to communicate with partner organizations. The ENOC Secretariat with the support of CRIN is continuing to be in charge of keeping up to date the ENOC website, and had also participated to the creation of the ENYA Forum which is a closed forum linked to the ENOC website. However, ENOC does not have the necessary human and financial resources to develop a more sophisticated communication strategy.

### **3.2. Country updates**

*These documents are available on the ENOC website*  
<http://crin.org/enoc/meetings/index.asp>

### **3.3. Statutes & Standards ENOC Working-Group**

*The WG on Statutes & Standards have made 4 proposals for amendments to ENOC Statues established in 2006 in Dublin, Ireland. They were presented to ENOC members at the Conference and submitted to the vote of full members. The amended ENOC Statutes will be published on the ENOC website after formal registration of the amendments.*

### ***3.4. ENOC Working Group on Children’s access to justice***

*Address by the WG Chair, Ms. Leda Koursoumba.*

Ms. Koursoumba stressed that the working group (WG) could not meet more often because of financial difficulties and high amount of work at home for each of the members, but they met in Warsaw before the beginning of the Conference to give the final conclusions of their research. The first issue discussed within the WG was the optional protocol on complaints mechanism. The WG met last time in Geneva in December 2010 and the majority agreed to support the new Complaints Mechanism and especially the collective communication procedure.

Ms Leda Koursoumba talked about the recommendations the WG gave to the UN General Assembly to create a child-friendly system of justice. The final draft that has been adopted by the Human Rights Council did not include the provisions for the collective communication procedures which are more child-friendly provisions. The final draft will go to the General Assembly in December, 2011 and it is expected to be adopted as it now stands.

She then talked about the expectations the group has from ENOC member institutions. In this sense, ENOC members are strongly encouraged to campaign and to lobby their respective governments to sign the optional protocol. Ms. Leda Koursoumba also wanted to inquire whether ENOC members would be interested to participate in a seminar on the use of the new complaints procedure and on the implementation of the new optional protocol.

Another issue she mentioned is about the use of the Council of Europe mechanisms in the child rights field and stressed out that the help of Mr. Peter Newell and UNICEF can be extremely valuable in this respect. A handbook has been adopted last year on new CoE mechanisms and it is going to be diffused in a child-friendly form too. The expert will send an easy to fill questionnaire to all ENOC members to collect their views about the necessity to create a child-friendly handbook on this issue.

The WG was also interested in the CoE guidelines on child-friendly justice. They have been adopted by the Committee of Ministers and largely promoted but there is no CoE material to know how to use them. For that reason, the WG made proposals to member states for their implementation and how to improve states’ policies in this matter. The members of the group suggested writing those guidelines and proposals in a child-friendly form which would be useful for a wider use and better understanding.

It is important too, to assess how the UN CRC is used in national courts, if it is mentioned in national legislation or not.

The financial crisis is a great obstacle to children’s rights advocacy for that reason Ms. Leda Koursoumba suggested to ENOC to make a statement to appeal governments to prevent that the financial crisis has a negative impact on children’s rights. The abolition of children’s

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rights independent institutions incorporating them in general Ombudsmen institutions is a problem for the promotion of the rights of the child because the all the policies undertaken in this sense would suffer from current trends and systematic changes.

### ***3.5. ENYA: Feedback from the Belfast meeting (July 25<sup>th</sup>-26<sup>th</sup>)***

*Address by ENYA representatives and their coordinators*

#### **Recommendations/Action Plans on preventing violence against children**

*Address by Nikol Avraam from Cyprus & Ilias Bouras from Greece*



#### **Stop corporal punishment:**

- The Ombudspeople in collaboration with the young people must **develop and promote campaigns to stop corporal punishment.**
- ENOC should lobby for a ban through press releases and joined statements.
- The Ombudspeople should **promote research** on the issue of corporal punishment.

#### **Stop bullying:**

- Ombudspersons can propose **pre-service and in-service training** for professionals on children's rights.
- Ombudspersons individually or as ENOC can make recommendations to education authorities and education ministers to add children's rights issues to the education curriculum.
- Ombudspersons can recommend to the education authorities the **employment of counselors and psychologists in educational** or other settings that provide care for children.
- The Ombudspeople can promote codes of contact for all professionals when dealing with the young people.
- The Ombudspeople can support the young people through **peer mediation training** to become peer counselors and peer mediators for their peers.
- Support the school councils and the national youth panels in developing anti-bullying programs in their school.
- Ensure that young people are involved in developing anti-bullying policies.

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### Stop domestic violence:

#### Ombudspeople:

- They can develop campaigns to raise awareness of domestic violence and importance of positive parenting.
- Recommend to their respective authorities to develop and deliver positive parenting programs to parents.
- Cooperation with the media: Encourage positive reporting by the press, give presentations to media representatives and produce guidelines for media reporting on issues concerning children.
- Call for mandatory evaluation and monitoring of existing programs to ensure the quality and effectiveness of the programs. Good practices should be shared on national and European levels.
- Ombudspeople in cooperation with young people campaign for compulsory reporting of violence. Also, young people can have a campaign role to inform their peers of their rights to be protected from any form of violence and avenues of complaint.

### **Recommendations for an Education Plan in Europe**

*Address by Dejan Tatic from Republika Srpska & Anna Maria Poullou from Cyprus*



### Relationship between students and teachers:

- *Mediate*: most of the conflicts between students and teachers can be solved with a good mediation. Because the teacher refers to all the children, there has to be mediation facilitated with whole classes, not individual students. **We propose: Group mediated sessions with children and teachers at school level.**
- *Make possible to lodge complaints*: for a good evaluation and constantly improving system of education there is a need for efficient complaints mechanisms at school level, that should be available as much as possible to children. As to whether complaints should be anonymous or not it is up to the ombudsman and school authorities to decide (but after consultation with children & young people on the issue). **We propose: Create an efficient complaint mechanism that suits your criteria and needs.**
- *Becoming teacher should be something special*: since the school is our second home and the teacher becomes a role model like our parents - you should be demanding the same responsibility from our teachers as from our parents. When a teacher finishes school he/she should be ready for the task to shape young minds, which demands more social skills than knowledge about maths, geography, art etc. **We propose: Teach the**



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teacher for the job of an ombudsperson! Integrate social and communication skills into their curriculum. That is, at our opinion, more important than the knowledge what they teach about.

- *Make the teachers use games:* Games are natural to us children, if a teacher starts a class with a game he/she is automatically on our level of perception and we can accept him/her better. **We propose: Integrate games into school classes!**

### Teacher evaluation and retraining:

- *Make the students grade the teachers:* to have a good evaluation mechanism you have to ask children directly for their opinion on the teacher, skills being used, knowledge shared etc. We even propose to award the teacher who scores best in the evaluation. **We propose: Let children evaluate their teachers anonymously via intranet surveys, at least once a year.**
- *Re - train teachers:* after the fresh teaching skills learned and used for a while the teachers tend to “forget how to teach”. To prevent this process we (young people) think that teachers need constant re-training and learning of new teaching methods. When we say they need training we don’t mean knowledge from the school curriculum but skills to communicate with us. It seems that it is especially hard for teachers to “go in their knees and speak to us at eye level”. This issue is probably the reason for a numerous conflicts in the school; unfortunately, those conflicts are all disrupting the children’s education process. **We propose: Refresh and develop teachers’ social and communication skills frequently. Teach them how to communicate easily with children.**
- *Try out new things:* when it is possible for students/children to grade and evaluate their teachers it should be possible for them to teach. Let’s say that trained pupils teach their teachers social skills by giving them the chance to be on their place, the place of children in the education system. **We propose: Try changing roles of the students and teachers that should bring more understanding and tolerance for both sides.**

### Participation and equal opportunities:

- *Equal say:* sometimes it is better for the teacher and parents to decide for us children, but giving us the feeling that we are participating in the process of decision-making is much more effective to teach us democratic values and participation. So, even for the smallest decision about our education/school, try to find a mechanism to integrate us in the process of making the decisions that concern and affect us. You would wonder how likely we are to help you. **We propose: Make school policies respectful of children’s right to participate in decisions that matter for them.**
- *Help the student councils:* student councils are little ombudsperson offices for the students. They should bring the voice of children to the adult structure of the school and education system. It should be facilitated by law that any school must have its

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student council which is made up by the students and is working for them. **We propose:** Assist the student councils. Securing of small project funds for their ideas is a good opportunity for them. Help them when they can't get their say or if they can't do their work.

- *Form student council networks:* giving children the opportunity to cooperate is important for their own development of education. They can provide a lot of resources when they work together. **We propose:** Form student council networks on city, entity and country level.
- *Let their voice being heard:* Decision-making like in the government is maybe difficult, but it still needs creativity - something children do have! **We propose:** Give presidents of student council networks the chance to work on education policies together with the government.

### Our rights and child protection:

- *Teach us our rights:* The basic concept of a good citizen is an educated citizen, so we think that education in terms of human rights and the rights of the child is necessary for us. **We propose:** Integrate Human rights and the rights of the child in the curriculum.
- *Teach us taboos:* sexual-health education is, unfortunately much undeveloped in some parts of Europe. That issue has to be solved. Our proposal is to make it easy for us and let us learn from trained peer educators about taboo topics. **We propose:** Use peer education to teach children topics that are harder to teach by adults. For example: sexual-health, mediating conflicts etc.
- *If prevention fails...:* when you can't prevent a situation where children are victims of bullying or other forms of ignoring their rights, make “fixing the damage” as easy as possible.

### Recommendations on health

*Address by Eve Malcolmson from Northern Ireland & Antonia Markoviti from Greece*



Following the conference in Strasbourg, the Health group decided to focus on these two main areas of health:

- Mental Health
- Addiction
- Article 24 and 33 of UNCRC.

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- *Action One*: send to European institutions lesson plans based on best practices from member countries that can be used across Europe to educate about mental health. This is to be supported with a letter written by the Irish Ombudsperson for Children Emily Logan.
- *Action Two*: young people will set up a petition to promote awareness of the need for social education in all schools across Europe. This petition is also to be sent to the Relevant European and other institutions <http://www.ipetitions.com/petition/compulsorysocialeducation/>
- *Action Three*: young people will survey young people/their peers about mental health services in their respective countries and they will collate the information.
- *Action Four*: educating the Media about mental health; Young People have to contact local Media and Ombudsmen national Media.
- *Action Five*: Finnish Ombudsperson will keep ENYA and ENOC up to date with the change in law regarding advertising images promoting alcohol.
- *Action Six*: for Ombudsperson at a national level and young people should promote an understanding of the political process and voting.
- *Action Seven*: Ombudsmen should encourage national governments to consult young people on campaigns that show the long term impact of addictions.

### **Recommendations on Internet & the New Technologies**

*Address by Aleksander Strzelecki from Poland & Bernice Farrugia from Malta*



### **Article 17 United Nations Convention on the Rights of the Child:**

- We have the right to get information that is important to our well-being from different sources like radio, newspapers, books, internet, and other sources.
- Adults should make sure that the information we are getting is not harmful to us and help us find and understand the information we need.

### **CHILDREN:**

- Do not accept people you do not know.
- Do not give away personal information – protect your privacy.
- Report dangerous situations whenever you feel uneasy.
- Never meet people in person who you have met virtually.

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- Respect the image and data of other people.
- Think & consider before uploading materials concerning yourself and others.

### PARENTS:

- Communicate with your children without interfering with their privacy.
- Find alternative ways of spending free time with your children to prevent boredom and dangers that follow.
- Treat the meetings organized by the school seriously and with respect.
- Seek more information about the dangers of the internet.
- Do not ban the use of computer when not needed.
- Finally, lead by example.

### TEACHERS:

- Inform young children (aged 7 and above) about internet safety.
- Show students specific ways of seeking help.
- Include Internet safety in lesson plans.
- Cooperate in the workshops organized by the ombudspersons.
- Take every chance to talk to the students about the Internet safety.

### Other recommendations:

- Campaign led by young people: leaflets, billboards, charity events, access to Media (TV, radio, newspapers), CDs-videos with testimonies of victims handed out in schools, rolling boards, workshops, age-appropriate resources, private sponsors.
- Review, change and reinforce legislations: discussions ensuring participation of children and young people at a national and European level.
- Encourage collaboration between relevant stakeholders and website corporations and companies.
- Government should include internet safety in the curriculum.

The Young Advisors from the Internet Group presented video clips they created on the subject. They are available on the ENOC website.

### **3.6. Brainstorming on the future of ENYA**

After a pilot period of two years during which the ENYA project has gone through different stages the question that needs to be discussed by ENOC members is how ENYA should continue to function and what would need to be changed in the methodology but also what could



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reasonably be expected from ENYA in the future. The debates dealt also with the actions that need to be undertaken in order to give a meaningful follow-up of the work that has been delivered in 2011 by the ENYA advisors and reported by their representatives at the present Annual Conference. Aside from that the young people suggested and encouraged individual member institutions to undertake strong action and initiatives of promoting children's rights on the occasion of November 20<sup>th</sup>, 2011 and this idea was warmly accepted by the ENOC members.

The ENOC incoming Chair, Mr. Marek Michalak clarified the issue around the exact role played by ENYA vis à vis ENOC and reminded that ENYA is and remains an advisory and not a decision-making body. He underlined that ENYA represents a great opportunity for ENOC members to hear the collective voice of young people, and to make decisions taking into consideration the views of those primarily concerned, but also to promote children's empowerment.

Mr. Georges Moschos (Deputy Ombudsman for Children's Rights, Greece) first expressed his disappointment as regards the low attendance of this very important session and the discussions that will follow. He then stated that it is extremely important for ENOC as a collective body to listen to the views of children that represent different countries and not only at national level. He suggested that ALL ENOC members that are present in the room give their opinion on the subject. On this point, he delivered his brief contribution by specifying that his office is consulting at national level young people in their advisory capacity and this process is fundamental for the successful accomplishment of any Ombudsperson for Children's work. However, George is of the opinion that things change when the level of intervention changes. For instance at European level problems are much more present, and pursued that “higher they go, heavier it is on young people's shoulders what they are expected to do”. He is strongly for continuing working with young people and for continuing listening to their advice and opinions but for him this does not mean that Ombudspersons for Children should and will accept everything young people suggest to them. He also expressed concern as regards the physical presence of young people to all ENOC meetings and stated that young people may participate exceptionally and not regularly. But what needs to be done regularly is communicating on a regular basis with them through the e-forum. He is in favor of a more “lower” (restricted) level of participation and exchange between young people from different countries on issues they have in common which seems to be much more realistic.

Mr. Knut Haanes (Deputy Ombudsman for Children, Norway) contributed to the discussion by stating that the most fundamental and vital participation for him is the “domestic” (at national level) participation of young persons. He then reminded that his office is consulting young persons via focus groups where young people that have experience on problematic issues ex: incest, domestic violence etc. give a relevant feedback. In this sense, he underlined that it is important to have close and continuous contact with young people at national level. When it comes to consult children and young people at ENOC level, he is of the opinion that the internet means of communication between youth panel members in each member state should be dealt with in a more efficient and smooth way. Ms Maria Jesus Larios (Deputy Ombudsman for Children, Catalonia) contributed by saying that her office is really committed



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to the ENYA project and that this one gives a real value to the ENOC work. For this reason, she did agree that the ENYA e-forum needs to be activated and improved in order to facilitate the cooperation between young advisors. However, she expressed concerns as to the social composition of the ENYA board. She is convinced that young people participating at the meetings are those who have the greatest opportunities in life, that they are all very brilliant, they all speak English, but no one has particular experience in particularly problematic issues ex: abuse, violence, poverty etc. This seems to be a paradox in ENOC’s work, that’s why the network must find the way of consulting children and young people that have different and difficult background, which she recognized is not easy to be done but would give more legitimacy to consultations at this level.

Mr. Fredrik Malmberg (Ombudsman for Children, Sweden) agreed with previous speakers and especially on the point that children in difficult situations for instance children/young people or even very young adults in the justice system in Sweden could valuably contribute to a more constructive feedback that is expected from young people’s contributions and that the electronic communication system needs definitively to be improved. Ms. Tanja Opacak (ENYA Coordinator from Croatia), contributed by saying that it was a great experience for her to be an ENYA Coordinator and to participate together with members of the youth advisory panel of the Croatian Ombudsman for Children office to the ENYA project. When it comes to the weak points of the project Tanja is of the opinion that at the beginning the project was too ambitious by putting on the table four huge topics and that this created some frustration among the young people but also among the Coordinators. She then agreed with the idea that one but more focused topic would be enough to mobilize young people and they would be even more constructive in their feedback if the adults (Ombuds for children, Coordinators etc) secure a good and meaningful moderation without leading them in their discussions. Based on this, Tanja supported previous speakers’ view that the best option would be to invest in a strong and attractive ENYA e-forum. She also stated that young people do not necessarily need to be present at all ENOC meetings but on the contrary. Ms. Patricia Lewsley (ENOC outgoing Chair) offered to moderate the youth forum.

Knut however intervened by saying that ENOC should really discuss about the exact aims of the forum in order to avoid that it goes in the wrong direction or without any direction. Patricia took the floor by explaining that from the beginning the ENYA project is a pilot project which gave the opportunity to ENOC members to assess what worked and what didn’t work and she did agree that the project was too ambitious and the topics too many. However she added that what she received as a feedback from the young people was that they regretted the lack of connection with Ombudspeople which we tried to overcome by giving them the chance to participate in the ENOC annual meeting. She then agreed that one topic is enough and it’s good if this issue fits with our annual program, but Ombuds need to be clear on how can they advise us, in what way they do this and do they need to come to our annual meetings.

The ENOC Chair did not agree with previous speakers that young people shouldn’t participate in ENOC’s annual meetings, he is of the opinion that they should be given the opportunity to come to present their work, to ask and to respond to questions.



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George suggested that we open a part in the e-forum where everybody can upload basic but central information about the preparations at national level for the next annual conference where we can ask questions to young people regarding the main topic.

### ***3.7. Discussions and brainstorming about ENOC's 2012 activities***

#### Celebrating 20<sup>th</sup> of November

One of the proposals coming from the ENYA board was the suggestion to celebrate the 20<sup>th</sup> of November in all member countries and especially in schools. This proposal was warmly supported by the ENOC Chair who put the issue for discussion with the rest of the Network. On this issue, Norway expressed some reserves as in Norway celebrations of the 20<sup>th</sup> of November are organized by NGOs and not by the Ombudsman for Children office.



George supported however the idea that all ENOC members should bring the voice of ENYA advisors before their respective governments and require them to campaign, and to support celebrations of the 20<sup>th</sup> of November. The ENOC Chair reminded that it's not a question of competing with other organizations like NGOs or UNICEF but of supporting activities that aim to make visible what the celebrations are about. On the other side, Portugal said that they are celebrating children's day on June 1<sup>st</sup> and nothing is organized so far to celebrate the 20<sup>th</sup> of November. Fredrik, from Sweden, contributed by saying that he is very often asked by schools to celebrate the anniversary of the CRC in the schools, but at his opinion, schools should speak about the CRC and the CRC should be constantly present and referred to in the daily school life and not just during one day celebrations. He believes that it's not this way that significant progress could be achieved.

The ENOC Chair reported that the most frequently mentioned topic is the one of children in the justice system. On the other hand, Knut put on the table the issue of violence against children and the ban of corporal punishment given the fact that 11 ENOC members have not abolished yet corporal punishment. Mr. Peter Newell reminded the Assembly of the 2003 ENOC's position paper on juvenile justice and the age of criminal responsibility and he said that it's not sure that today everybody would agree on what has been stated by ENOC back in 2003. He also stated that at the current stage not everyone would have probably agreed with that document given the complexity of the issue but also because the terms of the position paper were very strong. He then reminded Thomas Hammarberg's view point on the age of

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criminal responsibility published 2 years ago and inspired by the ENOC position on the issue. Scotland would particularly welcome any discussion around children in the justice system especially because in Scotland the ACR is only 7, same for the Northern Ireland where the ACR is 10. George required clarification as to the scope of the subject and whether the upcoming work on it would cover all aspects of the justice system or will be narrowed. Tam is suggesting that ENOC explores the situation of children in the penal system.

Leda suggested that the situation of the child in the whole justice system, penal, civil, administrative is accepted as such now and give some space to the WG to narrow the subject.

### 3.8. General Assembly meeting

*The minutes of the meeting are available for ENOC members upon request. Please, email the ENOC Secretariat.*

Following General Assembly discussions, ENOC proceeded to the vote and election of the new Bureau.



*Leda Koursoumba, Marek Michalak, Patricia Lewsley and Edita Zobiene*

Members were invited to express their interest for the positions of Secretary and Treasurer for 2011-2012 and for a Chairperson for the period of 2012-2013. There was one candidate for each of the three positions and the following members were unanimously elected: Cyprus was elected Chairperson-elect. In addition, Belgium (FR) and Lithuania were invited to stand again for election for their respective positions: Belgium (French community) was elected Secretary and Lithuania was elected Treasurer.

The Bureau is therefore composed of:

- Mr. Marek Michalak (Poland): current Chairperson (2011-2012)
- Ms Leda Koursoumba (Cyprus): Chairperson elect (2012-2013)
- Ms Patricia Lewsley (Northern Ireland / UK): outgoing Chair
- Mr. Bernard De Vos (Belgium-French community): Secretary
- Ms Edita Ziobiene (Lithuania): Treasurer

In addition to that, the General Assembly decided to put on the top of the ENOC 2012 agenda the topic of ***justice administration*** (children in the justice system).

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**ENYA**

**Internet & New  
Technologies**

**Health**

**Violence**

**Education**

**ENOC Network  
of Young  
Advisors**



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