

ENOC

European Network of Ombudspersons for Children

ENOC Annual Conference

Nicosia, 10-12 October 2012

“Juvenile Delinquency-Child Friendly Justice, Structures and Processes for Prevention and Intervention”



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“Juvenile Delinquency-Child Friendly Justice, Structures & Processes for Prevention and Intervention”

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1. Keynote Speeches (Day1)

Welcoming Address

Ms. Leda Koursoumba, ENOC Chair elect and host Commissioner

The ENOC Chair Elect welcomed participants and expressed her satisfaction that the 16th ENOC Annual Conference has been accredited as an event under the auspices of the Cyprus Presidency of the Council of the EU. She underlined that the Conference theme falls within the scope and current framework of the EU Agenda for children’s rights and current EU Presidency priorities. The issue of respect for the rights of children in conflict with the law and a ‘child friendly justice’ approach are concerns that remain high on the agenda of the 42 independent children’s rights’ member institutions.

Ms. Koursoumba noted that all child rights- related international instruments are underpinned by a body of evidence which established that “young offenders are more likely to be under-socialised individuals-still **children with rights, requiring help and guidance**”.

Ms. Koursoumba presented the main themes of the two-day conference highlighting discussions around the development of policies and programmes that can contribute to the reduction of the number of children who find themselves in conflict with the law, on special prevention and intervention programmes for children falling into the high risk categories and about how a child-friendly justice system can better serve the best interests of the child.

The full text of the speech is available at <http://crin.org/enoc/meetings/index.asp>



Ms. Leda Koursoumba

1.1. “Child-friendly justice, a promise and a challenge” by Mag. Renate Winter

The ENOC 16th Annual Conference had the honour to welcome Mag. Renate Winter, former Chair of the International Association of Youth & Family Courts Judges and Magistrates, judge at the Special Court for Sierra Leone and a recognized expert on family law and juvenile justice systems.

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In a very inspiring speech, Ms. Winter talked about her own experience of being a judge in a youth court and of having worked on projects involving children and young people. In her presentation, Ms. Winter focused on a number of issues that can be summarized as follows: the need to avoid bringing a child before justice whenever possible; the availability (in law and in practice) and effective use of diversion and alternative measures to judicial procedure and imprisonment; awareness raising and information campaigns for politicians, the general public and for professionals about the inefficiency of detention measures in terms of reducing the level of criminality in children and adolescents, including the financial impact of detention measures on States’ budgets and the use of alternatives which are not ‘soft’ punishment but a pedagogic answer to deviant behaviours; pedagogical information campaigns; availability in



Mag. Renate Winter

the law of broadly defined tools that give enough room to competent authorities to find appropriate solutions; training of professionals (prosecutors, judges etc.) when specialized juvenile jurisdictions are not available; the need to establish and communicate within a network of stakeholders (social workers, probation officers, foster parents, mediators, etc.) for implementing diversion and alternatives to imprisonment; the use of restorative justice programmes; and many other measures that should all be guided by the principle of the best interests of the child.

The full text of the speech is available at <http://crin.org/enoc/meetings/index.asp>

1.2. “Juvenile Justice and Children’s Rights” by Kirsten Sandberg

Ms. Kirsten Sandberg, a member of the UN Committee on the Rights of the Child and a professor of law at the Department of Public and International Law at the University of Oslo (Norway), spoke about legal frameworks and international standards in juvenile justice. Ms. Sandberg described Committee engagement through the concluding observations addressed to States under review, where the Committee expresses concerns and may address recommendations; and General Comment n°10 on Juvenile Justice, where the Committee set standards, i.e. a juvenile justice system in line with the CRC, prevention, alternatives measures to judicial procedures, etc. Reference was also made to other leading international standards such as the ‘Riyadh Guidelines’, the ‘Beijing Rules’, the “Havana Rules”, etc.

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Ms. Sandberg enumerated the main concerns that the Committee on the Rights of the Child repeatedly address in the concluding observations: insufficient child protection systems, age issues (minimum age of criminal responsibility too low), detention instead of restorative measures, lack of legal safeguards, deprivation of liberty (too long periods, violence, poor living conditions, no education, no monitoring mechanisms available), and no rehabilitation. Ms. Sandberg stated that the main obstacles faced by States relate to the lack of understanding of the importance of prevention measures; to the fact that persons below 18 are still children and therefore entitled to rights; to the advantages of restorative measures; to the lack of qualified and trained personnel; and to the lack of political will. Ms. Sandberg concluded by making an appeal to governments to raise the minimum age of criminal responsibility, to treat persons below 18 according to their age and separately from adults, to invest in training programs for professionals dealing with under-18s, to avoid pre-trial and detention, to improve conditions in detention, to ensure legal safeguards and to use restorative justice.

The full text of the speech is available at <http://crin.org/enoc/meetings/index.asp>



Ms. Kirsten Sandberg

Opening Address by Marek Michalak, ENOC Chair, Ombudsman for Children, Poland

Mr. Michalak welcomed all the participants of the 16th ENOC Annual Conference, which also marks the end of his chairmanship of ENOC and the handover to the next chair, Ms. Leda Koursoumba. He then presented the main achievements during his chairmanship which can be summarized as follows. Throughout 2012, ENOC and ENOC members had the chance to work through different channels on the issue of the rights of children in conflict with the law. In this context, ENOC launched a comparative study collecting and combining relevant data from



Mr. Marek Michalak

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ENOC member institutions, the preliminary results of which will be presented by the expert during this Conference. The ENYA project continued operating for a third consecutive year and for the first time ENOC had the opportunity to hear the voice of disadvantaged groups of children, especially those coming from institutional care and juvenile justice systems. ENOC encouraged the signature and ratification of the new OP to the CRC providing for a communication procedure and engaged with lobbying initiatives to convince respective governments-- and especially those that seem hesitant--to sign this new instrument. In the same vein, ENOC engaged in training activities, organizing in the Spring of 2012 a training workshop on European and International (judicial and quasi-judicial) mechanisms for the redress of children's rights violations. As every year, the ENOC Bureau has been inundated by a large number of invitations for participation in European and international initiatives and events in the children's rights field, to which the Bureau endeavours to respond positively whenever possible.

1.3. *“EU Agenda on the Rights of the Child: state of play on child friendly justice”, by Emmanuel Crabit¹*

ENOC had the opportunity to welcome a representative of the European Commission to present the Commission's priorities, actions and achievements in the field of children's rights. Mr. Crabit first introduced the legal framework that directs the Commission's action in the area of the rights of the child. The Lisbon Treaty and the EU Charter of Fundamental Rights put children's rights at the heart of EU's objectives. The EU Agenda for the Rights of the Child, adopted in 2011, set a number of priorities, among which is the necessity to adapt the justice system to the needs of children. Mr. Crabit talked about the progressive mainstreaming of the rights of the child in EU policies as an ultimate objective, in order to make sure that all EU policies comply with the EU Charter. He gave an example of a recent legislative work: the adoption on October 4th of a Directive establishing 'minimum standards on the rights, support and protection of victims of crime', which established that 'children's best interests' should be a primary consideration in criminal proceedings. The Directive also requires a 'child sensitive approach' in criminal proceedings where children are involved in one way or in another. As a second priority, Mr. Crabit spoke about the need to promote the collection of reliable and comparable data, citing a recently launched EP-EC two-year study (September 2012-2014) to collect data on children's involvement in judicial proceedings in the 27 Member States and Croatia. Similarly, in July 2012 the Commission launched a study to collect data on missing children across the 27 Member States, including causes for their disappearance and the follow-up given to their cases.

Concerning different EC funding opportunities aiming to promote child friendly justice, Mr. Crabit explained that under the Fundamental Rights and Citizenship Programme attention will

¹ *Head of Fundamental Rights and Rights of the Child Unit, DG Justice, European Commission*

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be paid to projects developing and delivering training modules on CFJ² for practitioners, to projects aiming to inform better citizens about available and structured complaints' bodies and mechanisms, and to the development of a so-called 'admissibility check list'. The DAPHNE III program continues to support transnational projects that combat violence against children, young people and women. The new FRC³ programme for the period 2014-2020 will provide the same type of financial support to potential beneficiaries and in the CFJ field, additional funds will be made available through the new justice programme.

Concerning awareness raising, information and child participation programmes, Mr. Crabit reminded the conference that in 2011 a specially designed website for children called “Kid's Corner” (<http://ec.europa.eu/0-18/>) was launched in 27 languages on the EU website. He also informed participants that, with the support of the EP, the Commission is about to launch a study to map legislation, practice and policies on child participation in all EU member States and Croatia.

Mr. Crabit concluded by stressing the importance of the Commission's dialogue and partnership with different stakeholders, including ENOC and individual Ombudspersons for Children Offices, focusing on their extended experience in 'the rights on the ground', and describing ENOC as a crucial partner for sharing reliable and field-based information.

The full text of the speech is available at <http://crin.org/enoc/meetings/index.asp>

1.4. “Child Friendly Justice in the EU: collecting the data”, by Ioannis Dimitrakopoulos⁴

Before presenting the work of the FRA⁵ in the Child Friendly Justice (CFJ) area, Mr. Dimitrakopoulos talked again about one of the main objectives of the EU Agenda for the Rights of the Child, which is to make the justice system more child friendly. He also invoked the Council of Europe (CoE) Guidelines (GL) on CFJ which are a practical tool to adapt judicial and non-judicial systems to the specific rights, interests and needs of children. Mr. Dimitrakopoulos spoke about another key element in the justice proceedings, stating that, while child participation is a crucial element, the question is how this can be best applied in practice. He reiterated the main points of the scope of application and the principles embedded in the CoE Guidelines on CFJ: best interests of the child, non discrimination, right to be heard and to be informed, respect to privacy and special protection measures, right to a lawyer and to quick decisions, the need to train professionals to fulfill these rights, etc. In regard to scope, the Guidelines apply to children in conflict with the law, victims, witnesses or children involved in any other way with justice procedures.

² CFJ for Child Friendly Justice

³ FRC for Fundamental Rights and Citizenship

⁴ Head of Department Equality and Citizens' Rights, EU Fundamental Rights Agency

⁵ FRA for Fundamental Rights Agency

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Focusing on the work of the Agency, in 2012 the FRA began work on a project looking at the treatment of children in EU justice systems. The research will identify forms of child participation (practices and procedures) in justice proceedings, as well as collecting promising practices, initially in 10 Member States. There will be also an assessment of the implementation of the CoE Guidelines on the ground. Mr. Dimitrakopoulos restated the role of the Agency, which is to collect and analyze data and to provide assistance and expertise to member States about how to improve the situation, using an evidence-based approach. He continued by stressing that this approach requires data regarding the level of involvement of children in judicial proceedings. The project itself is mainly based on interviews with professionals who work with children (judges, prosecutors, lawyers, guardians, mediators, social workers etc.) and with children who have/had experience in judicial proceedings. There will be 50 personal interviews and 2 focus group interviews per member state. The issues that will be covered by the fieldwork interviews are all covered by the CoE Guidelines on CFJ and include, among others, the right to non-discrimination, to information, to be heard, to protection and safety, etc.

The full text of the speech is available at <http://crin.org/enoc/meetings/index.asp>

1.5. « *European responses to the treatment of young offenders* », by Cédric Foussard⁶

“2012 is an important year for the subject of Juvenile Justice,” said Mr. Foussard, reminding the audience that for the first time since the European Commission started working on children’s rights issues (and strategy) with the 2006 adoption of the EU Agenda for the Rights of the Child the EC has, in 2012, focused on the subject of child friendly justice. Many other organizations, including ENOC, followed this trend, dedicating 2012 to the issue of Juvenile Justice. After recalling the main international standards and relevant CRC provisions, Mr. Foussard focused on the issue of detention conditions for juveniles.

He first enumerated 12 main points/indicators: a sort of checklist to help assess whether standards on detention conditions are respected or not, before enumerating the same number of challenges.

The twelve main points are: rehabilitation and reintegration should remain the main purpose of a detention measure, the last always requiring a regular review of the sentences; separation from adults and from the opposite sex; decent and adequately assessed living conditions; maintaining contact with the outside world and especially, whenever possible, with close family and other siblings; access to appropriate health care services; access to education, vocational training and labour opportunities, i.e. adapted education and vocational training to help future employment; exercise and recreational activities; freedom to exercise religion and/or culture; full administrative records for admission and registration; disciplinary measures that do not comprise the physical or mental health of the child; available and fully

⁶ Director International Affairs, International Juvenile Justice Observatory (IJJO)

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accessible request and complaints mechanisms; and professionally trained staff in detention facilities.

As to the main challenges, Mr. Foussard spoke about: the lack of available and reliable data and statistics; the lack of specialized juvenile justice systems; the increasing number of children in detention, demonstrating a punitive approach rather than using alternatives to detention; poor living conditions in detention facilities; poor healthcare services; special focus on the treatment of young girls, very often detained with adult women; lack of social reintegration programmes and services; lack of monitoring mechanism; wide spread violence in detention facilities; low priority of this group of children on the national agenda; inadequate staffing; and lack of inter-institutional communication.

Mr. Foussard concluded his presentation by inviting ENOC members to participate at the upcoming IJJO's Annual Conference dedicated primarily to the impact of the economic crisis on juvenile justice systems.

The full text of the speech is available at <http://crin.org/enoc/meetings/index.asp>

1.6. *Presentation of the Annual Activities of ENOC, by Marek Michalak, ENOC Chair, Ombudsman for Children, Poland*

The ENOC Chair introduced and spoke about the main activities that have taken place during his chairmanship, from September 2011 to October 2012. He first stated that for the fifth consecutive year the ENOC application for funding under the Fundamental Rights and Citizenship Programme of the European Commission was successful. Based on this, the entire 2012 ENOC programme was developed around the strategy put forward in the funding application. He then went through the different initiatives that took place in 2012:

- The **ENYA** project has continued but the approach has changed. The social composition/representativeness of the young advisors has been reviewed and young people with experience in the care and in the juvenile justice systems have been given the opportunity to participate, along with young people with more general experience. They all had a chance to exchange views via the e-forum before meeting at an ENYA Seminar at the end of August in Warsaw.
- **ENOC study on Juvenile Delinquency (JD)**: Mr. Michalak reminded the audience that the GA decided at the last ENOC Annual meeting that ENOC would focus in 2012 on the issue of **juvenile delinquency**. Under the proposal of the WG on JAC (Justice Administration for Children), Ms. Nevena Vuckovic Sahovic, independent expert advisor, was approached to prepare a questionnaire on the issue, guided on the content by the WG on JAC. The main findings of the ENOC study on JD (answered by 22 member institutions) were presented in detail by the expert, Ms. Sahovic.

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- The ENOC Chair noted that two thematic groups have been operating throughout the year: one on justice administration for children, led by Ms. Leda Koursoumba, and one on children in institutional care, led by Ms. Edita Ziobiene.
- In the spring of 2012, ENOC organized a training workshop on legal advocacy and the use of human rights mechanisms to pursue persistent violations of children’s rights, kindly hosted by the Dutch Ombudsman for Children’s Office in The Hague. The training was specially organized for legal advisors or staff members dealing with complaints at a national level within ENOC member countries and brought together around 20 participants. Three main European and international complaints mechanisms have been presented in detail: one before the European Court of Human Rights, one before the European Committee on Social Rights, and one, that is not yet in force, before the CRC following the adoption of the new Optional Protocol providing for a communication procedure.
- The ENOC Chair stated that, throughout the year ENOC received a large number of invitations to participate in different international and European initiatives and events. Bureau members shared responsibility, participating in those most relevant to ENOC. In addition, the ENOC Chair paid a visit to Ukraine to provide support and expertise for the strengthening of the newly established institution of the Presidential Ombudsman for Children.
- The ENOC Chair also reported on the accession to ENOC of four new members (see the full list of ENOC members on www.ombudsnet.org), and about the reassessment of the ENOC website. He drew the attention of members to the fact that the ENOC website is still not sufficiently used, due to the lack of up to date information provided on a regular basis by members. He invited all ENOC members to be more active, either uploading activity updates themselves or communicating them to Polina.

1.7. *Presentation of annual activities by ENOC Working Group*

- WG on Justice Administration for Children, by Leda Koursoumba, WG Chair

Ms. Leda Koursoumba presented the work done over the year by the WG on JAC. She first reminded the audience that the WG on JAC is not a newly established WG, but an evolution of the previous WG on Children’s Access to Justice, which has been operating for a couple of years. The first objective of the WG on JAC was to set up the Terms of Reference (ToR) in accordance with the ENOC Bureau thematic priority for 2012. At the first Bureau meeting in January 2012, the Bureau decided that in 2012 the WG on JAC should focus specifically on the subject of juvenile delinquency. Ms. Koursoumba reported that the WG held a meeting in February 2012 in Athens, where WG members set the ToR and discussed and decided how

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the theme of JD could be better approached. The WG proposed Ms. Nevena Vuckovic Sahovic as the expert who will translate ideas into a list of questions that will elaborate on an ENOC survey on the same issue. Ms. Koursoumba further reported that the WG will also develop a set of questions on JD submitted for discussion by ENYA participants on the e-forum. Last but not least, the WG prepared the draft statement on JD based on the draft survey on the same issue and taking into account as much as possible ENYA's views on the subject matter.

Ms Koursoumba concluded by saying that in 2012 the WG met the Bureau's expectations in terms of the work done and outcomes achieved, and made two concrete proposals to improve the work and the efficiency of the working groups. First, she suggested that the WG should, if possible, be chaired by a member of the Bureau as there is better coordination and communication when this is the case. Secondly, she emphasised that participation in a WG requires both readiness and availability to work with tight deadlines, even when national priorities are pressing; therefore Ms. Koursoumba proposed that ENOC members should have this in mind when they respond positively to a call for participation in a WG.

- WG on Institutional Care, by Bernard De Vos, WG Member

Mr. De Vos first reported that the WG has not met physically; all of the work has been done by exchange of emails. He then presented the draft statement on children in institutional care based on the outcomes of the ENOC 2011 study on the same subject and on young people's views expressed through the e-forum and at the ENYA Warsaw meeting at end of August, 2012. Before speaking about each of the 11 recommendations of the statement, he presented a few key facts that came out of the research and consultation with children. First, he spoke about the real and serious gap between law and practice concerning the situation of children living in institutional care, underlining that this gap is particularly striking with regard to the child's right to participate. He also enumerated a number of problems relating to the lack of appropriate, good quality residential institutions, the lack of systematic and periodic review of placement decisions, the lack of complaints procedures against placement decisions and the vague definition of what a 'child's best interests' are in such situations, etc.

The draft statement was further discussed at the Conference where it was agreed that Mr. De Vos, together with a few volunteers, will re-work some of the provisions of the statement before its official release.

- WG on ENYA, by Patricia Lewlsey, WG Chair

Before presenting the findings of this year's ENYA Seminar in Warsaw, Ms. Lewsley first attempted to reflect on the general purpose of ENYA. She reminded the conference that ENYA was established as a way to obtain the views of children and young people on core issues across the work of ENOC. An E-forum has been set up to help ENOC gather these views as the first stage of consultation and participation work. Over the years, this model of participation has been refined and redeveloped in order to meet young people's and Ombudspersons' expectations. This year, ENOC focused on topics that the YP discussed:-

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juvenile justice and children in institutional care, in order to streamline ENYA’s work with the topics Ombudspersons are focusing on as part of the Annual Conference.

Another key issue in 2012 was encouraging young people who have direct experience of the justice system and institutional care to take part in the process.

Having briefly presented the level of participation from young people on the ENYA E-forum, Ms. Lewsley spoke more in detail about the two ENYA groups that met in Warsaw and about their findings.

Concerning the **Juvenile Justice Group**, Ms. Lewsley reported that young people in this group have identified five core issues put forward for discussion. 1) **Play & leisure**: one of the causes of law-breaking behavior identified by YP was having a lot of unsupervised free time with nothing to do. Being bored and unsupervised puts YP at high risk of involvement in antisocial or unlawful activities. 2) **Training for professionals** working with this particular group of children, as very often these professionals have neither the knowledge nor training for work with YP. 3) **School** has been identified as being the best and the second most influential place for early prevention and intervention activities. 4) **Combating discrimination against and marginalization** of certain groups since these phenomena make them more vulnerable to antisocial behavior which can lead to criminal behavior. 5) **Criminal record, custody and age of responsibility**--all participants agreed that having a criminal record harms YP and limits their chances for future reintegration into society, for future employment, etc. YP suggested that no one under the age of 18 should have a permanent criminal record. They also suggested that countries should raise the age of criminal responsibility as high as possible, 18 being their first choice.

Concerning the **Children in Institutional Care Group**, Ms. Lewsley talked about the five core issues identified by the group and reminded the conference that there were young participants with direct experience of the issue. 1) **Trust and social environment**: the YP discussed at length the need for social workers to be appropriately trained, open-minded and approachable, but also to be encouraged to stay longer in their positions so that they could provide continuing stability to children/YP they work with. 2) **Personal, social life and leisure**: a lot of information has been exchanged about this issue, but the YP commonly observed that there is a need to preserve YP’s personal and social life as much as possible and for them to be given access to a wide variety of leisure activities. 3) The need to have access to **family, friends and to information**. 4) **The Care system and crime**: children in institutional care are not necessarily more likely to break the law than those who live outside; however, young participants agreed that children in care may be more susceptible to negative external influences due to instability in their lives. 5) **Aftercare**: YP agreed that it is important that children are prepared both practically and emotionally for transition out of the care system to enable them to go on to live independent lives.

Ms. Lewsley informed the conference participants that a full report on the ENYA Warsaw meeting has been prepared and is available to those who are interested in the discussions and

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conclusions on the two topics. The report also contains the coordinators’ meeting evaluation and observations about the participation process.

2. Presentation and interactive discussion on proposed thematic activities of ENOC members (thematic workshops-updates)

Following discussion during the 15th ENOC Annual Conference in 2011 in Warsaw, it was decided to change the way ENOC members present their country updates. Instead of having a few minutes to present their annual activities, ENOC members have been invited to pick up one or more thematic issues on which they have been active throughout the year. The different proposals have been thematically organized in the format of workshops. Overall, there have been three workshop sessions, each session containing three parallel thematic workshops.

2.1. *1st session: health, child friendly justice and participation*

Three thematic workshops took place during the first session.

In the workshop related to the general topic of health or respect of the right of the child to health care, four ENOC member institutions presented recent work on the issue. **Slovenia** talked about ‘the circumcision of boys for non-medical reasons’; **Georgia** presented the situation of ‘children with disabilities living in residential homes’ where their medical status and health care remain fragile; **England** talked about ‘mental health and well-being in youth secure estate/prisons’; and Malta about MCAST material to promote healthy lifestyles--a resource that has been designed by young people for young people covering different age groups through different formats i.e. ‘Activity Book’, ‘Comic Book’ etc.

In the workshop related to the issue of child-friendly justice, three ENOC members made contributions. First, **Bosnia and Herzegovina** introduced recommendations the Ombudsman’s office has issued for the attention of the courts on the situation of children and minors in criminal proceedings; **Poland** related its own experience regarding the broad mandate of the Ombudsman for Children which allows him wide-ranging intervention in court proceedings, presented under the title ‘protection & representation of children’s rights in Court proceedings’; and the presentation by **Hungary** was about the general issue of child-friendly justice with a focus on a low age of criminal responsibility and the issue of regulating penal codes for more strict sanctions for crimes perpetrated against children.

In the workshop related to the issue of child participation, a large number of ENOC members had the chance to share their experiences. **Norway** explained how the Ombudsman for Children consults young people on a regular basis, by using ‘focus groups’ (groups on

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incest, violence etc.). These are expert groups made up of young people who have had direct experience of a given issue. The Ombudsman for Children’s office is currently working on the compilation of these experiences in a ‘Participation Handbook’, to be available soon. **Scotland** presented a recent project called ‘a Wee Blether’ (small chat) for 2-5 year olds, which was another way to see how young children express their opinions, emotions and wishes, using non-standard methods of communication. **Ireland** talked about the upcoming constitutional referendum⁷ on children’s rights, while **Flanders/Belgium** delivered a presentation on ‘Medicalisation and Labeling of Children and Young People’ to demonstrate the low levels of child participation in the education system and the different initiatives launched by the Commissioner for Children’s office on the issue. The last presentation, ‘Hierarchic Child Rights Education in the secondary school’, was about a project launched by the Ombudsman’s office in **Azerbaijan** on peer-to-peer training on child rights provided in secondary schools. The purpose of the project was to train children/young people about their rights so that afterwards they can deliver training themselves to younger children.

2.2. 2nd session: schools, communication & campaigns, violence

The three thematic workshops at the second session concerned the general issue of schools, communication and campaigns, and violence against children.

In the workshop dedicated to the general issue of **schools**, the Children’s Commissioner for **England** presented her work on a ‘Schools Exclusions Inquiry’, which is in two phases (years). The first year’s findings have been released in a report entitled ‘They Never Give Up On You’⁸. **Catalonia**’s Deputy Ombudsman for Children spoke about ‘School Disciplinary Policies: Ruling Principles and Main Shortcomings in School Disciplinary Procedures’, a piece of research work conducted by the Ombudsman’s office following a high number of complaints received on this matter. The main points raised by the research are in relation to compliance with the law and procedures, proportionality, and the educational efficiency of disciplinary measures applied by schools. The issue of preventing and combating violence in schools seems to be on the agenda of a number of ENOC members, including the Ombudsman in **Serbia** who conducted a large research and case study on the matter, and the Ombudsman for Children in **Greece**, who remains active on the issue.

In the **communication-campaigns** workshop, **Croatia** presented a very interesting project carried out in collaboration with students of journalism and communication studies about ‘Children in Media: Distorted Image, Endangered Privacy’, talking about stereotypes and prejudices, the negative media portrays given to youth, etc. A research book ‘Children in the Media-From Marginalization to Sensation’, analyzing 3453 articles published in seven newspapers has been released and is now being used as a course book for students in journalism and communication studies. **Malta** spoke about the Council of Europe ‘Kiko

⁷ More information on the Children’s Referendum www.oco.ie

⁸ The report is available under : <http://www.childrenscommissioner.gov.uk/info/schoolexclusions>

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Handbook’ on sexual education and prevention of sexual abuse that the Commissioner’s Office has translated into Maltese and disseminated amongst all children attending their first year of primary school. **Cyprus** presented their action/awareness-raising campaigns to sensitize the public and the media professionals with regard to the way children are presented by the media. The Commissioner also issued a position statement on ‘The Rights of the Child, Media and the Child Spectator’ making reference to the UNICEF guide for journalists on the media and children’s rights. **Poland** presented the different initiatives and events organized as part of the ‘Janusz Korczak Year’-- the year of 2012 being officially dedicated to the pioneer of children’s rights, Polish paediatrician Janusz Korczak. **Bosnia and Herzegovina** reported on good practice in different models of cooperation with NGOs (at local level) in lobbying and cooperation activities.

The last workshop in the session was organized around the issue of **violence against children**. **Sweden**’s Ombudsman for Children screened two short movies about children who have been subject to violence and/or sexual abuse. The movie showed their testimonies without revealing identities, allowing this group of children to address questions to politicians about what needs to be improved in the system so that no child ever again experiences violence or is abused sexually. **Georgia** talked about the situation of children in cases of domestic violence where they are affected both by the perpetrator but also by the perpetrator’s victim. In cases of domestic violence, children’s needs should be assessed independently. The Ombudsperson for Children of **Republika Srpska** (in Bosnia and Herzegovina) presented the setting up of a protocol on dealing with cases of violence against children. The protocol contains specific forms and methods of cooperation between institutions: preschools and schools, centers for social welfare, health facilities and police; as well as definitions of various forms of violence against children, etc.

2.3. 3rd session: migration, alternative care, poverty & vulnerable children and education

The first workshop in the final session concerned the situation of children in the **migration** process. The Deputy Ombudsman for Children’s Rights of **Catalonia** talked about the unreliability of current age assessment practices, which often result in the expulsion of unaccompanied minors from the protection system while doubt about the age of these children remains unresolved. The Children’s Commissioner for **England** spoke about recent works and publications on the matter, referring to her reaction to the so-called ‘gentleman’s agreements’ between the UK and France enabling UAM children to be sent back to France within 24 hours if they do not immediately ask for asylum. The Commissioner also presented her recent investigations on the treatment of UAMs seeking asylum in southern England,

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which resulted in the publication of the two reports: “Landing in Dover”⁹ and “Landing in Kent”¹⁰. Dr. Maggie Atkinson also reported on the common position adopted by the four UK Commissioners for Children (England, Northern Ireland, Scotland and Wales) on the issue of age assessment, in which the four Commissioners denounce the use of dental assessment for age disputes. The Ombudspersons for Children of **Belgium** (French community) and **France** talked about the extremely fragile situation for children migrating with their families (for economic reasons) from other EU countries (intra-European migration). The Ombudsperson for Children of Belgium denounced the fact that these families--most of the cases of Roma origin since EU citizens do not have the same rights in terms of reception, health, education and other support compared to families and children coming from outside EU-- live on the streets in extremely poor and inhuman conditions. The French Ombudsman for Children spoke about similar problems, but pointed out that in France local departments are in charge of reception of migrant children.

In the workshop dedicated to the theme of alternative care, **Hungary** talked about the right to appropriate health care services for children living in alternative care. (which is not always guaranteed), while **Finland** presented a project carried out with different stakeholders, including young people from the care system (focus groups) about how to improve ‘quality’ in the wider sense of the term, in alternative care. For example, how the lives during and after care of those concerned can be improved, how the participation of children living in care at different levels of intervention (i.e. at individual, communal, state or international level), can be secured, as well as other aspects of the same issue. The National Council for Children in **Denmark** presented a report on a recently run project- ‘experiences and perspectives from 113 children and young people living in alternative care’. The project aimed to learn more about quality in alternative care from the child’s perspective, bringing children’s participation and views into focus on the inspection and supervision of children/families and institutions, in order to inform politicians, practitioners, and educational institutions.

The last workshop concerned the issues of poverty, vulnerable children and education. **Republika Srpska** presented a study carried out by the Ombudsman for Children’s Office on begging children. The research was carried out at municipality level to quantify numbers, using a combined method of questionnaires, individual interviews, round tables, and group discussions in schools. The survey has resulted in a set of recommendations for the attention of public authorities. **Greece** presented a project undertaken by the Youth Advisory Panel (YAP) of the Ombudsman for Children’s office aiming to investigate the consequences of the economic crisis on the lives of children across Greece. The YAP participated in the design of a questionnaire and the youth advisors were the first pilot participants to respond. Following authorization from the Ministry of Education, the questionnaire has been disseminated in 22 schools and filled in by 1211 pupils. All the collected data has been analyzed, with the investigation resulting in a set of actions to confront the crisis from children’s perspective.

⁹ The report is available under

http://www.childrenscommissioner.gov.uk/content/publications/content_556

¹⁰ http://www.childrenscommissioner.gov.uk/content/publications/content_465

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Cyprus presented the findings of a recent Report/position paper commissioned by the Cypriot Commissioner for Children’s Rights on ‘education and training for children with disabilities in public schools in Cyprus’. The Report was the product of a two-year public consultation with academics, parents’ associations, teachers and other professionals working with children with disabilities. In her Report, the Commissioner examines the existing legislation, procedures and practices, making recommendations for improvement so as to safeguard the rights of this vulnerable group of children. **Ireland** presented the Ombudsman for Children’s findings following an investigation into cases of exclusion from school due to pregnancy.

3. Conference theme (Day 2)

3.1. “Ending Violence against Children in Custody: headline findings from research with children & young people”-DAPHNE III project, by Annita Koni

The EC funded project on ‘Ending violence against children in custody’ is coordinated by the Children’s Rights Alliance for England (CRAE) with five partner organizations in five countries, one of which is the Commissioner for Children’s Rights in Cyprus. The project aims to support and empower children and young people with direct experience of custody to campaign for **violence-free custodial** settings. It focuses on the direct testimonies of children and young people with experience of custody and provides a platform for them to campaign for change. Ms. Koni reported that the project has a research phase which proceeds legal analysis of the rules governing custody and interviews with children/YP, and a campaigning phase in which YP develop their own campaigns based on the findings of the first phase.

Concerning the methodology, Ms. Koni explained that partner organizations have recruited up to ten young investigators to form the Young Investigation Team (YIT). The YIT were trained in research skills and supported to carry out interviews with children/YP with direct experience of custody. Despite the success of the project, Ms. Koni spoke about challenges in the research phase linked to difficulties in gaining access to custodial settings, to the limited pool of children/YP with experience of custody, etc. Throughout the presentation of the project detail was provided regarding demographics, interview settings, research questions, definitions of violence, experiences of violence, and responses to violence. More substantial details were provided about the messages the children/YP who were interviewed want to convey to people in charge. Those messages clearly state the need for people in charge to: listen to YP and to find out what happened in their lives instead of judging them; relate to YP in order to build up positive relationships; identify ex-offenders to be role models that YP can relate to. YIT members elaborated a set of recommendations on how to reduce violence in custody based on their research findings. The recommendations address issues such as the need to set up a distinct, child-focused and child-friendly youth justice system, with well

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trained (quality requirements) staff in custodial settings, more positive and various activities, better mediation and alternative methods of resolving conflicts, and the need to strictly regulate police behavior.

Presentation of the experience of being a young investigator in the Project, by Talar Torosian, Young Investigator from the YIT of the Cypriot Commissioner for Children’s Rights

Talar Torosian is a young investigator from the Young Investigators Team set up by the Cypriot Commissioner for Children’s Rights--the partner organization in the project. She spoke about her own experience of having been in conflict with the law and being detained in prison for ten days during the pre-trial period. She explained her motivation for participating in the project, which she described as the willingness to help young prisoners since ‘everybody deserves a second chance, especially a young person’. As part of the project, she trained to learn about how to speak to young prisoners who are very sensitive but who can also be very aggressive. She also learned about the need to prevent and stop violence in detention since ‘being in prison and the loss of its freedom is already a big punishment especially for a young person’, so further trauma due to being subject to violence should not take place in detention. She also talked about the positive experience of having been given the chance to meet with young investigators from other countries and hear about their own experiences. For Talar the most important thing that came from her participation in the project was the conclusion that, *‘I understand I am strong and I don’t want to go back to prison’*.

3.2. Presentation of the preliminary results of the draft *ENOC survey on Juvenile Delinquency*, by Nevena Vuckovic Sahovic

According to the ENOC working programme for 2012, a mapping survey on the state of protection of the rights of children/young people in conflict with the law and the role played in this area by ICRI has been carried out with the support of an external independent expert advisor, Ms. Nevena Vuckovic Sahovic. In this context, guided by the ENOC Working Group on Justice Administration for Children, Ms Sahovic developed a detailed questionnaire which was sent out to all the members beginning of June. The report structure, based on the questionnaire, is divided into three chapters. The first chapter addresses general issues such as the legal framework and States’ practices in the youth justice area, while the second and the third chapters reflect ENOC members’ input about their role in the protection of the rights of children/young people in conflict with the law. Ms Sahovic reported that 22 member institutions contributed to the report with the responses to the questionnaire compiled and analyzed in a structured way. Without going into detail, Ms Sahovic presented some general themes from the findings: discrepancies between law and practice; lack of well tailored practices; the need for legislation in most countries to be improved or completed; the lack of a systematic review of placement/detention measures; C/JD lack of awareness of the

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possibilities to file complaints and of available complaints mechanisms; and the overall lack of data on C/JDs. There are also some general conclusions about the limited role played by children’s rights ombudspersons in this area due to: limited available financial resources, limited human resources/lack of trained staff, limited mandate preventing effective monitoring of the protection of the rights of children/young people in conflict with the law, and last but not least, the need for enhanced cooperation with national and international/European stakeholders.

The final report is available at: <http://crin.org/enoc/resources/infoDetail.asp?id=29866>

3.3. Workshops on ‘prevention’ and on ‘intervention’

Workshop on ‘Prevention’

A number of ENOC member institutions participated in discussions on ‘Prevention’ to talk about their experience and/or projects on prevention of juvenile delinquency in their own countries. They all spoke about the key role played by schools and the education system in early intervention. **Finland** gave the example that, despite the low level of juvenile delinquency, it appears that the majority of young people who end up in the youth justice system are those with largely undiagnosed learning difficulties. **Cyprus** spoke about ‘toxic media presentation’ or how the media represents incidents of anti-social behaviour, mentioning that the Commissioner for Children’s Rights in Cyprus organized training for journalists and a public dialogue about how the media refer to children and young people. **Croatia** said that the legal framework in Croatia is good but implementation is very weak due to lack of resources. However, the Ombudsman for Children is promoting “**zero prevention**” (prevention that starts extremely early, even where there are no problems or risks); a set of measures that advocate, for example, for improving life conditions for every child, functional parenthood, early detection of problems in families, securing general welfare, etc. The Ombudsman for Children is also promoting good practices in Croatia that are not recognized as such or whose use is not evaluated. The Ombudsman promotes these practices through recommendations addressed to the Government. **Scotland** and other countries spoke about very early prevention, also arguing that the best prevention is a society where there is equality and where efforts are made to reduce child poverty and provide families with support. **Greece** highlighted another factor, which is how early school dropout affects children’s behaviour. Workshop participants **Malta, Georgia, Norway, Bosnia** underlined the importance of training of professionals: teachers, judges, social workers, i.e. all those who are in direct contact with children and may affect their lives. **Norway** also mentioned that the biggest challenge for Ombudspersons for Children is how to handle the issue politically in order to convince politicians to invest more in prevention services.

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Workshop on ‘Intervention’

Discussions in this workshop were divided (according to the terms of GC 10): the first round of discussions concerned intervention without resorting to judicial procedures and the second related to intervention in the trial phase.

The first concern was the question how to include competent authorities and institutions in the first stage of ‘intervention’. Responsible authorities and institutions in the first instance are schools, social and health services and local communities--provided that they are given enough resources to divert children from the youth justice system. For the thorough development of an ‘intervention’ system in the first phase, which is a slow but ongoing process, it is critical to work on changing public opinion and awareness-raising among professionals. The role of Ombudspersons for Children is to keep pressure on identified responsible authorities and institutions, but also to contribute to changes in the attitude of public authorities and of media.

In the second round of discussions, the Ombudsperson for Children’s Rights in Belgium made a presentation on young offenders in detention after relinquishment of jurisdiction. In Belgium there is a specialized judicial system for young offenders under the age of 18, where the strictest punishment is placement in a closed educational institution. However, in some cases there is the possibility for relinquishment of jurisdiction for offenders aged 16-18, who are then sent to the adult penal system. Belgium reported on the results of the investigation of the disciplinary regime in prisons for adults with a special section for 16-18 year olds. The investigation revealed that the disciplinary regime for young offenders is stricter than for adults; disciplinary measures are applied 15 times more often to young offenders than to adults; and that many other shortcomings have been identified, including ‘no education or no quality education behind the bars’. Participants in the workshop discussed and shared experiences, not only about deficiencies in the treatment of young offenders in closed institutions, but also about deficiencies in the preparation of children/young people leaving prison or closed institutions.

3.4. Presentation & discussion of draft statement on the rights of children in conflict with the law

As a result of the internal survey on child/juvenile delinquency, the ENOC Working Group on Justice Administration for Children has been tasked with preparing a draft statement on respect for the rights of children in conflict with the law reflecting the main findings from the survey, but also the views and recommendations of the ENYA board expressed at the special ENYA meeting held in August 2012 in Warsaw.

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The first draft was presented at plenary by Mr. George Moschos, member of the WG on JAC and followed by a lively discussion. In view of the large number of comments and remarks related to the terminology, content, references, etc.; it has been agreed that a small drafting subcommittee will meet during the conference and work on a final draft taking into account all of the views and experiences expressed at the plenary. A final draft was proposed by the drafting subcommittee on the following day and adopted by the General Assembly.

The statement is now available at:
<http://crin.org/enoc/resources/infoDetail.asp?ID=29872&flag=news>

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4. ENOC business

4.1. General Assembly meeting

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

Election of the ENOC Bureau

Members were invited to express their interest for the positions of Secretary and Treasurer for 2012-2013 and for a Chairperson for the period of 2013-2014. There was one candidate for each of the three positions and the following members were unanimously elected: the Ombudsperson for Children’s rights of Belgium (French community) was elected Chairperson-elect, Scotland’s Commissioner for Children and Young People was elected Secretary, and the Deputy Ombudsman for the Rights of the Child in Serbia was elected Treasurer.

The new Bureau is:

- **Ms. Leda Koursoumba** (Cyprus): current Chairperson (2012-2013)
- **Mr. Bernard De Vos** (Belgium): Chairperson elect (2013-2014)
- **Mr. Marek Michalak** (Poland): past Chairperson
- **Mr. Tam Baillie** (Scotland/UK): Secretary
- **Ms. Tamara Luksic-Orlandic** (Serbia): Treasurer



