

Stockholm, 17 October 2003

European Network of Ombudspersons for Children (ENOC)**Statement on Communication with Children**

We, as children's ombudspersons from 21 States in Europe, are concerned that the right of the child to express his or her views is not taken sufficiently seriously by those who make decisions affecting the child.

The right of the child to express his or her views, as expressed in Article 12 of the UN Convention on the Rights of the Child (CRC), is absolute.¹ Every child who is able to form his or her own opinions has the right to express those opinions in all matters that affect him or her. This right cannot be conditioned by considerations as to whether the expressing of those views is in accordance with the best interest of the child, as this right stems from the recognition of the child as an active subject of rights.

It is the obligation of the States, not only to give the child the opportunity to express his or her views, but, importantly, also to guarantee that due weight is given to those views in all decision-making affecting the child. This obligation includes a duty to find and to use the appropriate methods for communicating with children as well as a duty to try to motivate children and young persons to take active part in the debate in society including within the family, in the classroom, in court proceedings and in all other fora that are of relevance for children. The right of the child to express his or her views includes the right to receive information on issues affecting him or her. This is necessary in order for the child to be able form informed opinions.

We believe that schools carry a particularly important responsibility for developing education into a two-way process of communication in which children and young persons become active participants. ENOC encourages States to pay further attention to methods for involving children in society through communication with children and by giving proper effect to the opinions expressed by children.

The right of the child to express his or her views and to have those views taken seriously is a fundamental element of the rule of law. This is particularly evident in any court proceedings affecting the child, especially such that relate to public custody of the child, custody and contact with parents, adoption, filiation, school proceedings, the child as victim of an offence as well as criminal proceedings against the child. It must further be stressed that, in accordance with Article 6 (the right to a fair trial) of the European Convention for the Protection of Human Rights and fundamental Freedoms, the child has an equal right as an adult to have his or her civil rights determined by an independent and impartial tribunal.

Allowing the child to express his or her opinions and taking these opinions into account, is also a condition for the protection of the integrity of the child. The child must have a say in how the opinions that he or she has expressed and other information relating to the child are used and disseminated, within the limits that may be necessary for the protection of the rule of law and the best interests of the child.

We recall the previous statement of ENOC urging the governments of all European States to review their law, policy and practice to ensure consistent respect of Article 12 of the CRC and stating that

¹ In accordance with Article 1 of the CRC, the child is defined as every human being below the age of 18 years.

the governments themselves need to develop procedures for consulting children on all relevant policy development.

We warmly welcome the inclusion of the rights of the child in the draft Constitution of the European Union. We recall that the transfer of increased responsibilities from the Member States to the EU institutions does not diminish the obligations that the States have for the full and effective implementation of the CRC. ENOC's commitment is to ensuring that national ombudspersons are as close as possible to the every-day realities of children and that they have direct contact and communication with children. With the closer integration of the Member States of the EU and of the 45 member States of the Council of Europe as well as the expanding membership of the Union, the importance of the unique exchange of experiences and co-operation taking place within ENOC grows. In this respect, a closer co-operation with the EU and the Council of Europe is a top priority for ENOC.

We warmly welcome the proposal that the European Union accedes to the European Convention for the Protection of Human Rights and fundamental Freedoms and call upon the Union to likewise consider the accession to the CRC at the earliest possible moment.

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