

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

**REPORT OF THE
SIXTH ANNUAL MEETING**

BRUSSELS, BELGIUM, 2-4 OCTOBER 2002

**ENOC Annual Meeting Report
2-4 October 2002
Brussels, Belgium**

Introduction

The ENOC Annual meeting took place from 2-4 October 2002; hosted by Claude Lelièvre, the Délégué général aux droits de l'enfant de la communauté française de Belgique in Brussels. There were 17 Ombudsperson's offices participating in the meeting, and three observers (See list of participants in Annex 8). The meeting was opened by Claude who welcomed everyone to Brussels, thanking those who helped make this meeting possible. He stressed the importance of this meeting at which the ENOC Statutes would be adopted and decisions taken about the future functioning of the Network.

The ENOC activities update was presented by Claire Brisset who highlighted the major events at which she represented ENOC during the past year. She noted in particular the Yokohama Congress on Commercial Sexual Exploitation of Children, where she was almost overwhelmed by the massive scope of the problem, but at the same time encouraged by the increased awareness and action taken to address it. She also shared her impressions of the UN Special Session on Children, indicating that she was disappointed in the commitments made in the outcome document, A World Fit for Children. She acknowledged that there were positive aspects as well, in particular the active and meaningful participation of children themselves in the Special Session. She also noted her participation in a seminar in Warsaw for CEE/CIS Ombudspersons, co-organized by the Polish Ombudspersons Office and UNICEF. (See ENOC update in Annex 1).

Country Updates Synthesis

All offices made brief presentations on recent developments and areas of focus for their work. (Country updates are contained in Annex 2). Several offices noted that they had submitted alternative reports to the Committee on the Rights of the Child, indicating that the process had been extremely useful. Areas of work highlighted by a number of offices included: refugee and migrant children, divorce, violence and bullying, children in institutions and working with municipal and local authorities.

There was a suggestion that two particular issues be discussed in greater depth at the next annual meeting. This first was sharing Ombudspersons' experience in establishing children's advisory groups or councils for their offices, which many are currently in the process of doing. The second was the area of juvenile justice, with particular emphasis on the growing trend across Europe to lower the age of criminal responsibility and impose harsher sentencing and more frequent imprisonment of children.

In response to remarks by the Chairperson of the Danish Council for Children, who indicated that they had suffered serious budget cuts following the election of a new government, it was proposed that ENOC should react in such situations to support the institution under threat. In this case, for example, ENOC could have sent a letter to the Danish Government in support of the Danish Council for Children.

European Court of Human Rights

Peter Newell made a presentation on using the European Court of Human Rights. (See Annex 3) He explained the procedure for taking a case to the Court on behalf of a child

plaintiff, emphasizing that it is not a very complicated procedure although it takes quite a long time, and that it is a powerful tool for holding government accountable for respecting children's rights. He noted that it can often be difficult to find "victims" who are willing to take their cases to court. Nevertheless, it is important to inform children that this is a realistic and accessible process that they can use. He offered to provide advice and support to any ENOC members wishing to take a case before the court.

There is not yet a proper analysis of the case law of the European Court of Human Rights that applies to children. Such an analysis might include cases involving children directly, as well as those involving adults, which would have application to child-related issues. Even if the process takes a long time (often as long as 4 years) it should not be thought of only in terms of the benefits to an individual child, but to all children who can benefit from the enforcement of their rights. It was proposed that ENOC could approach the Court to discuss possibilities for making the process more accessible to children. It could also stress that the principle of the best interests of the child should be used in deciding cases. A letter to this effect will be drafted and sent to the Court.

ENOC Statutes and Secretariat

As agreed at the 2001 ENOC Annual Meeting, a working group on the ENOC Statutes met during the course of the year to finalise a draft which was submitted to the General Assembly. The working group did its best to take into account all comments and suggestions received and presented a final draft of the Statutes at this meeting. Following a brief discussion, the ENOC Statutes were adopted by consensus (see Annex 7).

Following the adoption of the Statutes, the meeting discussed issues relating to the location of the secretariat, deposit of the statutes, funding, etc. There was a proposal presented by Claude Lelievre to house the Secretariat in Brussels, supported (at least in part) through funding offered by the Communauté Francophone of Belgium. In response to this, Claire Brisset supported the proposition and offered to provide in-kind support through the contribution of computer equipment.

The reaction of other members was mixed, with several indicating their discomfort with the idea of having one government as the only or principal source of funding for ENOC. Trond Waage and Lena Nyberg indicated that their governments (Norway and Sweden) might also be willing to provide similar support, but on the condition that the Secretariat be placed in their countries. The importance of ensuring a broad base and neutral platform for the funding of the Secretariat was emphasised. It was suggested that possibilities for channelling governmental funds through the Council of Europe (CoE) or United Nations could be explored. In particular, the CoE was thought to be an appropriate channel in light of its 1996 recommendation on the establishment of Ombudsmen for Children. As for the location, while some members endorsed the idea of Brussels, others felt that Geneva might be a more relevant and strategic location, in light of the children's rights and human rights activity that takes place there, in particular the UN Committee on the Rights of the Child.

It was made clear by UNICEF, which currently serves as the secretariat, that it would continue to provide this support until such time that an independent, stand-alone ENOC secretariat was established. It also agreed to assist in ensuring a smooth transition of the secretariat. UNICEF did not, however, have any position on the location or funding of such a secretariat, nor did it wish to become involved in the process of fund-raising.

In order to formalise the network, it was agreed that the Statutes, as amended at the Annual Meeting, would be deposited in Belgium. The meeting was assured by Claude Lelièvre that depositing them there did not in any way require that the Secretariat must or should be based in Belgium. It was also agreed that the secretariat will, on an interim basis, continue to be based in UNICEF, until there is agreement on the establishment of a stand-alone secretariat.

There was general agreement that a working group should be established to explore options for the establishment and financing of the secretariat. The working group would include the Bureau of ENOC and other volunteers from the members and would take forward the agreement that ENOC should have an independent Secretariat.

The Working Group would consider first the criteria for deciding on the location and funding of the Secretariat. It would then seek to develop one or more proposals of where to locate and how to fund the Secretariat. The Working Group will then report to the General Assembly within six months on these proposals (by 1 April 2003) and ask the General Assembly to consider the proposal(s) and report back their views within 1 month.

The Working Group would then consider the feedback received. After any necessary further consultation with members it would determine whether there is a consensus in favour of particular proposals. If there is, the Working Group would take the necessary preparatory steps towards establishing the Secretariat. If there is not, all developed proposals will be circulated and an extraordinary meeting would be held to take a final decision in the first half of May 2003.

Following discussion, it was agreed that the Working Group would be formed with the tasks set out above. Its members would be: **Bureau:** Claude Lelièvre, Claire Brisset, Lena Nyberg. **Other members:** Trond Waage, Pedro Nuñez Morgades, Peter Clarke, Ms Anna Ostaszewska (on behalf of Pawel Jaros).

It was agreed that Peter Newell would facilitate the working group. The working language will be English, with individual offices making any necessary arrangements for translation. The first meeting of the working group would be held in Brussels. More generally, as far as languages are concerned, it was agreed that the annual ENOC meeting should, in as far as possible have four working languages (English, French, Russian and Spanish).

Follow-up to the UN Special Session on Children and First Global Meeting of Ombudspersons for Children

UNICEF made a presentation, highlighting a number of possible follow-up activities to the global meeting and the Special Session on Children (see Annex 4). The proposal of developing a global network of independent children's rights institutions was put forward, with specific elements such as an e-mail list serve, a global website, and a concerted effort to increase the number of existing offices by the end of the decade. It was suggested that future meetings of a global network be organised in connection with relevant international meetings. ENOC members reacted positively to the proposals, indicating their interest to be part of the e-mail list serve and encouraging electronic links to the ENOC website. They also liked the idea of linking future meetings to other international events. As for encouraging the establishment of new offices, many ENOC members indicated they are already involved in such efforts, and expressed their willingness to continue to contribute to this global effort in any way they can.

Committee on the Rights of the Child, General Comment No. 2

The Committee on the Rights of the Child adopted its second General Comment on 4 October 2002, entitled "The Role of Independent National Human Rights Institutions in the Protection and Promotion of the Rights of the Child". ENOC had been given the opportunity to comment on drafts of the text and their inputs were appreciated and had been taken into consideration by the Committee. It was noted that paragraphs 20 and 21 of the General Comment contain explicit guidance on the role and involvement of National Human Rights Institutions in the reporting process on the Convention on the Rights of the Child. It encourages them to contribute independently to the reporting process and not to draft the report on behalf of government or to be included in government delegations when reports are examined by the Committee. ENOC members were encouraged to take this guidance into account. The meeting was also informed that other General Comments in the "pipeline" include ones on HIV/AIDS, adolescent health and development, and the age of criminal responsibility. Other possible themes include the evolving capacities of the child, and general measures of implementation. General Comment No.2 can be found at:

<http://www.unhchr.ch/html/menu2/6/crc/doc/comment/ni.pdf>

Other Business

The secretariat informed the annual meeting that as of the end of 2002, the Centre for Europe's Children is no longer available to host and maintain the **ENOC website**. Until now, they have been contracted by UNICEF to host and maintain the website. UNICEF itself is not in a position to provide this service, and therefore turned to ENOC members to see if any member would be able and willing to take on the responsibility (at least as an interim measure until a stand-alone secretariat is established). In response to this request, Trond Waage agreed that his office could host and maintain the site during this interim period. UNICEF agreed to take the necessary actions to ensure a smooth transition of the site, which will not affect the website address (www.ombudsnet.org).

A **self-assessment tool** for offices to use in evaluating their work, developed by Peter Newell, was introduced to the group. It was originally developed for the meeting of Ombudspersons from the CEE/CIS and the Baltic States, co-organised by UNICEF and the Polish Ombudsman for Children and held in Warsaw in June 2002. The self-assessment tool was made available, with suggestions as to how it might be made to make more useful to all ENOC members (see Annex 5).

As a follow-up to the informal meeting held at the 2001 ENOC Annual Meeting and the Warsaw seminar, an informal, **sub-regional meeting of offices from CEE/CIS and the Baltic States** was held during the meeting. Ombudspersons from Hungary, Lithuania, Macedonia, Poland and Russia met with UNICEF to discuss ideas for follow-up to the Warsaw meeting. There was a strong feeling that the Warsaw meeting had been extremely practical and useful and that having such opportunities on a regular basis would be very welcome. It was suggested that perhaps in future a sub-regional meeting could be organised immediately prior to or following ENOC annual meetings in order to reduce travel costs. There was also interest expressed in the idea of holding a workshop focussed on using research and data to more effectively influence policy-making. It was suggested that such a workshop could be linked to the work of UNICEF's Innocenti Research Centre (IRC). With regard to the publications of IRC,

it was requested that the latest Innocenti Digest on Ombudswork for Children be translated into Russian and that IRC give consideration to producing a global publication on ombudswork for children which would include their legislative bases, as well as summaries of their activities.

It was proposed that ENOC put its support behind the proposal that 20 November become international children's rights day. There was general agreement to do so, and this is reflected in the ENOC press statement issued at the meeting (see Annex 6).

The General Assembly elected by consensus Lena Nyberg of Sweden to be the next chairperson of ENOC and host the 2003 annual meeting. It is proposed that the meeting take place 15 -17 October 2003.

ANNEX 1

ENOC Activities Update 2002

Up-date of Activities of Ms. Claire Brisset – Chairperson ENOC

(October 2001 – October 2002)

12 December 2001:

Claire Brisset held together with her Belgian Ombudsmen colleagues Claude Lelièvre and Ankie Vanderkerckhove a press conference in Brussels on the subject of the European warrant for arrest. Claire Brisset was worried that the amendment to the project of a European warrant for arrest, which concerns the sexual exploitation of minors, child pornography and cyber criminality, would involve its application only to those acts committed after 2004, date of its entry into force, and not to acts that were committed prior to this date. Unfortunately, the version which was adopted did not opt for the retro-active approach.

17-20 December 2001:

Claire Brisset participated in the 2nd World Congress on Sexual Commercial Exploitation of Children in Yokohama. This congress was the follow-up to the one held in Stockholm in 1996. A report of this trip was sent by the ENOC chairperson to all members of the network.

30-31 January:

Claire Brisset went to Riga/Latvia following the invitation of Mme. Louise Avon, French Ambassador in Riga and Ms. Inete Ielite, Director of National Centre for Children's Rights, to help with the establishment of an ombudsman office for children.

25-27 March 2002:

Following an invitation of UNICE office in Algiers, Ms. Brisset went to Algeria accompanied by two experts, a judge and Prof. Boris Cyrulnik, child psychiatrist, in order to organize two seminars: one with the students of the National Institute for Judges, and the other one with mental health professionals.

The objective of this trip was to establish a relationship with the Algerian National Institute of Judges, in order to improve for Algerian judges' knowledge of the Convention on the Rights of the Child. The principles of the CRC should affect the practices applied in Juvenile Justice in a country such as Algeria, which has ratified since a long time the Convention (23 December 1992).

At the same occasion, Prof. Boris Cyrulnik, who is a well-known psychiatrist, held a conference for mental health professionals on the issue of psychotraumatisme of Algerian children during recent years.

Finally, Ms Brisset examined the situation for the establishment of an Ombudsman Office for Children.

7,8,9 and 10 May 2002:

Claire Brisset participated on 7 May 2002 in New York, at the First Global Ombudsmen Meeting and thereafter from 8 to 10 May in the Special Session on Children of the General Assembly of United Nations.

This session had two objectives:

1. To evaluate the results of the first “Summit for Children” held in New York in September 1990, and which had adopted a plan of action for the decade 1990-2000;
2. To put in place a new Plan of Action for the coming period 2000-2017.

An outcome document was drafted a review of which was shared with all members of ENOC.

30-31 May 2002:

Following an invitation by Prof. Ernesto Caffo, President of “Telefono Azzurro”, Claire Brisset went to Bologna/Italy to participate in a conference, marking the 15th anniversary of Telefono Azzurro. Ms. Brisset made a presentation with the theme: “Ombudsmen for Children in Europe”.

24 – 27 June 2002:

From 24 – 28 June 2002, Claire Brisset went to Warsaw invited by Pawel Jaros, Polish Ombudsperson for Children, to participate, as resource person, in the first seminar for CEE/CIS Ombudspersons for Children, which was organised jointly by the Office of the Polish Ombudsperson and UNICEF.

The seminar was dedicated to “Challenges and Opportunities for Promotion and Protection of the Rights of the Child in Central and Eastern Europe”.

A report on this meeting, written by Claire Brisset had been addressed to all ENOC members.

23-24 September 2002:

Claire Brisset travelled to Geneva in order to enhance her understanding of the procedure of examination the reports, which are presented by the different State Parties in application of the Convention on the Rights of the Child. Mr. Paulo David has introduces her to the process.

She also participated as observer in the Plenary Session on Sudan. Finally, she met with the Chairperson of the Committee, Mr. Jaap Doek.

ANNEX 2

Office Summaries

SUMMARY OF OMBUDSPERSON ACTIVITIES

AUSTRIA

**Austrian Report
for the Annual Meeting of ENOC
Brussels, 2-4 of October 2002**

Introduction

By way of introduction, the “*ombudsoffices*” of the nine Austrian federal provinces (states) have determined that there are indeed good approaches for improving the living situation of children and youth in Austria, but these are based first and foremost on self-initiative and involvement by NGOs and private individuals. As a result of diverse saving measures by the federal government and state governments, an intensification of the general social situation is perceivable. This also has an effect on the whereabouts of Austrian children and youth, whereby austerity measures are also effected, among other things in the training and education system, and in the framework of the youth welfare services sphere (through a slow down and/or stoppage of the necessary expansion of social services such as crisis centres for children and youth, suitable residential housing, and many other things).

In the past two years it has become clear that the current federal government is more and more frequently foregoing the opinion and inclusion of experts in matters of legal changes which also concern children and youth. In particular, an intensified collaboration with and integration of non-governmental organisations in the implementation of the UN “Committee on the Rights of the Child” (CRC) is more than ever necessary for this reason!

In deference to the concluding observations pertaining to the Committee on Rights of the Child: Austria 07/05/99; CRC /C/15/Add.98., criticism must be rendered that there still isn't any government agency – neither on the federal level nor on the state level – which has a clear mission for the co-ordination and monitoring of the implementation of the UN Children's Rights convention. Furthermore, we endorse the committee's demand to implement measures which ensure effective co-ordination and monitoring of activities at all levels (federal, state and communities) which are in connection with the implementation of the agreement.

A) Topics which move us

1) Family Reunion

In Styria, more and more incidents have been disclosed in which foreign children and youth have been fetched later in the course of family reunion by their hardly known or absolutely unknown parents who have lived in Austria for many years. As a consequence of various attendant circumstances (new/strange stepmother/father, new/strange stepbrothers and stepsisters, cramped living situation, foreign culture, and much more), living together turned out to be so difficult that the father/mother decided to send the children – against their will – back to their home country. Attempts to enable a further stay in Austria failed – not the least on account of the few youth welfare service support possibilities.

2) Unaccompanied juvenile refugees

The situation with regard to unaccompanied juvenile refugees in Austria is still unsatisfactory. Because there are still ca. 1000 juvenile refugees per year living under sickening circumstances – in idleness, uncertainty, fear, resignation, speechlessness, and above all in isolation. Neither school attendance nor a meaningful activity, neither a daily structure nor adequate juvenile accommodations are provided. The federal

government (Interior Ministry) and the states (youth welfare agencies) have been arguing out their jurisdictional dispute on the backs of these “especially in-need-of-protection” youngsters for over 10 years; i.e., the existing concepts pertaining to an integration of these juveniles as defined by human rights precepts are not being implemented. Of course, clearing agencies for “initial assimilation and initial support of juvenile refugees” have been established in the meantime; however, their continued existence has not been clarified. Negotiations pertaining to the jurisdiction for the umF between the federal government and the states have faltered at the civil servant level in June 2002 on account of the cost factor. Unfortunately, a speedy agreement cannot be anticipated at present.

Juveniles are still occasionally being taken into custody prior to expulsion, age determinations are being made by means of carpal X-rays, juveniles are accommodated in very remote locations, and juveniles must endure asylum proceedings which are contrary to human rights precepts.

This means that the unsatisfactory condition persists, and thus the right of juvenile refugees to special protection and assistance through the contracting states (UN-CRC Art. 10, 22, 39, among others) is by no means guaranteed.

3) Involvement of children and youth in topics which concern them

In some cities, municipalities, schools, youth centres, holiday programmes, ... involvement of children and youth is being fostered and expanded in exemplary fashion. On the whole, this trend is only being developed very slowly, because “having to much say” (involvement and participation) is actually not desired in Austria.

Voting age reduction at the municipal level from 18 to 16 years

Nevertheless, the voting age in the federal states of Carinthia and Styria has been reduced at the municipal level from 18 to 16 years.

On 17 March 2002 juveniles in a very small Styrian municipality were called upon for voting. Fortunately, turnout reached nearly 100 %. Unfortunately, this can only be seen as representative, because the mobilisation of juveniles is easier in small townships than in cities. Now that the initiative has emerged from the political sphere, in the future we anticipate perceptible measures with regard to the young voting segment. Otherwise the political sphere will lose yet another portion of their credibility among juveniles.

4) Legal and psychosocial procedural accompaniment

In nearly all federal states there is free legal counsel for juvenile victims of violence. These lawyers support, accompany and represent the concerned juveniles in legal proceedings. In the meantime, the Federal Ministry of Justice is promoting the psychosocial and legal accompaniment of victims. However, at present this model of support is still completely inadequate, and in financial terms favours juridical legal counsel (lawyers) vis-à-vis psychosocial procedural accompaniment. At present, psychosocial procedural accompaniment can only be taken advantage of in a few regions by means of child protection centres or advisory centres.

Of course, the ministries are also considering how psychosocial victim accompaniment can be supported financially; however, the objective and the backgrounds pertaining to these developments are not completely transparent yet.

The ombudsoffices are still demanding the expansion of Austrian offerings, for instance as per the Swiss model.

Emergency relief fund (sofHi Vienna)

An emergency relief fund is being administered via the Vienna ombudsoffice, which is nurtured on the one hand from government funds and on the other hand from private donations. Juvenile victims of violence thus have the possibility of being able to rapidly take advantage of free psychotherapeutic assistance.

Psychosocial procedural accompaniment in Styria

Based on the existing deficits with regard to the support of juvenile victims of violence, the *kija steiermark* [Styrian ombudsoffice for children and youth], together with various unappropriated bodies and the State of Styria, has organised extended vocational training for procedural advocates, which will be implemented in the Autumn of 2002. The objective is to also offer the victims of violence – in addition to free legal counsel – psychosocial accompaniment throughout the ongoing legal proceedings. On the one hand, the procedural advocates shall support the juveniles as fiduciary representatives, and on the other hand they shall co-ordinate the activities of all other involved individuals and institutions (youth welfare office, police, lawyer, judges, child protection centres, therapists, ...) for the benefit of the victim. The objective is that these offerings are comprehensively available in Styria for all juvenile victims of violence.

5) Legal protection for juveniles, and alcohol

Fortunately, on account of the objections of many experts (e.g. from the NGO sphere), changing the Austrian trading ordinance was able to be prevented – and therefore the prohibition pertaining to proprietors serving alcohol to juveniles continues to remain in the legal code. If this legal amendment would have been implemented, the consumption of alcohol would have remained prohibited, but the sale of alcoholic drinks would have been allowed. We have perceived this as an attempt to make it easier for the adults (= owners of restaurants, bars, pubs, ...), and to relinquish any responsibility to the juveniles.

Exchange of information by experts via e-mail

A new form of information exchange has been worked out on the expert level since May 2002. The Alcohol Co-ordination and Information Office is co-ordinating an “e-mail working group”, which prepares well-founded practical and theoretical proposals throughout Austria. These proposals for dealing with prevention and repression with regard to the consumption of alcohol shall be submitted to the Federal Ministry for Social Security and Generations.

B) Legal amendments which move us

- 1) Experiences with the new (vehemently discussed) Children’s Legal Amendment Law (valid since 1 July 2001)

End of forced sterilisation

On a positive note, it must be mentioned that since the amendment of the Children’s Legal Amendment Law the previous possibility of the forced sterilisation of mentally handicapped juveniles with the approval of the parents is no longer possible – which takes into account the right of sexuality for people with special needs.

Mutual parental care

Unfortunately, there is still no statistical basis regarding the effects of the introduction of the possibility for mutual parental care. A variety of varying experiences have been

made on a state-wide level; there is also a considerable city-state differentiation. What is conspicuous is that many parents only concern themselves with the subject of parental care whatsoever in the course of divorce proceedings. In the first months there were ca. 250 petitions for mutual parental care and only one petition for abrogation.

Visitation accompaniment

One can positively assess the possibility of the judicial arrangement of visitation accompaniment. However, in practice it has been shown that there are fundamentally not enough offers, although the need for initiating visits, visiting rights, consultation and mediation is quite considerable. Moreover, there is no lack of a specification and differentiation with regard to the existing offer, since not every child/youth requires the same form of support.

On the other hand, it must be considered that not all offers are recommended or exploited.

Involvement of youth in proceedings

Children and youth should be more stringently listened to in legal proceedings with the enforcement of the Children's Legal Amendment Law (1 July 2002). Theoretically, this amendment is thoroughly familiar, but in practice the consultation of children and youth is only inadequately implemented. Furthermore, we criticise the length of proceedings if expert opinions must be obtained – and in addition, the lack of corresponding quality criteria for expert involvement is to be criticised in this context. There are major problems with regard to amicable divorces, because many judicial officers are not able to cope with regard to the consultation of youngsters.

2) Dissolution of the Vienna Juvenile Court of Justice

At present there is a law under consideration which foresees that the internationally recognised and proven model of the Vienna Juvenile Court of Justice shall be modified. It is planned to apportion the jurisdiction of Vienna Juvenile court of Justice judges – partially to the jurisdiction of district judges, and partially to the jurisdiction of criminal judges. And thus a local modification would be linked with this. It is feared that the affected juvenile criminals will no longer have access to the proven multi-professional and preventive social treatment (exemplary collaboration between court, social work, probation assistance, therapy, ...), and that this will have negative effects on the rehabilitation of juveniles.

3) Further savings in the educational realm

The federal government and state governments are still paring down appropriation value units to schools, which leads to cutbacks in educational offerings. And so projects, non-binding exercises and school experiments are **being restricted and/or** terminated, and teaching jobs are being cut back. Many children who have special remedial educational needs are no longer – or to a lesser extent – receiving such support, and as a result, children of foreigners partially do not have enough opportunities to be commensurately fostered with regard to language. On the whole, the willingness (or lack thereof) of the responsible politicians has unfortunately curbed Austria's relatively good standing in the Pisa Study.

4) Deletion of the "homosexual paragraphs"

The long-criticised § 209 of the *Strafgesetzbuch* [*StGB*, penal code] in reference to "supposed" protection of juvenile homosexuals has finally been repealed effective August 2002.

However, § 207b StGB has been adopted, which has the objective of protecting juveniles of either sex against sexual abuse up to the age of 16. Only after quite some time will the practical experiences show whether this provision is meaningful.

C) Isolated cases which move us

All of Austria's ombudsoffices are still handling isolated cases which are submitted personally, telephonically, by means of correspondence or per e-mail.

On the one hand, the isolated cases are important to us as a means of orientation (*which topics currently deal with children and youth?*), and are on the other hand necessary as a means of support for our argumentation (*based on our work, we know that children and youth (and their parents) have the following needs with regard to education, leisure activity, school, contact, financial support, involvement, ...!*).

Increase of e-mail contacts

More and more youth are contacting various advisory agencies per e-mail. This offer, whereby one can be "more anonymous" than via telephone, seems to comply with the needs of many youngsters. However, in practice this reveals difficulties, since there is partially not enough precise information/background/facts mentioned in the initial e-mail, and thus a serious response is made more difficult. The offer to actually telephone with one another or to send e-mail once again is hardly accepted by youngsters. Therefore it frequently remains open as to whether the advisor's response was sufficient or helpful enough.

kija ambassadors, kija scouts, kija homepage, ...

As a result of targeted advertising media (postcards, placards, flyers, stickers, homepage, ...) for 13-18 year-olds and intensified visits to schools (ca. 14-15 year-olds), the inquiries from children and youth are increasing. Whereupon we must ascertain whether we are able to reach the youngsters merely with equitable advertising media in keeping with the times.

D) Projects which move us

1) Mediative pedagogy / school mediation /social learning

Based on the increasingly more difficult situations in the schools and classes, we are asked more and more often about what we would recommend, for instance regarding improvement of the classroom atmosphere. In contrast to the performance-oriented trend in Austria's school policy, we recommend that **parents, teachers and** developmental directors devote more time and attention to social needs, processes and "defects" in classrooms. Based on this attempt to come to terms with such situations we have meanwhile developed quite a few different "school-mediative" approaches.

The Lower Austrian Ombudsoffice, together with partners, is offering the project on mediative pedagogy and prevention of violence, "*Conflicts are here to be solved*", to elementary schools since January 2002. The objective is to make children sensitive to dealing with conflicts in a non-violent manner, as well as to provide and integrate teachers and parents with new ideas. As of April 2002, 30 schools with about 650 children (from 8-10 years of age) have been reached.

In the federal states of Carinthia, Salzburg, Tyrol and Styria, various school mediation projects have been initiated in specific schools in co-operation with ombudsoffices, and in turn these projects are transferred after an assimilation phase of ca. ½ year to the coaching teachers at their own responsibility. The objective of the projects is to train

students as “conflict mediators”, who are then made available in further succession as “dispute assistants” for their colleagues in the event of incidents. In Carinthia, a demonstration video for school mediation was produced at a project school in the 2002 summer semester. This video shall be presented in schools which are interested.

Recently the question has emerged as to whether the ombudsoffices for children and youth should meddle as mediators in internal school conflict situations in order to convey more weight with regard to the position of students.

2) Children’s film festival

In June 2002 a two-day children’s film festival was held in Lower Austria, which was presented under the motto “*Conflicts are here to be solved*”. Parallel to the film festival there was a supporting programme which invited children to actively participate. In order to continue to motivate children via the film medium for a positive solution of conflicts, the film festival is also linked to a media (display) case which can be requested via the Lower Austria Ombudsoffice for Children and Youth.

3) NC, National Coalition – children’s rights network

The National Coalition – the Austrian children’s rights network – is once again strongly active, and is accessible by contacting: irene.messinger@blackbox.net ; netzwerk_kinderrechte@yahoogroups.de . At present the ombudsoffices for children and youth are members of the network, whereby the situation is unclear on account of the legal construction of the ombudsoffices for children and youth. Since the ombudsoffices for children and youth are facilities of the respective provincial (state) administrations, the question emerges again and again as to whether we – as a government institution – are also allowed to be/able to be a member of an NGO network.

E) Some additional General Information about:

office activities, cooperation with Government, Parliament, NGOs and Children

Between 1989 and 1995 ombudsoffices for children and youth were set up in all nine Austrian States. In addition to the nine local offices, a federal Children’s Ombudsperson was established in 1991. The legal principles are laid down in the Federal and Provincial Child Welfare Legislation. The offices are funded by public money.

The ten ombudspersons are also the heads of their local offices. They are supported by approximately 20 staff members (some of them part-time), lawyers, psychologists, psychotherapists, social workers. Therefore, approximately 30 people are working on these issues for children in Austria!

The ombudspersons are appointed by the provincial governments. They are free from any interference from politicians and officials by virtue of a special constitutional privilege. In most states, the term of office ends after five years with the possibility of reappointment (in 2000, three ombudspersons were not nominated for a second term).

The connection between financial or employer dependence on the one hand, and independence in terms of contents on the other, always makes political positioning a difficult issue.

The offices have to submit an annual report about their activities and experiences to the provincial governments.

The cooperation with provincial governments and parliament is correct, but of course not all our ideas, concepts, suggestions and appeals are heard and realised (see above).

The relationship with the NGOs in Austria is very good and constructive. There are a lot of common projects like the annual celebration of the “day of the child“ and joint efforts to make Children’s Rights a more popular issue. Some NGOs and the ombudsoffices were involved in the Austrian Report of the National Coalition for the Implementation of the UN Convention on the Rights of the Child (see above).

In particular, the child and youth ombudsoffices are determined to promote or demand the cooperation with social workers, the youth welfare agencies of the provinces, because these often only act as an “administration” of children and to not really defend the interests of children (e.g. foster children, assignment to a home, right of access, ...)

All the ombudsoffices in Austria maintain direct contact with children and young people, whether they come to the office personally, call, write letters or e-mails. We provide information and give advice, we mediate between them and the parents or other professionals. We try to represent their interests, to find amicable solutions. We help them to solve their problems (see case studies).

Generally, the child and youth ombudsoffices are recognised as mediators of the concerns of children and young persons, although it should be attempted to increase the general awareness of its services, especially among young persons.

As the child and youth ombudsoffices are responsible for the entire province and as the use of the services offered by them is characterised by a pronounced town/countryside divide, some provinces are trying to regionalise the service. Networking with remote districts is a goal. In the long term, it would be desirable to open offices in the districts, but this presents financial problems.

Austrian Ombudsoffices for Children
Österreichs Kinder- und Jugendanwaltschaften

Österreich:

Mag. Martina Staffe

BM für Soziale Sicherheit und
Generationen
1015 Wien, Franz Josefs Kai 51
Hotline: 0800-240264
Tel.: +43/1/71100-3269
Fax: +43/1/5354803
e-mail: martina.staffe@bmsg.gv.at

Burgenland:

Mag. Christian Reumann

7000 Eisenstadt, Hartlsteig 2
Hotline: +43/2682/1708
Tel.: +43/2682/600-2188
Fax: +43/2682/6002187
e-mail:
christian.reumann@bglld.gv.at

Kärnten:

Mag. Astrid Liebhauser

9020 Klagenfurt, 8.-Mai-Straße
18/III
Hotline: 080022/1708
Tel: +43/463/536-31354
Fax: +43/463/536-31381
e-mail: kija@ktn.gv.at

Niederösterreich:

Mag. Gabriela Visy

3109 St. Pölten, „Tor zum
Landhaus“,
Rennbahnstraße 29, Stiege B, 5.
Stock
Hotline: 02742/90811
Tel.: +43/2742/9+43/05-16379
Fax: +43/2742/9005-15650
e-mail: post.kija@noel.gv.at

Oberösterreich:

Dr. Maria Fischnaller

4020 Linz, Starhembergstraße 14
Hotline: +43/732/7720-4000
Tel.: +43/732/17+43/8
Fax: +43/732/7720-14077
e-mail:
kjanw.post@ooe.gv.at
www.ooe.gv/beratung/gesellschaft/kija

Salzburg:

Mag. Paul Arzt

5020 Salzburg, Strubergasse 4
Hotline: 0662/430550
Tel.: +43/662/8+43/42-3031
Fax: 0662/430590
e-mail: kija.sbg@kija.at
www.salzburg.com/kija

Steiermark:

Mag. Christian Theiss

8010 Graz, Stempfergasse 8/3
Hotline: 0810-500-777
Tel: 0316/877-4921
Fax: 0316/877-4925
e-mail: kija@stmk.gv.at
www.kija.at

Tirol:

Mag. Elisabeth Harasser

6020 Innsbruck, Sillgasse 8
Hotline: 0512/1708
Tel: 0512/508-3792
Fax: 0512/5083795
e-mail:
jugendanwalt@tirol.com
www.tirol.com/jugendanwalt

Vorarlberg:

DSA Michael Rauch

6800 Feldkirch, Schießstätte 12

Tel. 05522/84900

Fax: 05522/84900-6

e-mail: kija@vorarlberg.at

www.kija.at

Wien:

DSA Monika Pinterits

Dr. Anton Schmid

1090 Wien, Sobieskigasse 31

Hotline: 01/1708

Tel.: 01/3171556

Fax: 01/313249985900

e-mail:

post@kja.magwien.gv.at

www.wien.gv.at/kija

Members / Representatives

EFCW:

Paul ARZT (*Salzburg*; kija.sbg@kija.at)

Childs Rights Caucus:

Helmut SAX (*Wien*; helmut.sax@univie.ac.at)

National Coalition for Children's Rights: Monika PINTERITS (*Wien*; post@kji.magwien.gv.at)

G. VISY (*Niederösterreich*; post.kija@noel.gv.at)

Western Europe NGO Forum on Children: *perhaps* Helmut SAX (*Wien*;

helmut.sax@univie.ac.at)

Focal Point:

not clear yet

EU-Youth-„whitebook“-Commission:

Anton SCHMID (*Wien*;

post@kji.magwien.gv.at)

Working group on children, democracy+participation in society (Council of Europe, Straßbourg):

Bettina CHRISTIAN (*Oberösterreich*;

kjanw.post@ooe.gv.at)

ENOC:

Christian THEISS (*Steiermark*; kija@stmk.gv.at)

SUMMARY OF OMBUDSPERSON ACTIVITIES

FLEMISH COMMUNITY OF BELGIUM

OFFICE OF THE CHILDREN'S RIGHTS COMMISSIONER

FLEMISH COMMUNITY BELGIUM

ANNUAL UPDATE

2001-2002

Information, campaigns and publications

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

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

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

The first years we went into the direct life surroundings of children. In 2000 we focussed on Children's Rights in their community, in 2001 on Children's Rights in school and in 2002 the campaign will work towards implementing Children's Rights within the family.

Every campaign has its kick-off with the annual **Children's Rights Festival** on the 3rd Saturday of September. The Festival is organised in a beautiful park, which is turned into the ideal kid's city for a day. It is set up as an experimental area where kids can have fun and learn about their rights (and how to use them) at the same time. There are different activities set up by all kinds of Children's Rights organisations, as well as performances by artists and popular bands.

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

Every campaign also consists of an **activity** on the field: A voting ballot on local priorities for children in 2000, a school-participation project in 30 schools in 2001 and a theatre production and exposition in 2002-2003. For this production we worked with a

well-known youth theatre group in Flanders. The theatre-production was made by children and young people themselves and will be performed by them in theatres all over Flanders. Accompanying the play is an interactive exposition for children and parents on daily life situations in the house.

In 2002 a new the Children's Rights poster was designed, based on all three campaigns. It shows all different Children's Rights in the setting of the community, the school and the family and children need to look them up. They can also colour the poster.

As a follow-up on the presessional in Geneva, the Belgian report for the Committee on the Rights of the Child and the UNSSC, the office launched a **Children's Rights Manifesto**, together with the NGO coalitions and the What-Do-You-Think group. In this Manifesto we go into several Children's Rights topics that should figure in Belgium's National Action Plan on Children's Rights, an obligation of the UNSSC Outcome Document. The Manifesto is sent out to all levels of government and to all the parliaments in Belgium.

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

For example:

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

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

The Children's Rights Commissioner was also active in preparations for the UNSSC and the first global meeting of IFRI for children in New York.

The Children's Rights Commissioner drafted an alternative report for the Committee and presented the report during the presessional in Geneva. The Children's Rights Commissioner was also present as an observer during the Committee's session on the second Belgian report. Not only the Convention on the Rights of the Child itself but also the Concluding Observations will be important guidelines for the upcoming years.

Ombudswork for children and young people

Children and young people can contact the office with questions on Children's Rights, with complaints or with policy suggestions. In the beginning it was mostly adults who contacted us but during the last two years, more and more children get in touch with the office (about 50%). Every year about 1000 requests are registered. Informative questions are decreasing since more people find all the necessary info on the website. The number of complaints is increasing, which means that more investigative work is necessary.

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

Most requests still deal with family problems surrounding a divorce. An increasing number of cases deals with problems in school: refusal of enrolment, discussion on school results, distressing or violent behaviour of teachers or fellowstudents... Other cases concern problematic situations in youth care. Not that many children contact us with suggestions.

Not only do we try to solve the individual problem, but we also use this information as illustrations in policy recommendations.

Meanwhile a registration system was designed and is now operational. This system allows a better follow-up of the individual cases and it serves as a database for more structural information and statistics.

Research

A three-year research has just been finished on parent-child-relations and communication within the family and its effect on the wellbeing of children. Information was gathered, both with children/young people and their parents, on children's self-esteem, wellbeing in school, feelings of depression and anti-social behaviour. In short, the supposed link between positive communication and wellbeing is now scientifically proven, both for the child as for the parent.

In 2002 we also did a survey with children, age 10-12, on how they think they are consulted in family decisions. Parents today are often convinced that they run rather democratic households; their children however had a slightly different view. Although most kids say that they do not disagree with their parents all that often, some also said that even if they do, their opinion doesn't really matter anyway. Others say that they can sometimes voice their ideas but to no real avail. A small percentage stated that they often disagree but that they are afraid to speak their mind.

This research also served as a supportive argument for the 2002 campaign, by which we want to stimulate and improve family consultation.

Advice and policy recommendations

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

- youth care, position and rights of the client,
- a new detention centre for youth,
- after school day-care,
- youth policy,
- quality of education,
- free access to the school of one's choice,
- intercountry adoption,
- euthanasia,

- improving art. 12 in practice,
- legal capacity for minors to start court procedures,
- court interference in cases of child abuse,
- (free) transportation to school,
- equal education opportunities, inclusive education,
- foster care,
- patient's rights,
- unaccompanied minors,
- child impact assessment,
- national commission on Children's Rights,
- proposal to increase the number of members in the Committee from 10 to 18.

Ankie Vandekerckhove
Children's Rights Commissioner
Flanders, Belgium

SUMMARY OF OMBUDSPERSON ACTIVITIES
FRENCH COMMUNITY OF BELGIUM

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

Country Update 2002

Information, complaints and mediation requests concerning children ill-treatment

The General Delegate for Children's Rights is first of all the ombudsman, the mediator of children, who receives information, complaints or mediation requests with respect to children's rights breaches in general and of one child specifically.

1.688 children have been involved during the twelve months of 2001 –2002.

As far as the type of problems met is concerned, it has been noted that since 1991, three same problems permanently keep the same quantitative importance :

- physical and / or psychological ill-treatment among which sexual abuse, incest and paedophilia;
- the consequences of parental separations or conflicting divorces;
- the withdrawal from the family or the placing of the child.

Recommendations formulated to political authorities

As far as the foremost thematic approaches for which the recommendations were uttered are concerned, as well from conclusions drawn from individual situations as from workgroups set up, these concern such varied fields as :

- the reform of family situations, among which the audition of children as well as the appointment of a minor-specific lawyer,
- adoption
- the situation of foreign minors detained in closed centres,
- youth assistance,
- juvenile delinquency,
- fighting ill-treatment and sexual abuse,
- the children of a detained parent,
- parental abduction.

It should be added that, upon request of the Advisory Committee of the General Delegate, two workgroups have been created : one for the rights of children taken up in hospitals, another for personal relations between a child and his parent against whom allegations of ill-treatment or sexual abuse have been filed.

Information campaigns

Campaigns for the personal security of children

Launched at the beginning of July 2000, this campaign for the personal security of children is now renewed each year before school holidays 2001. Indeed, children are more often alone during this period of school holidays.

The campaign relies on an information poster, a personal card for each child and an explicative folder for adults. The motto of the campaign is "Being careful could help you!". The cards invite children to ask themselves three prudent questions if asked to follow somebody. The prudence card also reminds children two phone numbers they can dial to receive hearing and help.

Several hundred of thousands of cards have been disseminated upon request.

The national Day for children's rights

In Belgium, the 20th of November is the national Day for children's rights. Within the framework of his information mission on children's rights, the General Delegate has set up a wide partnership to co-ordinate the various actions in favour of children during this day. He will also put at the disposal of the public and childhood professionals various information tools on children's rights.

This year, an academic morning will be devoted to the theme "Children told us" and will aim at allowing either children directly or professionals of childhood to communicate their concerns about children's rights.

Alvin, the wondrous goblin, the teddy goblin for children

Last year, the General Delegate had adopted a new adviser : Alvin, the wondrous goblin, bubble blower and pain reliever. This little figure has become the official logo of the General Delegate and it now appears on all sensitisation tools devised for children. He is the central figure of the book "Hope bubbles" where he explains to children their foremost rights as acknowledged by the Convention for Children's Rights. He has also become a puppet.

The General Delegate for children's rights : a strengthened institution

The Parliament and the Government of the French Community were involved in a reform process of the institution in charge of the respect of children's rights and interests.

This reform has resulted in the vote, on last 20 June, of the Decree of the Parliament of the French Community of Belgium instituting a General Delegate of the French Community of Belgium for Children's Rights.

The institution grew stronger as a result of this vote.

First of all, the institution is now created by the legislative power and no longer by the executive power, as was the case before.

The institution always keeps its mission of safeguarding children's rights and interests. These specific missions have been extended and the investigation powers of the General Delegate have been enhanced. The independence of the institution has been asserted in the text (see presentation in annex).

Annex
General Delegate of the French Community of Belgium for the Rights
of the Child – Decree of the Parliament of the French Community of
June 20, 2002

Created initially by a act from the Government, the institution is now reinforced by the vote of the decree of the Parliament of 20 June 2002 instituting a General Delegate of the French Community for the rights of the Child.

A. Missions

The general mission of the General Delegate is to warrant the respect of the rights and interests of children.

To cope with this mission, the General Delegate is, among others, entitled to :

1. spread information about the rights and interests of children and ensure the promotion of the rights and interests of children;
2. keep a watchful eye on the correct implementation of lawgiving and rules with respect to children;
3. recommend before the Government, Parliament and any competent authority any proposal regarding children with a view to adapt the rules in force to enforce a more complete and efficient protection of children's rights and interests;
4. receive information, complaints or mediation requests related to violations of children's rights and interests;
5. upon request of the Parliament, lead investigations on the functioning of administrative departments of the French Community concerned with this mission.

B. Implementation Field

Concerns any person aged at least eighteen or any person aged at least twenty for whom support has been requested before the age of eighteen from Youth Assistance or Protection.

C. Action means

It is possible for the General Delegate to forward the Federal Authorities, the Community, Regions, provinces, "communes" or any institution under their authority questioning and requests for investigation to fulfil his mission.

Within the limits determined by the Constitution, laws, decrees and orders and within the limits of his mission, he has free access during normal working hours to all buildings of Community public or private departments receiving subsidy from the French Community.

The heads of the departments and the staff members are compelled to communicate to him all documents and information necessary for the fulfilment of his mission, except those covered by the medical secret or which they should have access to as a consequence of their quality of necessary confidant.

The General Delegate can stipulate mandatory terms for answering the request but these must be duly motivated.

Should he receive no answer within terms or a motivated refusal, he can appeal to the Government of the French Community.

D. Action philosophy

As the defender and the guardian of children's rights and interests, the General Delegate wishes to exert his mission in full independence and to be accessible to all (children, private persons, organisations ...).

It should, however, be stipulated that he does not wish to do and settle everything alone.

There are, of course, efficient services (public centres for social assistance, information departments for young people, assistance departments in open surroundings, centres for psycho-medico-social assistance ...) to which children can apply in first instance. Children must be made aware of their existence.

When children experience problems with the respect of their rights, it will first be the job of these organs or persons to intervene, such as for instance the adviser for Youth Assistance or the lawyer.

If after all these steps, no solution is reached, the General Delegate for Children's Rights must be contacted.

To fulfil his mission, the General Delegate continues reinforcing his efficiency strategy with all these intermediate persons and departments : first-line services, advisers and directors for Youth Assistance, centres for psycho-medico-social assistance ... but also officials of the judiciary power and political deciders.

Annual report

On the 20th of November, on the occasion of the international day of children's rights, the General Delegate simultaneously sends an annual report containing the evaluation of his activity to the Government and the Parliament.

This report is accessible to the public.

Advisory Committee

This Committee, created on the initiative of the General Delegate, is constituted of 24 famous personalities from various fields (university, medicine, judiciary power, psycho-social field ...).

The aim of this advisory committee is to favour a professional practice of the institution of the General Delegate in the best possible way as regards efficiency to the benefit of children.

SUMMARY OF OMBUDSPERSON ACTIVITIES

DENMARK

DENMARK
Country Up-date

The National Council for Children's activities in 2001-2002

Structure of the National Council for Children

The National Council for Children is the Danish model for an ombudsman institution for children. The Council has a total of seven members coming from various professional backgrounds. All are experts in children and adolescents. The Minister for Social Affairs appoints the Chairman and two other members. The remaining members are elected on the basis of an election procedure where NGOs working with children may nominate candidates and participate in the election process.

The Chairman is educator Mr. Klaus Wilmann.

Generally, the Council members meet six times annually.

The Secretariat presently employs 5 staff. The employees cover the following disciplines: law, sociology, communication, child and youth education and social work.

Types of tasks carried out by the National Council for Children

The office of the National Council for Children is a national agency given formal status and authority by Parliament. The Council is a politically independent body empowered to set up its own agenda, take action, give statements and formulate criticism when it deems necessary. The Council has no authority to deal with personal cases of complaint. The Council is asked to comment on new bills. The Council keeps the relevant ministers, members of Parliament, NGOs, professionals and the media abreast of its initiatives and statements. The Council uses tools such as newsletters, annual reports, conferences, press releases, a website and direct dialogue.

Difficulties, which the Council meets when exercising its mandate

The Council's finances:

Denmark got a new government by the end of 2001, which decided to close down several national institutions, and reduced the funds dramatically for others. The National Council for Child survived but got its funds reduced with 23%. The consequences are reduction in the staff and very limited funds for activities.

Activities in 2000 - 2001

1. Comments on bills:

In the past year, the National Council for Children has commented on 16 new bills that in some way affect children. Generally, the Council bases its comments on the Convention on the Right of the Child (CRC).

2. Annual meetings:

The annual meeting for NGO's, professionals, local and central authorities and other with interest in children addressed in 2001 the topic. "Children's time and adults' time for children."

3. *The National Council for Children's communication with children:*

The NCC primarily communicates with children through the Council's Children's Panel. This panel comprises a representative segment of children in 7th form (ages 12 to 13) in schools all over the country. They participate in two to four annual questionnaire studies that document children's views on subjects relevant to them.

In 2001 a study focused the abilities of the parents to taking days off (family welfare days) when the children are ill. Until this study children's views and needs were almost invisible in the current debate on maternity leave and welfare days. Almost all children want the area to be regulated by legislation. Among many interesting facts the study shows us that 25 % of the children (age 10 to 12) are alone in the house when ill but also that children and adults define paternal care differently: Children also want the presence of a parent in situations in life when something special is going on or when they are sad and worried.

In spring 2002 a questionnaire focused pupils' participation in decision making in schools.

The study still unpublished shows that whereas formal democracy with an explicit legal background (e.g. pupil councils) has found a stable position in school, the practicing of classroom democracy (i.e. teaching methods, subjects and relationship between teacher and pupil) still has a long way to come. Half of the pupils never or seldom participate in planning their own work plan and 90 % never or seldom have a say when it comes to choosing books and training material. 20 % of the pupils declare that they are often or always afraid of expressing their opinion in the classroom.

Danish school experts emphasize as unique the existence of the home-class teacher system (same person teaching the pupils very often from 1st to 10th grade). However 90 % of the pupils never or seldom talk about personal matters with their teacher – questioning the safety and confidence in this system.

The NCC has decided to focus on school matters in the years to come and will use facts from this study when confronting school authorities and decision-makers with the point of view that methods of pupils' participation in school must be identified and refined.

In accordance with the decision of the Council to strengthen the direct contact to Danish children the chairman this spring has visited 4 panel classes listening to and debating with the children about everyday life joys and problems but also about more abstract themes as death and war. The chairman found the meetings positive and inspiring and will be planning more visits in the future.

4. *Supporting the implementation of the CRC in Denmark:*

The CRC has not been consistently incorporated into Danish legislation. When the Council comments on new bills, it does so on the basis of the Convention on the Rights of the Child.

Generally, interest is shown in the Council's views, which are expressed through the comments to bills, discussion papers, reports, etc. These written expressions are accessible on the National Council for Children's website. The media often cite these documents, a fact that helps raise awareness of the CRC.

Book: The CRC in Denmark

The NCC will on the 20th Nov this year publish a book about the CRC in Denmark. The content will be a mixture of facts about the Convention and contributions from a variety of people working with children's rights e.g. the president of the Danish Parliament, the Danish Ombudsman, one of the youth delegates at UNGASS and the chairperson of the Committee on the Rights of the Child.

Incorporation of CRC in Danish law

In Nov 2001 the National Incorporation Committee published its report: On the Incorporation of Human Rights Conventions in Danish Law. The committee recommends early incorporation of the following conventions: The international Convention on Civil and Political Rights (CCPR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). In May 2002 NCC made its statement about the report and recommended the CRC to be incorporated too.

The Optional Protocol to CRC on the Involvement of Children in Armed Conflict On the 4th of April 2002 the Danish Parliament unanimously decided to ratify the Optional Protocol to CRC on the Involvement of Children in Armed Conflict.

Implementation of the CRC in local authorities

The NCC hosted in 2002 two national conferences about the experiences of supporting local authorities in developing the local child-policy and practical work with children on the ground of the CRC.

5. Video recordings of police interrogation of sexually abused children:

In collaboration with two NGOs, the National Council for Children in 2000 set up a panel of experts to uncover problems related to video recordings of police interrogation involving children who have been sexually abused. The panel clarified both legal and psychological problems related to the interrogation of children and submitted a proposal towards an optimum method of interrogation in autumn 2001 which has contributed essentially to the ongoing national debate.

The government in 2001 set up an interdisciplinary committee to reconsider all legislation related to children involved in a court process. The committee has been confronted with the NCC proposal and is expected to publish a comprehensive report this autumn.

6. Parents have no right to hit their children

More leaflets in ethnic minority languages.

Informative campaign material in Danish on the 1997 law amendment banning physical punishment of children has been translated into English, Bosnian/Serbian/Croatian, Arabic, Turkish and Urdu (Pakistan). Translation into Somali is in process and a leaflet will be published this autumn.

National Language School Centers for immigrants and refugees, community health personnel, social workers, refugee camp workers and ethnic minority groups are primary purchasers of the material and have shown great demand.

A pamphlet to promote parents to choose positive education.

In the autumn of 2002 the NCC will publish a pamphlet supporting new parents in choosing positive education and not negative punishment. The pamphlet will be offered the local authorities and the visiting nurses will discuss the matter with new parents.

7. UNGASS:

The National Council for Children participated in Denmark's preparation of the United Nations General Assembly Special Session on Children and attended the assembly too.

8. Children in families who are going through the process of divorce.

In the October 2002 a documentary on children's experiences of the divorce process in their family will be ready for the public. We expect it to be send on one of the national TV channels.

9. Information and publications:

During this period, the National Council for Children has issued a total of seven publications:

Two children' panel reports: * *Children's views on family welfare days*
* *Children's views on smoking*

Two reports: * *An optimal model – Report on video recordings of police interrogation of sexually abused children*
* *Annual Report*

Four pamphlets: * *The National Council for Children – presentation pamphlet Danish*
* *The National Council for Children – presentation pamphlet English*
* *Parents do not have a right to hit their children – Urdu and Somali*

A new homepage

In June 2002 the National Council for Children has launched a new homepage. The target group is adults, but the Council will create a special website for children in 2002/03.

SUMMARY OF OMBUDSPERSON ACTIVITIES

FRANCE

**ANNUAL REPORT ON THE ACTIVITIES OF THE FRENCH OMBUDSMAN FOR
CHILDREN / DEFENSEUR DES ENFANTS
(OCTOBER 2001-OCTOBER 2002)**

I – Overview of activities during the past year

Originally set up by a French law dated 6 March 2000, the Office of the Défenseur des Enfants is, after only two and one-half years in existence, firmly anchored in the French institutional “landscape”. It is regularly consulted and highly respected in its field of expertise. It enjoys a constructive relationship with State administrations and with local authorities, and has now become the reference in the domain of protection of child rights.

A relationship of trust has been established with the French Parliament, with the result that the Ombudsperson for Children is systematically consulted by ad hoc parliamentary committees responsible for examining proposed legislation that might affect children and their rights.

She is also consulted by government branches as they formulate regulatory texts.

She is the authority representing the State on various commissions set up to inform the government on issues affecting minors (natural consultative committee on human rights; commission on sex education, planned parenthood and family education; commission on the classification of films).

The simple fact that the institution exists is increasingly well known to the general public in France and, above all, to minors.

This is due in part to the great number of trips the Ombudsperson has made within France, well covered by the media, as well as to widespread efforts to publicize the work of the Office (interviews of the Ombudsperson on radio, television and in the press, particularly in newspapers and magazines that target young audiences; a poster campaign on child rights in primary schools last year and in hospitals this year).

This considerable activity is reflected in the statistics, which show that individual complaints received by the Office over the period 1 July 2001 – 30 June 2002 (800) had risen 14% in relation to the year-earlier period (700) which corresponded to the first year of activity. However, with the 400 files carried over from the previous year, still to be processed, a total of 1,200 individual cases have actually been handled by the Ombudsman staff during the year.

In general, cases are submitted by individuals (93%) as opposed to organizations (7%). Among those submitted by individuals, 11% originate directly with the minors concerned who, in the large majority, are between 11 and 15 years old.

The reasons for which cases are submitted to the Office are varied and complex, but, in general, they centre on disputes as to visiting rights and living arrangements, and the usual place of residence of the child when couples have separated or divorced. To these must be added disputes related to placing of children in foster families and problems with various institutions (schools, hospitals, police, etc.).

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

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

Finally, without going into tedious statistics, can be shown that, in 40% of the individual cases it receives, the Office meets the needs and expectations of its public; this alone would surely justify its existence, were that necessary.

The mission with which the Office is entrusted is not, however, limited to the handling of individual cases: there is also a need to examine collective dysfunctions that affect children and to help to promote reforms which can lead to better respect of child rights.

In this context, the Ombudsperson for Children identifies and investigates one or several themes each year which she feels deserving of special attention.

In 2002, the main issue which led to in-depth investigation related to children and health: the condition of pediatric clinics, hospitalization of children, emergency care, dealing with pain and, of course, preventive and educational campaigns directed at children and adolescents.

In each case, the present situation was analysed and concrete proposals for improvement were formulated for government authorities, whether with respect to reworking legal texts now in force or initiating changes in practices to ensure that child rights are consistently better respected.

The report on these activities will be submitted to the President of France and the French Parliament in November.

II – Impact of the reform proposals made by the Ombudsperson for Children

Positive changes and progress in complying with the reforms called for in the ICRC (International Convention on the Rights of the Child) can be noted over the past year. In most cases, these changes have been the direct result of opinions expressed and proposals made by the Ombudsperson for Children since she assumed her responsibilities.

A number of files have met with total or at least partial success.

This is first the case for the right of families to have access to social worker files concerning them.

A decree dated 15 March 2002 changes current procedures so as to guarantee the family's rights in all dealings with social workers and, in particular, ensures that the parties concerned are informed at all times of their rights. Family rights to access their files are, however, tempered by one "precautionary exception": if good reason can be shown, the judge may, subject to appeal, remove certain elements from a file which, if consulted, might constitute a threat of serious physical or psychological harm.

A further example is that of minors in prisons. On several occasions, the Ombudsperson reiterated the need to ensure that the legal system could adapt to

the specificities of children. A memo issued by the Ministry of Justice on 8 March 2002 stresses the need for coordination in legal measures affecting minors and calls for the creation of a commission in all French departments specialized in law for minors.

Moreover, another memo from the same ministry (26 October 2001) gives an updated list of the penitentiary institutions authorized to receive minors. The increase in their number (59, as opposed to the earlier 53) provides more space for minors and thus makes it easier to respect obligations regarding their incarceration in individual cells. This memo also stipulates that all blocks in which minors are incarcerated must comply with the standards and provisions set forth in an official manual on treatment of minors in prison.

It nonetheless goes without saying that the Ombudsperson does all in her power to ensure that minors are incarcerated only as a last resort and only very exceptionally, in accordance with the ICRC.

A third field in which a number of the Ombudsperson's recommendations have been followed is children's psychiatry.

The Ombudsperson had recommended a modification in an article of the civil code to make it mandatory to provide for a psychiatric assessment before any minor was placed by court order in a specialized medical centre.

The unfortunate situation at the time was that, following a court order placing them temporarily in custody, minors were hospitalized in psychiatric wards (with no prior examination) in cases where there was no social work structure available to receive children.

The law on the rights of medical patients and the quality of the health system (dated 4 March 2002) now stipulates that no minor may be placed in an institution which treats persons hospitalized due to mental disorders without the medical authorization of a physician outside the institution, and that the minor may not be kept for more than fifteen days. A medical opinion on the part of the psychiatrist in the institution is then necessary to extend this period for renewable periods of one month.

Among the other files that have received special attention and met with positive results, we can mention:

* *Access to information on the origins of adopted persons and wards of the State.* A law dated 22 January 2002 recognises the concerns of the Ombudsperson to a large degree and attempts, strictly respecting all established filiation, to facilitate the efforts of individuals looking for their biological parents. The text brings up to date the legal framework of anonymous childbirth so as to make it possible to lift secrecy as to the identity of the mother, and even of both parents.

* *Respect for medical secrecy and access to medical files.* The law of 4 March 2002 on the rights of medical patients and the quality of the health system (mentioned above) sets up a "democratic" health system, setting forth the rights of the individual in relation to this system (the right to protection, dignity, privacy, non-discrimination) and expanding the rights of patients and their families to information (each patient now has direct access to his/her medical files).

* *The rights of foreign minors,* a major subject of concern for the Ombudsperson. The law on parental authority states that an "ad hoc" administrator will be

appointed for foreign minors in “waiting areas” in airports (administrative retention zones under police jurisdiction) and for those who request refugee status. Henceforth, the Public Prosecutor must immediately appoint an “ad hoc” administrator¹ on learning that an unaccompanied foreign minor has entered the waiting area. This “ad hoc” administrator must be present in the waiting area to accompany and represent the minor in all administrative and jurisdictional proceedings.

* *The fight against all forms of sexual exploitation of children.* In this domain, a number of legal and regulatory texts have provided partial solutions. The law on parental authority prohibits the prostitution of minors and provides for the protection of a judge for underage prostitutes. The text also sets up new sanctions against clients of underage prostitutes and creates a new offence regarding clients of prostitutes aged between 15 and 18, putting an end to a legal vacuum. In this same law, provisions protect minors from pornography by making it a crime to possess pornographic images of minors and requiring that prohibitions on both the sale of pornography to minors and inappropriate advertising be so clearly visible to the user that they cannot be ignored.

Furthermore, a memo concerning the conditions for dealing with children who are victims of maltreatment, and most particularly of sexual abuse, invites all concerned parties to design measures which improve the circumstances under which underage victims of sexual abuse are received in hospitals, so as to facilitate taking their testimony.

Finally, the law modernizing the health and welfare system now protects physicians from sanctions in the event that they report evidence of physical cruelty to a child.

* *Subsidized, assisted housing in the Paris region for HIV-positive parents and their children.* A social welfare law of 17 January 2002 has created a legal framework for this type of housing, stipulating that the “operating expenses shall be borne by the state Social Security system, though not to the exclusion of contributions on the part of local administrations.”

III – Difficulties encountered by the Office in carrying out its mission

As was indicated earlier, the mere existence of the Office of the Ombudsperson for Children in France constitutes an undeniable step forward in the protection and promotion of child rights.

The statistics on individual cases handled and the legislative and regulatory texts produced over the last two years, often on the initiative or recommendation of the Ombudsperson for Children, clearly demonstrate the pertinence and importance of the work of the Office.

There still remains, undoubtedly, much to do, and not all requests or proposals from the Office are taken into consideration. At the very least, it is in a position to express opinions on all subjects within its field of competence, given its recognized status as an independent authority.

¹ The ad hoc administrator is a natural or legal person with a legal mandate to ensure the protection of the interests of a minor. The administrator is the minor’s representative and accompanies the minor in all official proceedings.

No restraint is placed on the Office's freedom of expression, and it is able to take up any case in which minors are concerned.

Moreover, the Office alone is responsible for undertaking the communications campaigns it deems useful, with the partners it deems most appropriate.

The Ombudsperson for Children in France has not encountered any specific problems in her dealings with government authorities.

The fact remains that her scope of action is obviously restricted by the modest budget accorded to the Office.

While for the moment, the Office continues to operate under satisfactory conditions, it is certain that no expansion in its activities will be possible in the absence of additional funding.

This is a question of general policy and budgetary planning which will be up to the new Government to solve.

SUMMARY OF OMBUDSPERSON ACTIVITIES

GEORGIA

Country Up-date Georgia

1. The Child Rights Center was established within the Public Defender's Office in April 2001. The UN Convention on the Rights of the Child and international conventions and arrangements on children provide the basis for the Center's program of action. The area of responsibility of the Center is to advocate for the rights and interests of children in society.

The structure of the Child rights Center:

Activities of the Center are leading by the Head of the Center. In her activities, the Head will be helped by her deputy and staff of volunteers affiliated to the Child Rights Center.

Relationship with the Governmental structures

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

Relationship with the NGOs

1. The Child Rights Center shall design appropriate modalities for the collaboration with the NGOs.
2. The Child Rights Center shall help the different NGOs working on children issues to establish a forum in order to ensure coordination and collaboration through regular periodic meetings.
3. The Child Rights Center, through submission of sound proposals, shall request funding from NGOs and other donor organizations on projects related to children.
4. The Center involves the national and international NGOs in its annual review meeting in order to review and assess the situation of children in the country and to draw appropriate policy options for them.

Relationship with Children

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

2. The Child Rights Law is preparing, which includes UN Child Rights Convention, international conventions and arrangements on children issues as well as existed Georgian laws. Also was made the necessary changes and additions to Georgian laws related to children's commercial sexual exploitation (children's prostitution, children's trafficking, children's pornography).

We hope it helps much the protection and promotion of children's rights and freedoms in Georgia. The Center is actively involved in every activities related to improve children conditions.

3. The Child Rights Center of Georgia has faced a lot of constraints and problems – hard social and economic situation in Georgia, unemployment, children in the street, low development of such category of children, unsympathetic and feckless of the government bodies and so on.

Tamta Tsutsunava
Head of the Child Rights Center of Georgia

SUMMARY OF OMBUDSPERSON ACTIVITIES

HUNGARY

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

Albert Takács

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

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

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

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

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

accordingly. Thus, the "compulsion" applied by the Commissioner is exerting pressure, formulated professionally and amplified, through the use of publicity, that has been given expression in the constitution developed on the basis of democratic values.

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

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

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

- to enforce the legal rights of the children and the accord and satisfaction of parental commitments,
- to prevent or terminate the assault of children and to replace the missing parental care, and
- to help social adapting of young adults dropping out of children's care.

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

- are obliged to proceed taking into consideration the interest of the children,
- have to contribute to their upbringing within family home circle by providing the necessary support to the child and its family, and
- have to ensure the safety, nursing, education and healthy development of personality of those children who, by any reason, dropped out of their family. The group of persons endangered the most by social restratification is that made up of children. Every second person among the poor is a child or a minor.

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

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

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

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

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

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

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

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

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

To this end he pays regard to:

- the process of conversion of children's homes of great strength into intimate family-type smaller ones,
- the establishment of special institutes for minors with conduct problems, drug or alcohol addicts
- the assertion of the right to expression of opinion and to complaint of minors living in children's homes
- the activities of authorities and child care institutions in order to prevent and anticipate abuses.

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

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

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

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

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

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

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

SUMMARY OF OMBUDSPERSON ACTIVITIES

ICELAND

Thórhildur Línal

**ENOC'S ANNUAL MEETING
BRUSSELS, 2 – 4 OCTOBER 2002**

The Office of the Ombudsman for Children in Iceland

As has been the case for the past several years, the Office of the Ombudsman for Children in Iceland is staffed by a full-time specialist and a part-time (85%) office manager, in addition to myself, the Ombudsman for Children. Repeated requests for increased funding to the Office have not got the desired result; thus it has not been possible to hire additional employees, though the need is acute. The number of cases handled by the Office has, on the other hand, increased steadily and considerably, particularly in the form of *written requests for assistance that are received via e-mail*. The very nature of such written requests makes them more time-consuming to answer than are telephone requests, which generally can be handled with verbal instruction. Children usually make contact with the Office by e-mail.

Written requests reached a new high of 172 in the year 2001. In comparison, written requests totalled 120 in the year 2000 and 41 in 1998. The number of requests originating abroad doubled between 2000 and 2001.

The number of *verbal/telephone requests* – approximately 1000 per year – has remained roughly constant in recent years. The most common scenario is that a person or referring organisation will make contact with the Office in the wake of family problems such as separation or divorce. Issues relating to school are also numerous; i.e., regarding ostracism and/or persecution (often referred to as bullying), special education for children with special needs, school bus service, and in-school meals. Issues centring on the need for improvement in the area of child protection and welfare are common as well, such as the rights of both foster children and children dwelling in publicly subsidised treatment homes. Matters relating to the health care system, including children's mental health, have also increased in number.

As has always been the case, our experience is that the requests directed to the Office concern individual children. Though the Ombudsman for Children does not have the authority to deal with disputes between individuals, the Office makes a supreme effort to give advice and instruction to all those who seek it. Moreover, many of these individual cases have a certain general applicability in one way or another, and the fact remains that numerous issues that I have addressed publicly were originally brought to my attention as personal matters relating to individual children.

The Office's Chief Projects for the Year 2002:

✓ Annual report for the year 2001

The annual report on my work for the year 2001 has recently been issued. This report receives wide-spread circulation and is addressed to the Prime Minister, with whom I then meet to discuss the year's events, the progress made, and the things that need to be

accomplished or improved. At the outset, I decided that the annual report should be detailed and thorough, as I believed that this would strengthen the foundations of the Office. The annual report has always received a great deal of attention in the press, and many of the subjects addressed therein have awakened both curiosity and general interest in children's issues on the part of the public.

✓ ***Advisory classes***

I have actively sought out collaboration with children in the middle years of primary school – that is, 10- to 12-year-olds – and have asked a group of children of this age to be my advisors concerning various issues. This experimental project is scheduled to begin next month and is to last through the end of the current school year. The teachers of these so-called advisory classes will be important liaisons between myself and the students and will, among other things, act as intermediaries by relaying my questions to the classes. No questions will be asked about delicate personal problems that the children might have; the emphasis will instead be on general issues concerning their attitudes toward various aspects of their lives and environment; for example, about school and recreational activities. This project is one of several methods that I am using in order to promote publicly the provisions of Article 12 of the United Nations Convention on the Rights of the Child.

✓ ***Youth NetParliament – the Ombudsman for Children's 2001 youth assembly***

During the 1999-2000 school year, I launched an experimental project called NetParliament – the Ombudsman for Children's youth assembly. As the name implies, this Parliament takes place on the Internet, and it involves the participation of 63 representatives (thus the number of representatives is the same as the number of members of Althing, the Icelandic Parliament, and the geographical distribution of representatives is the same as that in the Althing). It was decided to hold another NetParliament in the year 2001. This was accomplished and the Parliament structured in a similar way, except that the age of the representatives was 16-18 (representatives at the first NetParliament were aged 12-15). Weekly Internet meetings were held in October 2001, and the Parliament's work took place in five committees that were selected at the beginning of the Assembly. Discussions took place in closed Internet chat rooms. The conclusions drawn by the Parliament were delivered to the Minister of Education, Science, and Culture at the NetParliament's final session, which was a public meeting open to members of the press. Since the close of the NetParliament, the Office of the Ombudsman for Children has done extensive work to publicise the conclusions of the Assembly. Parties whose interests include children's issues – i.e., representatives of Government ministries, institutions, and non-governmental organisations – were sent letters inviting them to meet with me and discuss children's issues, including the problems pointed out by the NetParliament's representatives and the possible ways in which to solve them. I have monitored the development of these issues closely, as I consider it of paramount importance that children and youth rest assured that their opinions are listened to – that their opinions matter. Various positive trends have developed as a result of my involvement in the issues thus brought to the surface.

✓ ***Song dedicated to Icelandic youth***

The NetParliament's final session was also the forum for the premiere of a new song composed by a well-known Icelandic musician who wrote the song at my request and dedicated it to Icelandic youth. A compact disc containing this song has been distributed to

all of the NetParliament representatives, among other recipients. The song is performed by an 18-year-old young woman and bears the title *Pray for Peace*. The text is available in English translation.

✓ ***SafeChat – collaborative project***

During the fall of 2001, I participated in a collaborative project along with representatives of the Reykjavík City Police, the National Commissioner of the Icelandic Police, the Reykjavík educational authorities, and others, concerning security in Internet chat rooms. The vastly increased use and ownership of personal computers in Iceland has simultaneously increased children's access to computers and the Internet, with the inevitable result that children are more vulnerable to exposure to Websites that are not intended for children or are grossly inappropriate for them. As has often come to light in the press, the danger lurks especially in Internet chat rooms. For this reason, it was considered timely to prepare a poster and brochure that draw public attention to the obvious dangers that can accompany the use of chat rooms. The poster points out various things that children should always have in mind when they use chat rooms, including the necessity to avoid giving out personal information about themselves before an adult has determined the identity of the other party to the conversation. The poster has been distributed to all of the primary schools in the country, as well as to other recipients.

✓ ***18-Year Guarantee – collaborative project***

A group of individuals who work for various youth support organisations in Iceland approached me with the desire to collaborate on the publication of an advertisement. The objective of this advertisement was, first and foremost, to awaken parents to the necessity to think seriously about their 18-year responsibility toward their children. The advertisement, which appeared on the Reykjavík city buses and elsewhere, contained the slogan ***18-Year Guarantee – Consideration, Respect, and Guidance Included*** and appeared in two forms: with a photograph of an infant and with a photograph of a 16-year-old.

✓ ***Promotional and educational work***

When I assumed the position of Iceland's first Ombudsman for Children in the beginning of 1995, one of my first projects was the preparation and publication of a pair of informational pamphlets on the activities and scope of this new office – one of the pamphlets was intended for adults, and the other was written for my clients, Iceland's children under the age of 18. These brochures have been distributed annually to the various organisations and institutions attended by children and have been systematically sent to all of the schools in the country. In some cases, I have followed up by visiting the schools. This past summer, I visited several pre-schools in order to familiarise myself with the conditions of the children there and to tell the children about the Office of the Ombudsman for Children. Thereafter, I visited several youth recreation centres and decided, upon consideration of the pointers that the young people gave me during those visits, to modify my methods of publicising the Office. The result of the new publicity effort is a colourful poster that makes reference to the role of the Ombudsman for Children. The poster shows a flower that must be protected in order for it to grow and flourish; the sun, which gives care in the form of light and warmth; and a rainbow, where dreams can

become a reality. The original picture was the work of a 10-year-old girl, and the poster will be distributed at the end of this month.

✓ ***The right of children to the protection of privacy, cf. Article 16 of the United Nations Convention on the Rights of Children, and the right to confidentiality on the part of public employees***

Next month, I will present a public report that I have had prepared on the above topics, as I am convinced that children's rights to privacy and confidentiality are not well enough protected in Icelandic legislation.

✓ ***Comments on the Child Protection Bill and the draft of a Bill in Respect of Children***

Work on the comprehensive re-evaluation of these two important laws has been underway in recent months. The new Child Protection Act entered into force on June 1, 2002. I submitted a detailed discussion of the Child Protection Bill in 2001 after having presented my comments during the early stages of the Bill's preparation. Numerous innovations that are found in the new legislation are based, at least in part, on my comments and requests; for example, the change that allows a child aged 15 or older to be a party to a child protection case. The re-evaluation of the Law in Respect of Children is still in progress, and I have submitted detailed comments on the draft of the new Bill to the legislative committee in question. It is expected that the Bill in Respect of Children will be presented at the Parliamentary session this fall.

✓ ***Comments made by the Ombudsman for Children to the United Nations Committee on the Rights of the Child***

Last month, I had the opportunity to send a report to the United Nations Committee on the Rights of the Child upon the occasion of the Committee's consideration of Iceland's Second Periodic Report on the Implementation of the United Nations Convention on the Rights of the Child. In this report, I make several comments about the implementation of the Convention in Iceland. Among my concerns is my conviction that the dissemination of information on the content of the Convention is both too little and too diffuse, that far too many Icelandic children and adults have little or no awareness of the content of the Convention. Moreover, I consider that the implementation of various Acts of Parliament is not consistent with the statutes currently in force and is therefore inconsistent with the provisions of the Convention. In some instances, I consider the provisions of the law to provide children with inadequate protection of their rights; i.e., in cases involving domestic violence and the use of coercive measures in treatment homes.

Thórhildur Líndal

List of Achievements for Children:

Legislation

Provisions in the following laws have been amended as a result of various types of intervention by the Ombudsman for Children:

◆ **Penal Code**

A revision of the Penal Code is currently in progress; for example, the provisions on a young person's age of consent. The Ombudsman has proposed that the age of consent in Iceland be raised from 14 to 16.

◆ **Child Protection Act**

The comprehensive re-evaluation of the Child Protection Act is complete, and the revised legislation entered into force on June 1, 2002. Several – but not all – of the comments made by the Ombudsman for Children have been considered during the re-evaluation process.

◆ **A proposal for a parliamentary resolution**

A proposal for a parliamentary resolution on the formation of a comprehensive policy in matters involving children and adolescents has been supported by members of all the political parties represented in the Icelandic Parliament; the proposal for the adoption of a five-year action plan for its implementation has received similar support. This proposal, which has now been approved by the Parliament, represents one of the Ombudsman's salient emphases ever since the Office was established in 1995.

◆ **Act on Income Tax and Property Tax – Child Compensation**

Through the years, the Ombudsman for Children has addressed and pointed out various issues concerning improvements that need to be made regarding the payment of child compensation to parents. Among the issues that the Ombudsman has criticized is the linking of child compensation to the parents' financial status. Amendments to the tax law are pending and will abolish such linkage of child compensation and parents' assets. Other pending amendments to the child compensation system concern both the phrasing of the law and its execution.

◆ **Law in Respect of Children**

Another proposal provides for the establishment of a professional public family counselling system that will be accessible to children as well as adults in cases of divorce or separation. A governmental bill of law to this effect has been approved.

◆ **Broadcasting Act**

A new Broadcasting Act has been implemented and takes into consideration the comments made by the Ombudsman for Children. The provisions regarding children and the news media were amended on the grounds of the Ombudsman's recommendations. Emphasis is placed on the protection of children against damaging information, cf. Article 17 of the United Nations Convention on the Rights of the Child (CRC) and the European Union Directive EU/89/552.

◆ **Act on the payment of indemnity by the State Treasury to victims**

The status of children as victims of sexual offences was fortified.

◆ **Act on Torts**

In determining indemnity for suffering in sexual offence cases, the following shall be studied in particular: the nature of the act, the duration of the period of abuse, and last but not least, the presence or absence of a violation of a family or confidential relationship.

◆ **Act on Public Procedure**

A judge questions a child who is the victim of sexual abuse immediately in the investigative stage (to avoid repetition). The questioning shall take place in a comfortable, child-friendly environment upon the fulfilment of certain conditions. An attorney is appointed at beginning of the investigative stage to in order to protect the rights of victimised children. His/Her fee is paid by the State Treasury.

◆ **Penal Code**

The expiry of sexual violations begins at the age of 14 (the Ombudsman proposed that there be no expiry of such violations or, as an alternative, that the expiry begin at the age of 18).

◆ **Sports Act**

Safety regulations with regard to swimming pools frequently attended by children receive legislative support.

◆ **Act on Legal Majority**

The status of children as the owners of certain valuables has been fortified.

Administration

The Icelandic Ombudsman for Children has made some progress within the Icelandic administration. A few examples may be mentioned:

- ◆ Procedures have been instated regarding the Customs inspection of the person or possessions of children under age 18 who are travelling to the country without an accompanying adult. These procedures were instated as a result of comments made by the Ombudsman for Children. Discussion of the possible legislation of these procedures is underway.
- ◆ The regulation on financial assistance to the providers of children with disabilities and long-term illnesses was amended and improved as a result of pressure exerted by the Ombudsman for Children and the Ombudsman for the Parliament.
- ◆ Following inquiries and recommendations by the Ombudsman regarding underage young persons who travel alone abroad, travel agencies have now formulated rules applying to such cases.
- ◆ Modelling agencies have instituted ground rules regarding the age of models who are sent abroad – i.e., a minimum age of 16 – as a result of inquiries made by the Ombudsman for Children.
- ◆ Since 1996, the Ombudsman for Children has pointed out the need for rules on children's business relationships with banks and other financial institutions. A task group consisting of representatives from the primary banking institutions in Iceland has prepared guidelines upon which the Ombudsman has made comments. These guidelines were taken into consideration when such rules were implemented in Icelandic banks.
- ◆ The Reykjavík School Board has approved a new policy on meals in the primary schools in the capital city. Considering the lengthening of the children's school day, the Ombudsman for Children has repeatedly emphasised the increased need to provide children with appetising and nourishing meals at school.
- ◆ A task group was appointed under the umbrella of the Office of the State Prosecutor to prepare a regulation on the working procedures of the police because of alleged violations of children who are incompetent to stand trial. This development followed inquiries and recommendations made by the Ombudsman for Children. Rules have now been set on the relations of the police with children who are incompetent to stand trial but are either victims or perpetrators in law offences.

- ◆ The Ombudsman has repeatedly pointed out the importance of a special study on the extent and nature of domestic violence directed at children. Preparation for a study of this serious problem among older children is now underway.
- ◆ The Ministry of Education, Science, and Culture has set a new regulation on school rules and on discipline in primary schools. The Ombudsman for Children focussed on the inclusion of a provision on the students' right to exert influence upon the contents of such rules in equal measure to the rights enjoyed by the representatives of parents and school authorities.
- ◆ The Prison and Probation Administration entered into an agreement with the Government Agency for Child Protection to place young sentenced offenders aged 15-18 in rehabilitation centres instead of conventional prisons; this agreement was made following a report by the Ombudsman for Children.
- ◆ The Icelandic Infant Care System delivered a special booklet on television violence to parents of all children three-and-a-half years of age. The booklet, entitled *What Can We Do*, is published by the Ombudsman in collaboration with the Society of Paediatricians.
- ◆ The Icelandic Broadcasting Corporation decided, on the grounds of a suggestion by the Ombudsman, not to broadcast commercials from movie theatres before 9 PM if the commercials contain violent scenes.
- ◆ The Minister of Health established a working group to formulate a policy on the mental health affairs of children and adolescents after the Ombudsman for Children's repeated requests that such a policy be formed. The policy is ready, though an implementation plan is not yet available.
- ◆ The Minister of Health launched an experimental project on accident prevention for children following a suggestion by the Ombudsman for Children. The aim is to decrease the number of accidents involving children and to establish a co-ordinated register of accidents involving children and teenagers.
- ◆ The school authorities received a report from the Ombudsman on ostracism and persecution (bullying) containing suggestions by children and teenagers. The debate on bullying will be continued. A principal of a school is obligated to see to that there exists a plan within his/her school on how to deal with bullying.
- ◆ Following an inquiry from the Ombudsman, the Minister of Education, Science, and Culture decided to conduct an initial study on the extent and nature of bullying in Iceland.
- ◆ The Minister of Education, Science, and Culture amended the procedure for the writing of final exams in the country's primary schools after the Ombudsman sent him a request to this effect.

Difficulties or obstacles the office has encountered in carrying out its mandate

Lack of public debate on the rights of children

Children and adolescents have frequently complained about the limited public debate about them and their affairs. Furthermore, they are concerned that the debate that takes place in the news media, for example, is usually negative in nature. It can be asserted that there has been more public debate about affairs relating to children and adolescents since the office of the Ombudsman for Children was established on January 1, 1995, as compared with the previous years. The debate needs to be more objective, however, and the views of adults about the young generation must also change significantly.

Children's rights to express themselves

The Ombudsman for Children has strongly emphasised the right of children to express themselves on matters that concern them and has maintained that children should be regarded as independent individuals with their own rights, which are independent from the rights of adults. The struggle against the prevailing views in society towards children and adolescents has been ongoing since the establishment of the office of the Ombudsman for Children and will continue for a long while yet. Even though full victory is still far away in these matters, occasional victories are achieved; this fuels the hope of a change of attitude of those who deal, in one way or the other, in the affairs of children, but have not yet adopted the message of the United Nations Convention on the Rights of the Child.

Appropriation to the Ombudsman for Children

Naturally, the activities of the Ombudsman for Children have steadily increased since the establishment of this office, and the work load has increased accordingly. In addition to the Ombudsman, there are now two permanent employees in the Office: an office manager and an attorney. Repeated requests have been made for increased national budget appropriations in order to allow an increase in personnel to work on the numerous and important projects that wait to be resolved for children and adolescents. Considering that no significant increase in appropriations has been approved despite repeated requests, the Ombudsman has now suggested that the authorities seriously consider the purpose and objectives of the legislative power when deciding to establish the office of the Ombudsman for Children.

Reaction by the authorities, the governmental ministries, and public institutions to inquiries from the Ombudsman for Children

Entailed in the work of the Ombudsman is the frequent need to seek information and clarification from the national authorities, the governmental ministries, and various public institutions. It is too common that repeated requests must be made for replies from the relevant parties; in some cases, the request for information and/or clarification takes several months. Such follow-up efforts are too time-consuming for an office that does not have a large staff; at the same time, such slow reaction time inevitably delays the resolution of matters under scrutiny by the Office. Of course, this is not always the case, as many authorities and institutions respond promptly and efficiently to inquiries sent them.

SUMMARY OF OMBUDSPERSON ACTIVITIES

LITHUANIA

Landmark of Children's Rights Ombudsman Institution in Lithuania

Lithuanian Children's Rights Ombudsman Institution is an independent body controlling children's rights protection, established on 1st of November 2000.

Among other duties, legislative body defined the right for an Ombudsman to take appeals from individuals and judicial bodies concerning children's rights and legal interests. According to the law, Children's Rights Ombudsman has also the duty to control the implementation of local and international legislation, regulating the protection of children's rights and legal interests; to supervise and control institutions for children and etc. Children's Rights Ombudsman Law empowers the Ombudsman to participate and express his/her opinion in Seimas (Parliament) and Governmental sessions where the question on children's rights protection is under the discussion; to propose legal amendments of new policy and its implementation. The Ombudsman's law also foresees that Ombudsman cooperates with state and local authorities, non-governmental institutions, and other persons.

Finished investigations and defined facts about children's rights violation stipulate very close cooperation between the Ombudsman's Office and Office of the President, Parliament and its committees and commissions, Government and separate Ministries. All the above-mentioned institutions are regularly informed about the results of investigation. In such cases, where children's rights are violated, Ombudsman always claims from relevant institution to eliminate the violation. In addition, Ombudsman suggests the proposals of legislation, participates in legal draft discussions, workshops and etc.

One of the most significant investigation, that the President of the Republic of Lithuania, as well as the Parliament were concerned about, was on Ombudsman's own initiative to check the condition for children in four special education and foster houses. During the investigation was found that not in all of these foster houses children's rights and legal interests are protected equally. Children's Rights Ombudsman ascertained violations of child's right to be healthy, right to education, right to individuality and its safety, right to the proper living conditions, right to rest and leisure. It was started to discuss the old problems about the functioning of foster houses and children's legal position in such houses after the violations were publicly announced.

The violation of child's right to education was found in investigation cell for minors. When the Ombudsman made a decision about this violation and informed both Government and Parliament, additional funds were added for education in 2002 in investigation cell for minors.

Few investigations were started on the basis of reports from non-governmental organizations. UN High commissioner for refugees reported about the violations in Foreigners' Registration Centre. After Ombudsman's intervention situation has changed and provisions of international legislation has been taken into account in order to protect the rights of minor asylum seekers.

During the investigation, Ombudsman contributes with Public Prosecutor's Office and Police. Besides that, Ombudsman visits children in educational, training and foster houses, summer camps, medical treatment institutions. After such visits children's problems are easier recognizable and it becomes easier to search the most optimal way of dispute solution.

Children's rights Ombudsman pays attention to the primary link of the work with children and family – Municipal Agencies for the Protection of the Rights of the Child. Visits of an Ombudsman in the agencies, discussions, negotiation with district and local administration called authorities attention to the bad financial and poor working conditions in Municipal Agencies for children. Children's rights Ombudsman put many efforts to change this situation: new Agencies were settled in the districts that did not have such institutions for children before; some Agencies got the apartments if they did not have it before, and etc.

It is very important to mention that Children's Rights Ombudsman, together with Municipal Agencies for the Protection of the Rights of the Child support the idea of creation of Central Institution for the protection of the rights of the child. Ombudsman's practice and the practice of Municipal Agencies' corroborated the need of new Central Institution for the protection of the rights of the child. The Central Institution would be responsible for the problems of children rights, coordinate actions of different state institutions, of region, city institutions for protection of children rights, as well as of the central and local municipalities in order to ensure better cooperation and the coordination of the implemented policy. Establishment of this new Institution would end the creation of children's rights protection system. In accordance, the need of such institution was underlined by the National Committee for the Protection of the Rights of the Child.

Only few moments on the activities of the Children Rights Ombudsman were mentioned above. More detailed Annual Report of the Ombudsman is available in the web site: www.lrs.lt, in the Chapter Institutions Accountable to the Seimas.

Structural changes of the Institution, ability to increase the office and to establish new departments in the Institution is limited because of financial position. At this moment, 2 advisers and one specialist helps the Ombudsman to run his/her daily tasks. It is clear, that minimal human resources in the Institution stipulate the fact that is impossible to divide problems among the specialists, according their specialization. It is also hard to analyze and to embrace all the issues concerning children's rights and legal interests; to accomplish new ideas, projects; to use all cooperation opportunities properly and etc.

In order to strengthen and to increase Ombudsman's relations with mass media and public, as well as to inform about Ombudsman's activities – Institution prepares to hire new specialist, who would be responsible for public relations.

Wishing to influence political changes in a country, concerning the protection of children's rights and legal interests, always to have clear and undistorted view about children's legal status and its changes in different regions, to hear the opinion of specialists directly working with children and families about the problems and the solution – Children's rights Ombudsman decided to organize meetings, seminars, discussions systematically.

To shape the Ombudsman's activities and to make them more tangible, to form the public opinion about child's position in a society – Institution needs sufficient human resources, material and technical equipment.

During the Children's Rights Ombudsman Institution establishment period was not finally agreed on what should be the main mission of the Ombudsman, which has made the Ombudsman's ability to act narrower. Ombudsman's position in a state institution system, Ombudsman's authority and Institution's structure were not discussed, either. It is clear from the practice, that Ombudsman's status, role and direction are interpreted differently by the state institutions as well as by the public. It happens, that Ombudsman's concept is speculated.

Cooperation with related institutions for children in foreign countries, participation in discussions, seminars and conferences during those two years of existence showed further directions and changes in legislation in order to bring

together children and make them to be a part of decision making process (establishment of advisory council for children to the Ombudsman's Institution). Our goal is to be closer to a child as well as to hear and to notice him.

SUMMARY OF OMBUDSPERSON ACTIVITIES

MACEDONIA

**REPUBLIC OF MACEDONIA
PUBLIC ATTORNEY - OMBUDSMAN
DEPARTMENT FOR PROTECTION OF CHILDREN'S RIGHTS**

In the Republic of Macedonia, in accordance with the Constitution of the Republic of Macedonia the institution of the Public Attorney is functioning which according to the Constitution and the special Law on the Public Attorney has the mandate to protect the constitutional and legal rights of the citizens when they are being violated by the civil service bodies or other bodies and organisations with public authorities.

The Public Attorney-Ombudsman is authorised to protect the rights of citizens and children's rights are also included within this framework. According to the Constitution and the Law on the Public Attorney there is no legal possibility for the establishment of a separate institution of Ombudsperson for the protection of children's rights, due to which a special Department for protection of children's rights was formed within the institution of the Public Attorney. From its establishment in 1998 until the present, the Department has not experienced any structural changes and it's still derives its competences from the Law on the Public Attorney and is acting in accordance with the competences of the Public Attorney.

The Department for the protection of children's rights is primarily acting upon individual complaints, but it also ensures the provision of special protection to children in accordance with the Convention on the Rights of the Child and the legislation and creation of opportunities to act on a more general plan in the protection, education and creation of conditions for achievement of the rights in the Republic of Macedonia and the Department plays the role of a guardian dog for children's rights. Prior to the establishment of the Department there was no institution which provided special protection for children and no measures were undertaken on a general plan to create the conditions for the achievement of children's rights.

Positive changes achieved through the functioning of the Department

The functioning of the Department for the protection of children's rights has proven to be very positive and in a short period of time very good results have been achieved with regards to the achievement and protection of children's rights, as well to the acting upon individual complaints concerning the protection of specific rights, as well on a more general plan with regards to the monitoring of the situation related to the achievement of children's rights.

The following achievements are considered to be more significant:

1. For several years there was an ongoing argument about the adoption of a special law on children's protection, the reason for which was the determination of conditions for the accomplishment of certain material rights of children. The disputed issue was whether there should be the recognition of certain rights for all children or just for a specific number of children, all for the purposes of carrying out a population policy in the state. Due to the lack of agreement on this issue from all parties, the law remained not adopted for several years even though it was prepared.

Right at the beginning of our work we lobbied for the adoption of this law and the removal of the discrimination between children with regards to all their rights regardless of their status and the number of children in a family. Our proposal for the

adoption of this law was accepted. Also a number of proposals were adopted concerning the material stipulation of specific issues in accordance with the Convention. Very soon after that a special Law on children's protection was adopted which did not discriminate at all against children.

2. A specific problem that we thought had to be resolved was the protection of street children whose numbers grew daily due to the transition, unemployment and the economic crisis in the Republic of Macedonia. It was established that these were children who had parents, but who are abused by them by forcing them to beg, sell cigarettes or similar activities every day in order to earn a living for the family. For the purpose of protecting these children in co-operation with UNICEF, the Centres for social work and the Ministry of Labour and Social Policies we submitted a proposal for street children to be stipulated as a special category in the legislation which is need of special protection and support, to form daycare centres where both the children and the parents will be accommodated, registered, identified and educated in order to prevent them from going back on the street, taking measures for enforced supervision of the parental rights by the Centres for social work and as a final measure initiating procedures for removal of parental rights. We have also proposed for the state to undertake the commitment to guarantee and provide minimal living standards in accordance with the Convention which requires the provision of an adequate living standard.

In accordance with our proposals, street children are defined as a special category in the newly adopted Law on Local Self-Rule with the right to special protection, which obliges the municipalities to take measures to protect the rights of these children if such exist in their region. The proposal for forming of daycare centres was also adopted and where it is worked with these children and their parents and they are helped to stay away from the streets, to regularly attend education and support them materially within the scope of the legal possibilities.

3. The Department has paid special attention to the protection of children victims of trafficking, which is a problem that is ever more increasing in the Republic of Macedonia. Following our initiative and the initiative and support of the International Organisation for Immigration a shelter for victims of trafficking was established where they are provided with health, psychological and social care and they are assisted to return safely to their country. Our proposal for these people to be treated as victims in need of special protection, and not to be treated as criminals was adopted and they are given special protection,. Also, following our initiative, a change was made in the legislation whereby trafficking of adults and children is defined as a separate criminal act, after which our state has started numerous procedures which have resulted in convictions, which we hope will contribute to the easing of this problem.

For the purpose of preventive action and protection of children from this occurrence, we have prepared a special brochure for the victims of trafficking which should be printed soon and distribute to various users with the financial and professional support of UNICEF.

4. Acting upon specific complaints concerning violation of their rights, a great number of children have been protected or accommodated. A special problem in our work are the complaints which refer to the relations between parents and children, especially in divorce cases. By raising several general issues for overcoming the problems in the achievement of these rights, we are also taking specific measures to overcome the conflicts between the parents and through direct meetings with them we are informing them of the rights of their children, their own rights and obligations, and their

responsibilities in the case of a violation of the rights of the children. With our actions in cases, which the Centres have been unable to solve for a long period of time and were unable to overcome the problems, we succeed to establish solid relations between the child and the parents.

5. In the previous legislation, the children with special needs had no right to the special supplement if they were attending regular education, which in our opinion was a kind of discrimination. Though our proposals the legislation was changed and all children with special needs were made equal in the accomplishment of their legal rights..

6. The Department has carried out an analysis of the overall legislation concerning children's rights and submitted its proposals for changes or amendments for the purpose of complete and consistent implementation of the Convention of the Rights of the Child, proposing at the same time to ensure material and other conditions for the accomplishment of the rights of children guaranteed by the Convention. Our proposals have received broad support from all the Ministries and other bodies and organisations working on children's rights, by UNICEF, NGO's, as well by children and they have been submitted to undergo the proper Parliamentary procedure.

7. Taking into account that the school curriculums insufficiently include content with regards to children's rights, we have given a proposal to find ways and possibilities for children to be informed during their education of their rights and the possibilities for protection of their rights before the institutions of the system. To this end we have prepared a brochure containing all the rights of children starting from the Convention, the Constitution of the Republic of Macedonia and the overall legislation. The brochure has been distributed to all the primary and secondary schools and institutions for accommodation of children. It has also been printed in Braille for blind children, and it will be printed in Albanian for the children of this nationality which is the most numerous in the Republic of Macedonia. We have, also, informed children through our regular panel discussions and visits to the schools about our institution and their rights, with special emphasis on the possibilities and institutions for protection of their rights in the cases of their violation .

8. The Department is making concerted efforts for deinstitutionalisation of children accommodated in institutions and the process of which is already being carried out successfully in the Republic of Macedonia. However, considering the fact that this process is proceeding slowly and there are still a great number of children accommodated in institutions we have concluded that special attention should be paid to the accomplishment of the rights of these children in the institutions themselves and outside them . For that purpose we are conducting visits to the institutions and intervening in front of the competent authorities for special measures to be undertaken for the protection of these children and for the accomplishment of their rights, which has yielded positive results. We have also prepared a special brochure for the purpose of educating children about their rights and to prepare them to fight for their rights and to feel equal to all other children. We have received for this brochure financial support from UNICEF and it will be distributed to children in institutions.

Functioning of the Department for the protection of children's rights

The Department for the protection of children's rights through its function both with regards to individual complaints, as well as with regards to working on a more general plan on the protection of children's rights plays a very important role with regards primarily to:

- More expedient and legal decision making on the rights of children in specific cases;
- Improvement and proper implementation of the legislation;
- Carrying out of certain processes for the practical implementation of the Convention in the everyday life of all or specific categories of children (our Department is continuously supporting and helping the process of deinstitutionalisation of children accommodated in institutions, through proposals for legal enhancement of the process and through specific measures for adequate and more expedient implementation of this process.

Considering the fact that the institution of the Public Attorney, and within it also the Department for protection of children's rights, is still a new institution in the Republic of Macedonia, during the course of our work we have encountered difficulties in the development of the awareness for the need to eliminate the bureaucratic behaviour of officials in the institutions. Through hard work, persistence and multiple interventions we have succeeded to assert ourselves and to establish solid collaboration with most of the institutions, however there are still institutions which are reluctant to collaborate with our institution, which do not always act upon our requests and some of them do not even respond to our requests at all. I would like to especially emphasise our collaboration with the media which is a very important instrument for pressuring the competent authorities.

A special benefit to the successful work of the Department represent the direct contacts with the children during our visits to the schools and institutions, whereupon this visits and conversations that we have with the children help us in locating the problems occurring in the accomplishment of the rights of children and to acquaint ourselves with their needs and opinions.

At the same time, the collaboration with NGO's contributes to the more adequate and expedient solution of specific issues related to children's rights.

Measures planned to be undertaken in the forthcoming period

- Greater public presentation of our work, due to the fact that children in the course of our work are still not sufficiently informed about our institution;
- Education of children about their rights, bit also education of parents about children's rights;
- Working with the media and taking measures to ensure adequate informing of children and fighting against information which are detrimental to the development of children;
- Undertaking more aggressive measures to create the material preconditions for the accomplishment of children's rights through lobbying and appealing to the Government to give priority during the allocation of the budget assets to children and by putting special emphasis on taking measures for the eradication of poverty which is increasing in the Republic of Macedonia;

- Undertaking measures to create conditions for the inclusion of all children in the education system and undertaking measures to provide the highest level of health care.

- Finding adequate ways to have more frequent direct contacts with children, for which purpose an SOS telephone line will be installed.

- Greater international collaboration with other similar institutions in other countries and exchange of experiences concerning specific issues.

Having in mind the recommendations of the Final Document of the Special Session on Children "World Suited for Children" we as a state should undertake all possible measures necessary for the accomplishment of children's rights, which at the moment are jeopardised due to the still unsafe conditions for living caused by last years armed conflicts in certain regions of the country, for which purpose our Department is undertaking various activities with specific proposals, but also by publicly influencing all the relevant domestic and international factors to contribute to the protection of children.

PUBLIC ATTORNEY

Department for protection of children's rights

Skopje 6.09.2002

Deputy Public Attorney

Nevenka Krusharovska

SUMMARY OF OMBUDSPERSON ACTIVITIES

NORWAY

The Ombudsman for Children in Norway

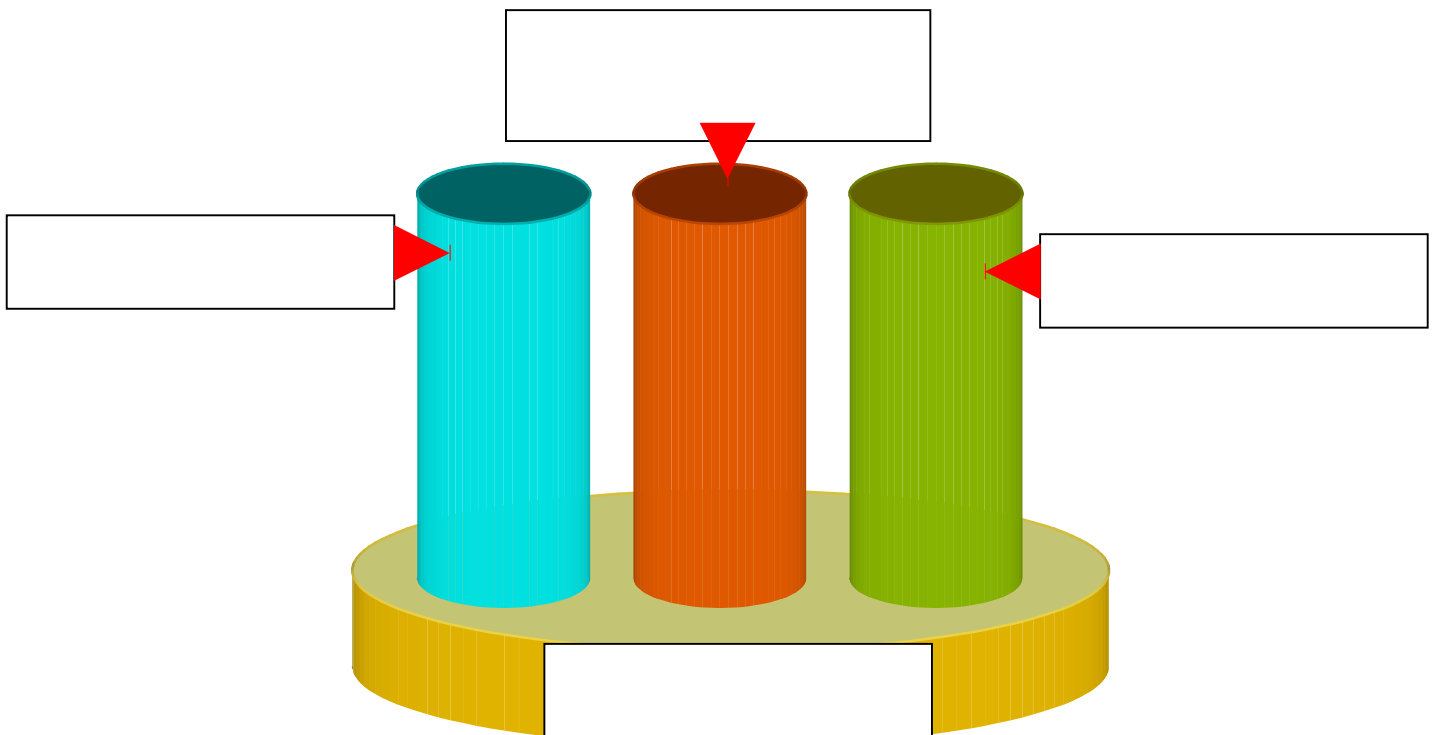
NATIONAL UPDATE- October 2002

OFFICE UPDATE:

The office has 11.5 permanent positions and 4 employees on short-time projects. The office's total income comes from government grants exclusively.

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

Innovation is crucial to stay proactive and to set the political agenda. In order to maintain optimal flexibility in response to a rapidly changing society, it is important to avoid bureaucratic structures in the Ombudsman's office. Graphically the structure of the office can be illustrated as below:



The *administration* is the core of the office, where everything needs to be in order for the rest of the office to function.

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

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

Individual cases, law proposals, professional advice:

A considerable part of the enquiries to our office are regarding children's procedural rights when subject to legislative matters, court or administrative decisions. Most enquiries are referred to competent offices when possible, especially complaints in singular cases. The Ombudsman reserves his primary capacities for cases of significant principal value. The staff also gives more personal advice on how to best take care of children and how to highlight the best interest of the child under potentially stressful circumstances.

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

The Ombudsman's Main Objectives in 2002:

- ✓ Making sure that all children and youth's interests are looked after.
- ✓ Work to strengthen the services for children living in unsound environments.
- ✓ Work to strengthen the services of children in need of special care.
- ✓ Increase the knowledge and understanding of the CRC in society, particularly amongst children and youth.

The society must work to make children be seen, heard and valued. Children must be looked upon as competent individuals. In order to monitor the Norwegian childhood, the Ombudsman has close contact with his external network, including experts on areas such as education, sports and culture.

FOCUS AREAS 2001-2002:

The Convention on the Rights of the Child in Norway:

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

Norway ratified the UN Convention on the Rights of the Child (CRC) in 1991, and the Ombudsman has all the time worked for the incorporation of the Convention. This has also been the recommendation from the Committee in Geneva.

The Ministry of Justice has this year proposed an *incorporation* process, which implies that the CRC document as a whole would be incorporated into Norwegian law. The proposal will be handled in Parliament winter 2002. It is expected that the proposal will get a majority in Parliament and this will create a strong and irreversible platform from which the laws concerning children and adolescents would be fully revised. For this reason, the Ombudsman believes it is important to emphasise the need for the incorporation to not only involve legal processes, but also political and professional

processes. How can the whole society become part of, and aware of, the important changes in the rights of children and youth? It is important to raise the general awareness that children are subjects with full rights, rather than objects of adults' decisions.

The Ombudsman's Dialogue Instruments:

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

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

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

Powerline:

To stay in touch with the children in Norway the Ombudsman's office established the Children's Powerline in 1989. The Powerline gathers information about the lives of children and youth and attempts to provide swift replies and information to the callers.

While there has been a decrease in the number of callers, there is a considerable increase in number of Powerline e-mails. The Internet expansion also means that children and youth are able to express themselves clearer and more in detail, without the briefness of the Powerline answering machine.

Internet Parliament and the influence of Student Councils:

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

Fall 2002, the Internet Parliament will be used as part of Norway's state report to the UN Convention on the Rights of the Child, which is due in February 2003. For the first time, the voices of children and youth will be used as part of the state report. In addition to CRC theme days and to regional hearings at various schools, the IP student councils will influence the report by expressing their opinions via the Internet Parliament.

In 2001-02 the Ombudsman's office has continued to highlight children's rights through distribution of information material, school meetings and through a partnership with the national broadcasting service, NRK1.

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

Initiative Against Bullying:

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

At the end of 2001, a fruitful public debate started as national media became involved in the Ombudsman's work. As the Ombudsman focuses on making leaders (i.e. mayors, principals and teachers) accountable, we needed to start breaking down some of the taboos around bullying. To advance public debate further, the Ombudsman started co-operating with regional and local media in order to collect the stories of victim and bullying offenders. As this became a success, the Ombudsman arranged a conference to present the experiences from journalists, the bullies and their parents as well as the victims and their families. At this point, the Ombudsman started promoting the vision of "zero-tolerance" towards bullying in our schools.

Six months later the Ombudsman, the Prime Minister and the organisations representing all aspect of the school system, signed the ambitious ***manifesto against bullying***. The partners in this work are the Government, represented by the Prime Minister, the school owners, represented by The Norwegian Association of Local and Regional Authorities , The teachers union of Norway, the Norwegian Parents Association and the Ombudsman for Children in close co-operation with the Norwegian Pupils organisation.

The goal is to eradicate bullying from Norwegian schools by 2004, establishing a zero tolerance among the school leaders and students.

The Ombudsman has a "Stop Bullying" section on the our web pages. The pages present the various aspects of bullying and encourage youngsters to share their stories with others, whether they represent the victim or the offender.

As part of the evaluation system emerging, there is also an overview of all municipalities who have signed the manifesto, and those who have not. Another very important evaluation channel will be all the student councils, which the Ombudsman is generally trying to revitalise, making them become political influential. The councils are in a position where they can do a continuous evaluation of what is being done at their school and in the municipality in general. We encouraged the councils to inform the Ombudsman's office and local media of both great progress, as well as complete lack of such. The student councils and the focus of local media will be a strong force in reaching this very ambitious objective.

SUMMARY OF OMBUDSPERSON ACTIVITIES

POLAND

Ombudsman for Children in Poland

The Ombudsman was undertaking actions provided for in the Law on his own initiative while taking into account, in particular, information indicating to infringement of the rights or the interest of a child.

The Ombudsman was:

- 1) applying to public authority agencies, organizations or institutions for the provision of explanations and the necessary information as well as for making available for inspection their files and documents, including those containing personal data,
- 2) applying to the relevant bodies, including the Civil Rights Ombudsman, organizations or institutions demanding that they undertake actions to the benefit of a child within the scope of their competencies.

The Ombudsman was presenting to relevant public authority agencies, organizations and institutions reviews and motions aimed at ensuring effective protection of the rights and the interest of the child and at rationalization of the procedures for dealing with such matters.

The Ombudsman was also applying to the respective bodies demanding that they undertake a legislative initiative or issue or amend other legal acts. The bodies, institutions and organizations to which the Ombudsman has submitted motions was obliged to take a position with respect to such motions within 30 days from their receipt.

The Ombudsman responded to individual problems or complaints from children or those representing children (many successful interventions in individual cases.). He initiated and supported changes in the law (especially in healthcare and criminal law) so as to further respect of children's rights:

- Work is under way to enforce recognition of abuse of a minor as a separate crime
- Changes in the law concerning a separate category of services for children living in foster families.
- Appeal to the Senate concerning the influence of alcohol advertising on children and adolescents.
- The Ombudsman approached the Minister of Finance requesting tax reduction for NGOs offering grants to children from poor families (the Minister of Finance refused but Parliament passed the appropriate legislation in accordance with the motion of the Ombudsman for Children).
- aid for children from regions with a high risk of structural unemployment (access to education, beggary, poverty).
- technical control of school buses
- facilities for disabled children
- enlargement of the list of refunded medicines.

Taking into account difficulties and obstacles one can point out:

- political pressure from the government and coalition parties
- the attempt to vote annual information on the Ombudsman for children activities and comments on the state of the observance of children`s rights in the Parliament (was not in accordance with the Law)
- unprofessional assessment of accomplishment of the budget by Commission of the Parliament (although the assessment made by the Supreme Chamber of Control was positive)
- lack of agreement

SUMMARY OF OMBUDSPERSON ACTIVITIES
RUSSIAN FEDERATION (MOSCOW)

Alexei I. Golovan
Moscow Commissioner for Children's Rights (ombudsman)
and his activities

Alexei Golovan has become the first ombudsman for children's rights ever seen by the Russian capital. He was appointed to that office by the Moscow Duma (municipal legislative body) at the recommendation of Yuri Luzhkov, the Moscow City Mayor, on February 6, 2002.

His powers are defined by the Moscow law entitled *On the Commissioner for Children's Rights in the City of Moscow* of October 3, 2001. According to the law, the Ombudsman enjoys free access to all the children including those living at orphanages and other institutions; he has the right to receive appeals for help both from children and adults acting for their good, to claim and receive information from government bodies and institutions, to check on the activities of any government bodies or officials that are allegedly infringing children's rights, to write to government bodies and officials expressing the Ombudsman's position and recommending measures that could remedy the situation and restore the child's lawful rights, to plead in court as well as participate in trials on behalf of children, to take part in and speak at the sittings of the Moscow Government and the Moscow City Duma, to propose motions aimed at the betterment of children's rights protection, to enjoy an unimpeded entry to any government bodies and institutions in Moscow as well as the right to be immediately received by any Moscow official.

Since his appointment last February Alexei Golovan' has had weekly reception hours at the Moscow Duma, where he received a good deal of visitors. The Ombudsman has been appealed to by over 250 persons (including those who have addressed him in writing). Most of the appeals deal with children's dominial rights, housing problems, family and other allowances, protection of children left without parental care as well as ensuring children's right to enjoy the care of both parents even if they are divorced.

The Ombudsman has sent over 300 official letters to the Moscow Government, district and other local authorities, to the police and the procurator's office. It is a laborious and time-consuming job, each case takes no less than two months and is not always won: so far he has succeeded with his pleas in about 20 per cent of all the cases.

In 7 cases A. Golovan has also gone to law: his suits are mostly for annulling housing contracts or depriving parents of their parental rights, all to be done in the interests of the children. One of the cases has already been heard in court and won.

Alexei Golovan has set up a close working relationship with the Moscow Duma, the first Deputy Mayor, heads of committees and departments of the Moscow Government, the chairman of the Moscow City Court, the Russian Federation commissioner for human rights as well as the head of the Human Rights Committee under the President of the Russian Federation.

On September 25, 2002, the Ombudsman met the Mayor, Yuri Luzhkov, and spoke to him on some issues of protecting children's rights in Moscow. As a result the Moscow Government has been charged with specific missions like working out ways a) of providing free high-quality legal aid to those in need of it and b) of collaboration

between low-level district authorities and schools, kindergartens, healthcare institutions and the police in order to protect the rights of disadvantaged children.

Among other things, the Ombudsman has assessed drafts of laws and decrees to be approved by the Moscow Duma or the Government. He also spoke at one of the sittings, when the Moscow Government discussed the scheme for combatting homelessness and lack of care that many children are suffering from.

SUMMARY OF OMBUDSMAN ACTIVITES
SPAIN (CATALUNYA)

**ENOC
Brussels 2002**

1. General Update and activities, relation to Government, Parliament, NGO's and children themselves.

The Deputy for children activities during this year has been involved in a large number and variety of issues. Among them, we want to point out:

- Comments on bills related to children's rights:
 - care system for street immigrant boys stating his disagreement with respect to it, considering it didn't mean a tool for their protection but for their stigmation.
 - access to schools,
 - coming to force of the Penal Juvenile Act
- Attendance to Children County Council's.
- Visits of all the educational centres for convicted juvenile, visits to 20 special resources to favour and ease the education of teenagers with problems, visit to some Child Care Teams, visit to the mother and children area in penitentiary centres,
- Information and training activities at request of children residential equipments, schools, departments and councils.
- Participation in foster parents group work in a suburb in BCN.
- The usual dealing of individual complaints and office actions
- Visits to Morocco in order to: know the situation of the minors without family there, establish a link for communication and information about individual minors, etc.

2. Updated list of positive changes for children (law, policy, practice) in which the office was actively involved and which have unlikely to happen without the office.

- Law changes: priorities in access of pupils to the chosen school, ...
- Better conditions in the emergency centres for immigrant minors no accompanied: educational activities, day care for week-ends.
- A step forward inclusive education and equal opportunities of disabled children

3. Any specific difficulties or obstacles the office encountered in carrying out its mandate.

- Answer reports from the government are undue late, thus affecting the Deputy's resolutions and the results of his task. This relates specially to formal educational issues, and childcare in residential equipments.
- A more friendly acceptance of the ombudsman mandate
- A better knowledge and access for children

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

**Office for the Defence of Children
of the Community of Madrid
ENOC 2002**

1. Overview

The Office's main areas of competency are: monitoring the public administrations of the Community of Madrid, prosecute complaints by citizens, propose regulatory or procedural reforms, disseminate the rights of children and carry out studies on the exercise and development of their rights in the Community.

Prosecution of complaints

In the year 2001, 25,779 citizens filed complaints at the Office, giving rise to 1,026 cases for prosecution concerning the following: social integration and legal protection, 318; education and culture, 396; health, 250 and operation of the public administration, 62.

Most important areas with a high number of complaints in 2001 involved children's protection homes in the Community of Madrid, social integration of underprivileged children, babies up to 3 years living with their mothers in prison, the content of messages targetting children broadcast by the media or the consumption of alcoholic drinks by children and young people.

Information and counselling

In 2001 the Office received 2,649 telephone calls requesting information on various topics. However, most requests involved Patria Potestas issues (provision of food, custody or visiting rights) by separated or divorced parents.

Institutional relationships

As in previous years, in 2001 the Office maintained regular contacts with heads of institutions and politicians of our Community, including the President of the Madrid Parliament, representatives of different Parliamentary groups, City Hall Departments, the Ombudsman, the Committees of various Autonomic Parliaments, the Prosecutor's Office of the High Court of Madrid, jurisdictional bodies, the Government Delegate, various City and Town Halls, as well as associations, foundations and NGOs.

The specific topics discussed at said meetings include: restricting and controlling the distribution of simulated weapons in toy shops, violence among children, children taken to prison with their mothers or the new Act regulating the criminal responsibilities of minors.

Dissemination

This Office has endeavoured to convey an abundance of messages to both children and adults to divulge the rights of children and teenagers through participating in spaces provided by the various media, visiting schools, institutes, hospitals, protection and re-education centres, and temporary settlements. In addition, this work was

carried out in talks, meetings and discussion groups, as well as promoting and organising events focused on children (writing and drawing competitions, participation in children's festivals organised by Town Halls, NGOs or associations). In this area of action, we must emphasise the regular participation of this Office in the "Children of the World" section of a weekly radio programme (Mundo Solidario) which goes beyond the limits of the Community of Madrid to reach millions of listeners.

In 2000, the following material was published:

- "Playing in peace" video
- "Special Educational Needs of diabetic children in pre-school and primary public and private subsidised education centres"
- Co-operation with children's magazines "Alhondiguitas" and "Clúa, Clúa".
- Support material for DIMAS, the pet of the Children's Ombudsman.
- The following books:
 - "Research methodology"
 - "Meetings for the protection of Latin American children"
 - "Talking about childhood"

These publications contributed to create a dense network of people committed to the defence of childhood.

Studies and research

In 2000 the following studies and research were made.

- Behaviour of children in school age and health resources to improve it: studies on the general population
- School centres in the Community of Madrid: discussion of management issues
- Homes belonging to NGOs.
- Adult perception of political rights of children in the Community of Madrid, 1989-1999.
- Children living in sub-standard dwelling areas in the Community of Madrid
- Conditions of public playgrounds in the Community of Madrid

Legal reports

- Report on the Legal Regime of the Council for Children and Teenagers of the Community of Madrid

2. Positive achievements resulting from the Office's actions

Education

- Increase of control on pre-school education centres prior to their opening and of dissemination actions on the requirements these centres must fulfil.

- Facilitating and promoting proper feeding by means of breast-feeding for babies under 6 months who attend pre-school centres of the Community's public network.

Subsidised private protection centres

- Requirement for preparing internal rulebook.
- Requirement for employing qualified teachers
- Review of payment modules for subsidised private centres
- Requirement for controlling diet by qualified personnel

Babies (0-3 years) in prison

- Commitment to establish new units for mothers in prison with their babies.

Mental health

- Creation of short-term hospital beds for children with mental health conditions.

The environment and urban spaces

- Disassembly and removal of cellular telephony antennae located in the vicinity of schools or pre-school centres.

"Defensor del Menor 2000" Award

- The decision of the Office dated Jan. 10, 2000 created and called for candidacies for the "Defensor del Menor 2000" award, with a prize of €3,600 (not in cash), for the promotion of solidarity amongst children.

Against smoking

- On the Day of Children's Rights, the Office organised a show called "Less Smoke" with DIMAS as main character and the participation of well-known artists, in which a "Manifesto of children against smoking" was read.

3. Difficulties in the development of its work

This Office did not find any obstacles in the discharge of its functions. On the contrary, we must emphasise the on-going cooperation of all public and private organisations which were approached, at the managerial as well as administrative level. The information requested was received promptly and the research or enquiries were similarly facilitated.

SUMMARY OF OMBUDSPERSON ACTIVITIES
SWEDEN

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

Since the last Annual Meeting of ENOC, the activities of the Children's Ombudsman of Sweden have concerned a number of issues ranging from commercial sexual exploitation of children to bullying at school.

Important amendments to the law governing the work of the Children's Ombudsman entered into force on 1 July this year. These amendments serve, *inter alia*, to strengthen the independence of the Ombudsman.

This autumn, the Government of Sweden is to submit its third periodic report to the UN Committee on the Rights of the Child. The Children's Ombudsman has been requested to submit her official comments to the report.

Other issues which have been in focus in the work of the Children's Ombudsman since the last Annual Meeting of ENOC are children with functional impairments, mental health, bullying, joint custody of children, children in public institutions, children with a multiethnic background, and refugee children.

At the end of 2001, the Office of the Ombudsman was restructured and divided into a cabinet, an administrative unit, and information unit, a legal unit and a project and research unit. In the context of the re-organisation, the Office has also defined general goals of its work:

- To increase all children's and young people's knowledge of their rights under the United Nations Convention on the Rights of the Child and prevailing laws, in order to increase their opportunities for exercising influence in society.
- To represent the interests of children and young people, safeguard their rights, promote their welfare and ensure their right to equal treatment.
- To shape public opinion regarding children's and young people's rights and interests.
- To seek and compile information on children's and young people's living conditions and to promote research and development.
- To increase awareness and interest among decision-makers and the general public regarding the rights of children's.
- To monitor the prevailing legislation and its application, and examine Government bills from a children's perspective, in order to suggest legislative changes or new laws.
- To promote preventive, early initiatives to meet children's and young people's needs for support, in particular focusing on children and young people in vulnerable circumstances.
- To participate in international initiatives to promote favourable living conditions for all children.

Advice received from children and young persons

Opinions and advice from children and young people constitute an important factor in the determination of the priorities in the work of the Office of the Children's Ombudsman. In accordance with the new amendments to the law on the Children's Ombudsman, advice and opinions of children are to form an even greater role in the work of the Ombudsman in the future.

Methods of involving children and young persons in the work of the Office currently include so called contact classes, direct contacts between the Ombudsman and

children during her visits around Sweden, and a Child and Youth Council. The contact classes currently number 120 classes in the senior grades of compulsory school (ages 13-16). The children's replies are collected, analysed and presented in the Ombudsman's annual report to the Government. The pupils' opinions convey an important picture of how children and young persons view their lives. A new questionnaire survey in the autumn of 2002 will address the question of how children view their possibilities of exercising influence and power in society and children's views on parenthood. This survey also aims at identifying possible differences between children with a Swedish background and children of foreign origin or children belonging to national minorities in how they view their possibilities of exercising influence.

The Child and Youth Council is a special expert committee of children and young persons living in the Stockholm region. This Child and Youth Council has about 15 members, aged between 10 and 15, and provides advice on topics which the Office should address and how. This year the Child and Youth Council has provided expertise on e.g. a draft booklet on the UN Convention on the Rights of the Child aimed at 9 to 12 year olds, issues relating to the working environment in school, school lunches and questions regarding influence and democracy.

Issues that children and young people themselves raise most often relate to stress, bullying and school lunches. Privately, or in smaller groups, many children mention the separation of their parents as a main concern.

The amendments to the law on the Children's Ombudsman
A series of amendments to the law establishing the Children's Ombudsman of Sweden entered into force on 1 July 2002. The most important changes that the amendments will imply are the following:

- that the means of children and young people to participate directly and indirectly in the work of the Office and of other public authorities shall be strengthened and diversified;
- that other public authorities, at the request of the Ombudsman, are obliged to submit information to the Ombudsman on how they are implementing the UN Convention on the Rights of the Child in their work. The Ombudsman may also summon representatives of other authorities for consultations;
- that the national strategy for the implementation of the UN Convention on the Rights of the Child is transformed into a permanent and integrated part of the work of the Office of the Children's Ombudsman;
- that the Ombudsman will have an increasing role in monitoring the implementation of existing legislation having a bearing on the rights of the child;
- that the Ombudsman shall provide interpretations of the UN Convention on the Rights of the Child from the perspective of Swedish legislation and monitor the practice of the UN Committee on the Rights of the Child;
- that the Ombudsman shall initiate research concerning the UN Convention on the Rights of the Child and concerning children and young persons in general.

The Children's Ombudsman and the media

The office of the Children's Ombudsman was interviewed or mentioned in almost 1600 articles published by Swedish newspapers and periodicals between August 2001 and August 2002, and featured in 108 items by the Swedish news agencies. The media

coverage shows a moderate increase since the year before. The coverage by foreign media is not included in our statistics. In 2002, the Office has strengthened its information unit through new recruitment.

Questions of joint custody of children in cases of violence in the family, the situation of unaccompanied refugee children, legislation against bullying at school, long waiting periods to psychiatric treatment for children and young persons, and the worrying mental health situation of pupils have been some of the issues that the office has pursued in the media during the year.

Reports to the Government

The Office of the Children's Ombudsman reports annually to the Government. In this report we highlight the issues which we want the Government to consider. This year's report, *Many can't be seen but still exist*, focused on children with functional impairments. Some of the findings were that children with functional impairments were more often bullied at school than other pupils, that children with functional impairments are often excluded from some lectures, for instance because they cannot enter the classroom in a wheelchair, and that they often have little or no possibilities of taking part in school excursions and extra curricular activities. Also in general the possibilities of these children to engage in spare time activities and to visit friends are very limited. Other issues raised in the yearly report of the Ombudsman include children with single parents, the position of children in legal procedures regarding custody, residence and contact and the increasing stress experienced by children.

The completion and continuation of the national strategy for the Convention of the Rights of the Child

The three year national strategy for the implementation of the UN Convention on the Rights of the Child, which was adopted by the Riksdag (parliament) in 1999 has been concluded and a final report was submitted by the Children's Ombudsman to the Government in June 2002. The aim of the strategy has been that principles and rules of the Convention should penetrate all decisions relating to children. An important aspect has been to see to that the child perspective becomes deeply rooted in the public authority and thereby becomes a natural part of the routines of the authority concerned. Through the amendments which entered into force on 1 July 2002, the national strategy has been transformed into a permanent and integrated part of the work of the Office of the Children's Ombudsman. The national strategy has included:

- the development of a child impact analytical model;
- the collaboration with nine "pilot authorities" at national level, with a view to incorporating the Convention on the Rights of the Child in their activities;
- a number of information and training initiatives at both county (regional) and local government levels;
- a variety of further conferences for the encouragement of continued activity with reference to the Convention on the Rights of the Child and
- the publishing of two manuals, one for the state level and the other for the regional and municipal levels, to encourage a deepening of efforts to give effect to the Convention.

Especially vulnerable children

The Office of the Children's Ombudsman has during the last year undertaken several activities and projects dealing with children who are in an especially vulnerable

situation. A study of high court decisions (second instance and the Supreme Court) undertaken in co-operation with the Office of the Ombudsman shows that in cases of divorce or separation, the parents are almost exclusively awarded joint custody over the child although there are serious indications (and in some cases convictions) that one of the parents has committed violent acts against the other parent and/or the child.

In spring 2002, the Children's Ombudsman proposed a series of legislative measures to protect another group of vulnerable children, children suffering from bullying. The proposals included an initiative to criminalize bullying and to extend the responsibilities of the school personnel in intervening with a view to prevent bullying from occurring at school.

An alarming news has been the disappearance of tens of unaccompanied refugee children from various refugees centres in the country. There are reasons to believe that at least some of these children have become victims of prostitution and other exploitation of children. The Ombudsman has proposed various measures with a view to guarantee that there always is an adult person who is responsible for the safety and well-being of the unaccompanied children and that the responsibilities among the different authorities involved are clarified.

International co-operation

In co-operation with Bosnia and Herzegovina, Peru, Sri Lanka, Tanzania, Vietnam and the Swedish International Development Co-operation Agency (SIDA), the Office of the Ombudsman has undertaken a project which aims at an information collection system designed to take stock of children's situation from a child perspective. It involves collecting statistical data from children themselves.

On 7 – 25 October 2002, the Office of the Children's Ombudsman, in co-operation with SIDA, organises the International Training Programme on the Rights of the Child and the UN Convention on the Rights of the Child in Stockholm. The objectives of the programme are, among others, to exemplify how the Convention on the Rights of the Child can be implemented at national, regional and local levels and to give the participants the opportunity to exchange experiences and ideas on children's rights. The target group comprises parliamentarians, politicians, civil servants, NGO's, lecturers and people working for children's rights at a high level in a number of Central and Eastern European states. Two previous training programmes addressed participants from Southern and South East Asia and Eastern and Southern Africa.

During the spring of 2002 the Children's Ombudsmen of the Nordic countries met in Reykjavik to discuss the possibility of joint activities and the need for an interchange of experience. Co-operation with the other European Children's Ombudsmen has also been intensified.

The Children's Ombudsman participated in the UN General Assembly Special Session on Children (UNGASS) in New York in May 2002.

The Office has continued to receive numerous international study visits concerning the work of the office and the situation of children in general in Sweden.

Participation in committees

During 2001 and 2002, the Office has served on several committees and commissions in an expert or special advisory capacity:

- the Education Act Reviewing Committee;
- the project group preparing a report for the UN General Assembly Special Session on Children (UNGASS) in New York in May 2002;
- the Delegation for Child Safety;
- the project of the National Institute of Public Health concerning parental support;
- the reference group of the Swedish Save the Children Hotline against child pornography on the Internet;
- the working group concerning victims of sexual exploitation of children;
- the network for the prevention of violence against women;
- the working group of the Government's project *Tillsammans* (Together) against bullying at school and
- the inter-agency working group on the protection of unaccompanied refugee children;
- the reference group of central authorities concerning the socio-economic development of large cities.

The Office of the Children's Ombudsman (Barnombudsmannen)

Box 22106, S-104 22 Stockholm

Telephone +46 8 692 29 50

Telefax +46 8 654 62 77

Email bo@bo.se

Web site www.bo.se

ANNEX 3

USING THE EUROPEAN CONVENTION AND COURT OF HUMAN RIGHTS TO ENFORCE CHILDREN'S RIGHTS

BRIEFING FROM PETER NEWELL

Using the European Convention and Court of Human Rights to enforce children's rights

**briefing from Peter Newell
for ENOC annual meeting, Brussels, October 2002**

All children living in 44 countries in the Council of Europe are lucky to have a strong and enforceable regional human rights mechanism – a mechanism that has already forced changes in law and policy to respect children's rights in many states. Independent human rights institutions for children should review law and policy affecting children in their state against the European Human Rights Convention's provisions and consider using the Court to seek to protect and extend children's rights.

Enforceable rights guaranteed by the ECHR

The European Convention on Human Rights and Fundamental Freedoms, which came into force in 1953, includes basic civil and political rights, and certain social rights. It guarantees these rights for "everyone" – emphasising the universal nature of human rights: the Convention protects not just the rights of citizens but those of aliens, stateless people and people lacking legal capacity, including children and people with severe disabilities.

Among the rights guaranteed by the Convention are:

- The right to life
- Prohibition of torture and inhuman or degrading treatment or punishment
- Prohibition of slavery and forced labour
- Right to liberty and security of person
- Right to a fair trial
- Rights to respect for private and family life
- Freedom of thought, conscience and religion
- Freedom of expression
- Freedom of association and peaceful assembly

And more generally:

- Right to an effective remedy for breaches of rights guaranteed in the Convention
- Prohibition of discrimination in enjoyment of the rights in the Convention

Protocols – additions to the Convention which member-states may ratify – cover among other provisions:

- The right to education
- Peaceful enjoyment of possessions

Right of individuals – including children – to complain to European Court
Individuals (including groups of individuals and non-governmental organisations) in the member-States have the right to make applications alleging that their rights under the Convention have been breached. Only direct victims of breaches may apply. All available domestic remedies (ways of challenging the breach) must have been exhausted and the application must be made within six months from the date on which the final decision was taken. In some but not all European states, the articles of the

European Convention have been incorporated into domestic law. That does not necessarily mean that the rights are in fact respected or enforceable for children. But it may mean that legal proceedings have to be taken under domestic law before an application can be made to Strasbourg.

Applications are considered by the Court in Strasbourg (until recently there was a two-tier process, in which applications were first considered by the European Commission on Human Rights and then, if found admissible, by the Court). Judges are elected by the Parliamentary Assembly of the Council of Europe. Because of the pressure of numbers of applications, the Court is divided into four sections, with "Committees" made up of three judges and "Chambers" of seven members.

Decisions on whether an application is "admissible" – able to be considered by the Court - are normally made by a Committee or by a Chamber. Cases which raise new or complex issues may be referred to the "Grand Chamber" of 17 judges.

The case is between the applicant and the state alleged to be violating his or her rights. Initially, the applicant (or his/her legal representative) has to submit a letter, briefly describing the case and outlining the alleged breaches and how domestic remedies have been exhausted. This will be examined by Court officials and if they believe the case to be admissible, a deadline will be set for submitting a full application (forms and explanatory notes are available from the Court, on its website: <http://www.echr.coe.int>).

The whole process is simple and largely a paper exercise of arguments made by the applicant, responses by the state government, questions by the Court and further comments. It is important to have a lawyer advising the applicant who is aware of the Court's case law. Some legal aid is available from the Court once an application has been accepted.

If the case gets over the major hurdle of being declared admissible, there is usually a hearing (in public in the Court in Strasbourg). The applicant does not have to attend; arguments are made by the legal representatives of the applicant and the government, and the judges may ask questions. After a few months, the judgment is released. There is no appeal (although if the judgment is released by a Chamber, in some circumstances the applicant or government can apply to have it referred to the Grand Chamber). The period from application to judgment can be lengthy – up to four years or occasionally more.

Binding judgments

Judgments of the Court are binding on the member-states. If breaches of the Convention are found, the Court may also require the responsible state to pay the applicant damages and also to cover legal costs. Supervision to make sure that states do execute judgments is by the Committee of Ministers (foreign ministers) of the Council of Europe (states have to report on action they have taken and if and when it is satisfied that the judgment has been fully respected, the Committee will pass a resolution).

Court's success in extending children's rights in Europe

Using the Court is a very significant form of advocacy for children in Europe, providing a way of forcing governments to change law or policy. While the ECHR does not include all the rights in the UN Convention on the Rights of the Child, the European Court has increasingly been referring to the UN Convention in its judgments and has shown a growing sensitivity to children's rights.

Threatening to take a case to the Court can be enough to persuade governments to review law or policy. It is most unlikely that children themselves will know of their right to make individual applications to the Court. But as advocates for children we should be alert to the possibility of making an application on behalf of a child, and should not be worried that the procedure will be oppressive or traumatic for the child. Also the anonymity of the child can be preserved. It should be emphasised that the process does not involve the child appearing or giving evidence.

These are some of the policy areas in which Court judgments have led to recognition of children's rights:

- Discrimination against children born outside marriage;
- Separation of children from parents: right to a fair hearing, proper representation, compensation for mistakes;
- Child protection system: State's active obligation to protect life and to protect children from inhuman or degrading treatment: must be an effective remedy, public inquiry with legal representation and enforceable compensation;
- Corporal punishment: state's obligation to provide adequate protection from inhuman or degrading punishment, including effective deterrence – within the family as well as in schools and other institutions;
- Child's right to have access to records and reports about childhood;
- Right to a speedy judicial hearing to test any restriction of liberty – in welfare, health, education or penal systems;
- Juvenile justice: methods of trial must be appropriate; no indeterminate sentences; no political involvement in sentencing; no discrimination in restriction of liberty;
- Age of consent: must be no discrimination in age of consent for homosexual and heterosexual activities;
- Environmental pollution: right to a healthy environment.

Reviewing how to use the ECHR

Independent human rights institutions – children's ombudspersons and commissioners – and NGOs need to review whether all the rights guaranteed in the European Convention are enjoyed by all children in their jurisdictions. Children are not going to know of or use this mechanism without information and detailed support.

In the UK, the major articles in the European Convention were incorporated into domestic law through the Human Rights Act 1998. The Children's Rights Alliance for England organised a series of meetings to review whether current law and policy affecting children is compatible with the Convention. The meetings covered education, health, child protection, immigration and nationality and juvenile justice, family and alternative care. We brought together individuals and NGOs working together with children, children's and young people's organisations and specialist lawyers and developed a series of papers on possible breaches of the Convention's guarantees

and ways of pursuing them. This is one systematic way of seeking to ensure that the European human rights mechanism is used fully and affectively for children. It would be appropriate for this process to be led by an independent human rights institution.

Peter Newell - September 2002 (I will be glad to provide further advice or information to individual institutions: peter@endcorporalpunishment.org)

ANNEX 4

FIRST GLOBAL MEETING OF OMBUDSPERSONS FOR CHILDREN AND FOLLOW-UP TO THE SPECIAL SESSION ON CHILDREN

ENOC Meeting – Follow up to the First Global Meeting of Independent Human Rights Institutions for Children

UNICEF, Innocenti Research Centre, Marta Santos Pais

The present ENOC meeting is a timely opportunity to evaluate the success of the First Global Meeting, and at the same time to reflect on its effective follow-up. It is excellent and very much welcomed that the Agenda of the meeting has given such a central place to this discussion.

In this discussion, three dimensions deserve a special consideration. First, to recognise the critical contribution of ENOC members to the First Global Meeting, held in New York in May 2002; second, to encourage the effective follow-up to the conclusions and commitments undertaken at the meeting; thirdly to emphasise the central role independent national institutions for children's rights are expected to play in the follow-up to the Special Session on Children.

1. First of all, it is important to recognise the critical contribution of ENOC to the deliberations and conclusions of the global meeting

a) The extensive and long experience of ENOC Members, as well as the role played by ENOC as a forum of exchange and reflection on the role of independent national institutions for the protection of children's rights, decisively contributed to the success of the meeting.

On the one hand, the sharing of the national and regional experiences strongly enriched the discussions, providing a constant illustration of the diversity of activities pursued all sharing a strong commitment to ensure the effective realisation of the rights of the child. On the other hand, this important experience became an inspiring reference for other participants in the meeting, particularly newly established institutions, and institutions coming from regions where a regional network has not yet been put in place.

b) The holding of this First meeting at the time of the Special Session was particularly timely to influence the discussions of the SSC and its outcome – in particular, the formal recognition of the role of independent Ombudspersons for children in the promotion and protection of the rights of the child and the commitment of participating Governments to establish such institutions in the framework of the official follow-up to the Special Session

c) Furthermore, the exchange on the draft General Comment under preparation by the Committee on the Rights of the Child, on independent national institutions for children's rights, created a unique opportunity to influence its refinement and to ensure visibility and safeguard the most important dimensions of the work of such institutions. The final text just finalised by the Committee is a clear recognition of the value of such discussions and, in turn, of the critical contributions made by ENOC members.

2. The second dimension relates to the follow up to the decisions taken at the global meeting

There are high expectations on this follow-up, both by participants in the meeting and by those who have heard about its outcome – not less in the context of the press briefing held at the time and the statement delivered to the plenary of the Special Session on Children. But the process of follow-up constitutes above all an opportunity. An opportunity to keep present and strong the spirit of dialogue and collaboration pursued in the meeting, and to advance in an effective and fruitful manner the agenda that was then initiated.

In this regard, it seems of particular importance to discuss how ENOC can promote the achievement of the commitments undertaken at the First Global Meeting, in particular the following:

- a) **To develop a global network of IHRIs.** First of all, it is important to reaffirm UNICEF commitment to support this effort, and to build upon the work developed so far by the Geneva Regional Office and the Innocenti Research Centre.

The momentum gathered around independent national institutions for children's rights, and the formal recognition of their role by the Plan of Action adopted at the Special Session on Children, create a special opportunity to **develop and institutionalise** a global network of institutions, guided by the Convention on the Rights of the Child. Your role as a well-established regional network will be of critical relevance, as a reference and source of information, but also as a promoter and spokesperson in favour of this initiative.

- One important measure to advance this idea is to ensure an **on-going exchange of information and contact between existing independent institutions for children's rights. The establishment of an electronic link** seems to be a feasible way to move forward. In the recent past, the preparation of the General Comment of the Committee on the Rights of the Child provided a meaningful opportunity to confirm the value of such electronic communication – a close contact was kept with all those who participated in the First Global Meeting to seek their views on the revised draft, and the inputs received were shared with the Committee to guide its deliberations.

A similar approach was also recognised by the Global Meeting, which called for the **development of a website** to promote exchange of information and communication between institutions at the global level. We are confident you will be discussing this further, but at this stage we would like to **indicate our openness to support you in this endeavour, including by linking it with IRC website.**

- Another commitment undertaken at the Global Meeting was to promote the **doubling in the number of existing IHRIs by the end of the present decade.** Your active engagement in capacity building activities and in the institutional support to new institutions is just one illustration of the potential of your contribution to achieve this goal. In our view, it will also be important to build upon existing networks that share a similar commitment to children's rights, including regional

organisations, as well as to link up with the network of national human rights institutions, established in the light of the Paris Principles.

We would like to encourage you to seek today's discussion to **reflect further on the strategy to follow**, as well as on the role of ENOC and of its individual members in advancing this idea.

We would like to here again express our commitment to support this effort. In this context, it is relevant to mention that the recent session of the UNICEF Executive Board approved the programme of the Innocenti Research Centre for the next three years. The Innocenti programme will support the process of follow-up to the Special Session on Children and, in this context, has anticipated a special attention to the work of independent national institutions for children. The aim is to document and draw lessons from existing experience, to assess its impact on public policies and advocacy in favour of children's rights, as well as to promote a process of cross-fertilisation. With this initiative, we very much hope to give additional visibility and recognition to the critical work of independent national institutions for children. Moreover, we are confident it will help promote the establishment and effective role of national institutions, fully anchored on the Convention on the Rights of the Child and empowered to promote the effective respect for the rights of the child. We would very much welcome the possibility of keeping a close collaboration with all of you to move this process forward.

- In the aftermath of the First Global Meeting, it is also important to consider the **possibility of promoting periodic meetings of the Global Network**. In this regard, today's discussion can be a timely occasion to anticipate the most relevant international meetings around which a new meeting of the Global partners could take place. Similarly, it would be important to anticipate the major themes around which a global discussion could be promoted – this could be, as indicated at the time of the Global Meeting, violence and adolescence.

Also in this regard, we would very much like to collaborate with you and, guided by your deliberations, to consider effective ways of supporting this process.

3. The third dimension I would like to highlight relates to the role of independent national institutions in the follow-up to Plan of Action adopted by the Special Session on Children.

The Plan of Action adopted by the Special Session is an important strategy to advance the implementation of the Convention on the Rights of the Child. The activities of independent national institutions will be of critical relevance to advance it, in the context of the reality of each country. In today's discussion it may be useful to exchange information on the national processes already set in motion, and to explore ways of promoting this further. These are some of the aspects you may wish to address:

- The implementation of the Plan of Action is a unique opportunity to create **greater awareness of the role of independent national institutions** for the promotion of children's rights. It may help gather stronger support to their role as advocates for children and independent watchdogs, with an institutional authority and capacity to

monitor progress in the achievement of the goals and targets identified by the Plan of Action.

- In turn, the involvement of national institutions will be critical to **create awareness about the Plan of Action and generate support** from all sectors to ensure its effective implementation.
- The implementation of the Plan of Action is relevant for any country, not less in the developed world. Also here it is essential to institutionalise a monitoring process through which steady progress for children may be promoted, and where periodic assessment of progress may be transparent and influence policy making. In this regard, the experience of national institutions has shown a unique potential – including in the promotion of law, budget and institutional reforms, and in generating debate at the national level on the state of the child in the country concerned.
- To assess progress, the Special Session called on the development of **national and sub-national action plans**, if possible by the end of 2003, with a set of specific time-bound and measurable goals on the basis of which periodic national progress may be assessed. Ensuring that such plans are developed and are central to the national political agenda and social development is another area where the role of national institutions will be of critical relevance.
- Similarly, States parties to the CRC are expected to include in their **reports to the Committee on the Rights of the Child** information about measures taken and progress made in the achievement of the goals and targets identified by the Plan of Action. As a critical partner of the implementation process of the CRC, national institutions can play a catalyst role in ensuring that such information is collected, analysed and brought to the attention of the Committee, and help ensure progress in the realisation of children's rights. These monitoring efforts will be of critical value for the preparation of the reports on progress achieved, to be periodically prepared by UNICEF and submitted to the General Assembly.
- In industrialised countries, another area gains special relevance – the **mobilisation of resources** to ensure the effective implementation of the adopted Plan of Action. The movement of international solidarity in favour of children's rights, generated by the CRC, will gain a renewed potential if the commitments undertaken in NY are taken seriously and are effectively followed. The voice of national institutions will be instrumental to this effect, in particular to promote social development in the least developed countries and to ensure attention to the most disadvantaged children. In today's discussion you may wish to consider how you can support this process both at the national and regional levels.

These are some of the dimensions we wanted to share with you. The Special Session on Children, and the First Global Meeting of independent human rights institutions for children, became instrumental to place Ombuds offices and Commissioners for Children formally on the United Nations agenda. This ENOC meeting is an important occasion to reaffirm your role as critical partners in the implementation of the Plan of Action adopted last May, in New York. But it further constitutes a timely opportunity to develop a roadmap for your effective involvement in the process ahead. We have no doubt this will be a very successful meeting and we wish you the very best in your deliberations.

ANNEX 5

ENOC SELF-ASSESSMENT TOOL

Developing a self-assessment tool for ENOC members

A questionnaire was developed for a recent UNICEF workshop for children's ombudspople in the CEE/CIS region, held in Warsaw in June. The questionnaire was used to collect basic information about institutions and to encourage them to identify key issues, threats and opportunities to advocacy of children's rights and to assess their independence, influence over government and others, contact with children, etc.

UNICEF thought it might be useful to develop this into a tool, which could be used, with appropriate adaptation, by ENOC members for self-assessment. At this stage we are asking for views on the general idea, and also on what issues the questionnaire could most usefully cover.

The Warsaw questionnaire (annexed below) covered:

- Identification of key changes for children needed in the state
- Identification of threats or challenges to advocacy of children's rights in the state
- Identification of key achievements of the institution in achieving changes for children
- Reviewing methods of advocacy used and considering whether more information or capacity-building is needed
- Assessing key relationships of the institution:
 - How influential is the institution with government, central and local, and Parliament?
 - How developed is the institution's relationship with children (knowledge, access, direct contact, including with children in difficult circumstances)
 - How well does the institution relate to other human rights institutions; NGOs; other groups within civil society
- Assessing the institution's independence – ability to act and speak freely, to set own agenda, etc
- Assessing adequacy of resources: money, staffing, premises
- Assessing adequacy of legislation: ensuring independence; providing appropriate powers and duties

Would it be useful to create a more comprehensive self-assessment questionnaire, including many of the above headings but with more detailed questions and including other issues raised by ENOC's Standards. For example:

- Involvement in State's reporting process to the Committee on the Rights of the Child and other Treaty Bodies;
- Ensuring that children have access to effective advice, advocacy and complaints procedures (whether or not the institution itself deals with individual complaints);
- Access to children in alternative care and all institutions;
- Awareness of children's rights among children and adults.

CEE/CIS Ombudspople for Children Workshop Self-assessment questionnaire

1 Identifying key changes needed in your state for children:

Please identify up to six key legal or other changes which you believe would make the greatest contribution to implementation of the Convention on the Rights of the Child in your state (three relevant to children's economic, social and cultural rights, and three to their civil and political rights):

2 Identification of threats or challenges:

Please identify briefly major threats or challenges to the promotion and protection of children's human rights in your state:

3 Deciding on priorities for action:

Please list criteria which your institution uses when it is deciding on its activities and priorities (*for example: numbers of children affected; severity of the breach of rights, opportunity for achieving change, etc.*):

4 Key achievements of the institution:

Please identify key achievements of the institution in promoting and protecting children's rights. List only changes unlikely to have happened without the involvement of the institution:

5 Methods of advocacy for children:

What methods of advocacy for children/children's rights have your institution employed? Please identify which of the following types of advocacy you have used; which you feel confident about using; which you would like more information/capacity-building on (*please tick boxes and add to list as necessary*):

*used confident about need training
using*

political/parliamentary lobbying

child impact analysis

using courts, including constitutional courts

test cases/demonstration cases

effective use of research

effective use of data on children

use of publications, the media,

use of opinion leaders, celebrities

forming alliances on issues

use of regional, international mechanisms:

Human rights Treaty Bodies reporting mechanisms:

Other international human rights mechanisms:

European Court of Human Rights; European Social

Charter and other European mechanisms:

6 Methods of advocacy for children:

Please list other methods of advocacy that you have used, which were not mentioned in Question 5.

7 Key relationships of your institution:

To be effective advocates for children, an independent human rights institution needs to be influential with Parliament and government, including local government. It has to have direct contact with children and also needs a good relationship with NGOs and other human rights institutions.

Relationships with Parliament, government, local government

Does the institution report directly and regularly to Parliament?

yes/no

Is the institution influential in Parliament/among politicians?

yes/no

Does the institution have easy access when needed to senior ministers and officials on children's issues?

yes/no

Does the institution provide opinions/review draft legislation for government departments?

yes/no

Is the institution consulted on the development of policy/legislation that will affect children at an early enough stage?

yes/no

Is the institution influential in central government?

yes/no

Does government listen and respond to proposals from the institution?

yes/no

Does the institution have influence on local government decision-making that affects children?

yes/no

8 Relationships with children

Do children generally know of the institution?

yes/no

Please give details of any evaluation

9 What mechanisms has the institution established to enable children to contact it?

Freephone?

yes/no

e mail

yes/no

interactive website?

yes/no

open door office hours

yes/no

Other *Please specify*

10 Do children in difficult circumstances contact the office?

yes/no

Children in institutions including detention?

yes/no

Children living and/or working on the street?

yes/no

Children in rural areas?

yes/no

11 Have you taken special steps to identify and contact such children?

yes/no

If "yes", please specify how

12 Does the institution have –
an advisory board of children?

yes/no

other arrangements for consultation/involvement?

yes/no

If "yes", please specify

13 Do children's views influence decisions on the Institution's priorities and activities –

always/sometimes/never

14 Are children involved in staff appointments and evaluation of the institution's work?

yes/no

15 Does the institution have arrangements/methods to ensure it hears of issues affecting babies and very young children?

yes/no

If "yes" please specify

16 Does the institution deal with individual complaints? *yes/no*

Has the institution reviewed other complaints procedures that are available to children?

yes/no

17 If your answer to question 16 was "yes" please complete this section:

Is the complaints procedure –

Accessible to all children? *yes/no*

Accessible to children in difficult circumstances?

yes/no

Known about by children generally? *yes/no*

By children in difficult circumstances? *yes/no*

Does the complaints procedure provide an effective remedy for children?

yes/no

18 Relationships with other human rights institutions and NGOs:

Does the institution work closely with other human rights institutions in the state?

yes/no

Does the institution work closely with –

children's rights NGOs? *yes/no*

Professional/academic bodies? *yes/no*

Church/faith groups? *yes/no*

Other elements of civil society? *yes/no*

Has there been a mapping exercise to identify all groups/bodies potentially contributing to advocacy of children's rights?

yes/no

19 How independent is the institution?

Independence is the key feature of independent human rights institutions for children. The following questions are designed to assess the degree of effective independence of your institution.

Our institution acts and speaks freely on any matter concerning children's human rights (all children; all rights – economic, social and cultural as well as civil and political) *yes/no*

If no, please describe any constraints – direct or indirect

Government or official bodies are NOT able to control any part of the institution's agenda or activities yes/no.

If yes, please describe how

Our institution has adequate and secure resources to carry out its mandate: yes/no

Our institution has appropriate and sufficient staffing to carry out its mandate yes/no

Our institution has adequate premises to carry out its mandate yes/no

There has been an independent evaluation of the institution yes/no

20 Is the legislation establishing the institution adequate?

The Paris Principles require that national human rights institutions are established through legislation, which should safeguard their independence and provide relevant powers and duties.

Does the existing/proposed legislation provide appropriate and adequate powers and duties -

In each case please give brief details

To ensure independence of ombudsperson (for example, appointments procedure, rights to investigate; to report to the public, Parliament)

yes/no

To investigate possible breaches of children's rights (for example, power to access information, summon witnesses, enter institutions freely)

yes/no

To initiate or support legal action on behalf of children yes/no

To report freely to the public, to Parliament yes/no

Are there weaknesses in the legislation which limit the effectiveness of the institution? yes/no

ANNEX 6

ENOC PRESS STATEMENT

ENOC Press Statement

ENOC's annual meeting, held in Brussels, agreed to demand that the 191 States which have ratified the Convention on the Rights of the Child, through the Secretary General of the United Nations and the Chair of the Committee on the Rights of the Child, to support designation of 20 November each year as International Children's Rights Day. *(November 20 1989 was the day on which the General Assembly of the UN adopted the Convention on the Rights of the Child).*

ENOC members expressed concern at a trend in some European countries to lower the age of criminal responsibility, in conflict with international human rights standards. They believe that while young people need to be held accountable for their actions, criminalizing them is the wrong approach and not in the interests of young people or of the wider society. Rehabilitation and reintegration should be the aim of juvenile justice systems, not punishment or retribution.

ENOC noted that children, like everyone else in Council of Europe member-states, have access to a unique and powerful human rights mechanism, the European Court of Human Rights in Strasbourg. But members are concerned that it is not easy for children or their representatives to use this mechanism, and they intend to write to the Council of Europe and the Court to encourage discussions on how the human rights mechanisms can be made more accessible and effective for the promotion and protection of children's rights – for example to speed up consideration of cases involving children.

ENOC adopted Statutes at the meeting, which will be deposited in Brussels so that the Network becomes a legal entity. A working group of member-institutions will be established today to consider during the next six months the location, funding and practical arrangements for a permanent Secretariat for ENOC.

Brussels, Belgium
4 October 2002

ANNEX 7
STATUTES

ENOC STATUTES

The European Network for Ombudspersons for Children (hereafter called ENOC) was established in 1997. ENOC is a not for profit European association of independent children's rights institutions for Children (ICRIs). Its mandate is to facilitate the promotion and protection of the rights of children, as formulated in the Convention on the Rights of the Child.

While encouraging understanding and mutual support, ENOC respects the free and open exchange of ideas in the framework of different national or regional policies. ENOC does not, in any way, assume the responsibilities of its members, but supports its members in executing their proper mandates within their respective country or region. ENOC has adopted Standards for independent children's rights institutions which its member-institutions agree to aspire to respect. (See annex)

ENOC is governed by the following Articles.

Article 1: Creation and name

- 1.1 A network of independent children's rights institutions is created under the name of ENOC, the European Network of Ombudspersons for Children.

Article 2: Objectives of ENOC

The objectives of ENOC are:

- 2.1 to serve as a forum of colleagues for the exchange of information, experiences and professional support among the members;
- 2.2 to serve as a discussion forum on children's rights in general and on strategies for the fullest possible implementation of the Convention on the Rights of the Child;
- 2.3 to encourage inter-country cooperation amongst ICRIs ;
- 2.4 to strengthen the members in their work on the implementation of the Convention on the Rights of the Child and the general promotion of children's rights;
- 2.5 to promote the establishment of ICRIs in countries worldwide and offer support to such initiatives;

- 2.6 to stimulate contacts and support among other ICRIIs worldwide and their networks.

Article 3: Organisation of ENOC

- 3.1 ENOC has a *General Assembly*, a *Bureau*, and a *Secretariat*.
- 3.2 The *General Assembly* consists of all the members. While members are in fact the independent institutions for children, they are represented within ENOC by the person who holds the mandate. Both the *General Assembly* and the *Bureau* have the decision-making powers within ENOC. The *General Assembly* can delegate decision-making to the *Bureau*.
- 3.3 The *Bureau* consists of three persons, the past and current *Chairperson* and the *Chairperson-elect* of the *Network*.
- 3.4 The *Secretariat* assists the *Bureau* in carrying out its responsibilities.

Article 4: Membership

ENOC recognises that the concept of independent institutions for children - children's ombudsmen, commissioners and so on - is a developing one, and that its criteria for membership will need to be kept under review.

Membership of ENOC is open to independent children's rights institutions within Council of Europe member-countries which meet one of the following criteria:

1. Independent national or regional children's rights institutions set up through legislation specifically to promote children's rights and interests;
2. Independent national or regional human rights institutions set up through legislation which include a specific focus on children's rights".

Article 5: Application

- 5.1 Requests for membership are addressed to the *Bureau* of ENOC. They should contain the law establishing the institution and other information on its functioning. The *Bureau* reviews requests and makes a recommendation to the *General Assembly*, based on the criteria contained in Article 4.

Article 6: Rights and responsibilities

- 6.1 All members have equal status within ENOC. All have the right to fully participate in the work and decision-making of the network.
- 6.2 All members have the right to submit a proposal or a request related to the work of ENOC to the *General Assembly* and/or the *Bureau*.
- 6.3 All members have the right to present themselves as a candidate for the position of Chairperson of ENOC or to propose another member as a candidate for this position. Members should give due consideration to achieving an appropriate gender balance within the *Bureau*.
- 6.4 All members of ENOC are entitled and encouraged to attend the annual meeting of the *General Assembly*.
- 6.5 Member institutions functioning within a national network appoint one representative to participate in the annual meeting.
- 6.6 All members undertake to submit an update on their activities for the annual meeting of the *General Assembly* and to provide updated information as necessary for ENOC's website.
- 6.7 Members are expected to promote ENOC and its aims in all appropriate activities. Members may only represent ENOC with the prior agreement of the *Bureau* after consultation with the *General Assembly*.

Article 7: Resignation

- 7.1 A member of ENOC can resign at any time by submitting his/her resignation in writing to the *Bureau*. Member institutions which no longer meet the criteria for membership can be dismissed by decision of the *General Assembly*.

Article 8: Resources

To carry out its activities and finance its operations, ENOC is authorised to draw on the following resources:

- 8.1 Contributions from members, to be determined by the *General Assembly*;

8.2 Grants, donations or other contributions from governmental, inter-governmental or other philanthropic bodies, subject to approval by the Bureau after consultation with the *General Assembly*.

Article 9: General assembly

9.1 The *General Assembly* consists of all members and is the highest authority of ENOC.

9.2 The *General Assembly* meets annually. It can decide to hold additional meetings throughout the year upon request of 2/3 of the membership and to establish temporary working groups on specific Network issues. During the annual meeting, the *General Assembly* approves the accounts and budget.

9.3 The *General Assembly* follows a decision-making process based on the principle of consensus. In instances when it is not possible to reach a consensus, a vote can be held, requiring a 2/3 majority of those present and voting.

9.4 The ENOC Statutes can be amended by decision of the *General Assembly*, on the proposal of any member.

9.5 The *General Assembly* can decide to dissolve the network. Any remaining assets of ENOC shall be transferred to a not-for-profit child rights organisation to be determined by the *General Assembly*.

Article 10: Chairperson and Bureau

10.1 ENOC is managed by a three-person Bureau, consisting of the current and past Chairperson and the Chairperson-elect of the network.

10.2 The Chairperson-elect of ENOC is elected by the *General Assembly* during its annual meeting for a non-renewable one-year term. The Chairperson-elect begins his/her functions at the time of the following annual meeting of the *General Assembly*.

10.3 Under the leadership of the Chairperson, the Bureau is responsible for:

10.3.1 Co-ordinating the network and keeping the members informed of its work,

- 10.3.2 ensuring relations with other relevant bodies and organisations in the field of children's rights on the international level,
- 10.3.3 organising the annual meeting of the *General Assembly*,
- 10.3.4 reviewing and making recommendations to the *General Assembly* on applications for membership,
- 10.3.5 representing ENOC, whenever mandated by the *General Assembly*
 - 10.3.6 developing strategies to further strengthen ENOC and increase its visibility,
- 10.3.7 overseeing the administration of any funds or assets of the network,
- 10.3.8 carrying out any other mandate given by the *General Assembly*,

Article 11: Secretariat

- 11.1 The Secretariat is appointed by the Bureau based on criteria set by the *General Assembly*. The Secretariat is guided by the Bureau and headed by a Director.

Its functions include the following:

- 11.2 facilitating the networking activities of ENOC members,
- 11.3 assuring the availability of information about ENOC and ENOC member institutions , including the maintenance of the ENOC website,
- 11.4 daily management of the financial operations of ENOC, including the preparation of regular statements of account for the Bureau and annual accounts for the *General Assembly*, as well as arranging for independent audits of accounts,
- 11.5 supporting the organisation of the annual meeting and preparing a report on it.

Brussels, 3 October 2002



European Network of Ombudspersons for Children - ENOC

ENOC's Standards for independent children's rights institutions

October 2002



European Network of Ombudspersons for Children

Standards for independent children's rights institutions

Introduction and background

At its fourth annual meeting in Brussels in October 2000, ENOC - the European Network of Ombudspersons for Children - agreed to develop Standards for independent children's rights institutions. The Standards were drafted by a working group of ENOC members and advisers, circulated for comments and endorsed unanimously by ENOC's fifth annual meeting in Paris in October 2001.

ENOC believes that the development of independent statutory institutions to monitor, promote and protect children's human rights should be considered within the context of the broader development of national human rights institutions. The 1993 World Conference on Human Rights in its Vienna Declaration and Programme of Action reaffirmed "... the important and constructive role played by national institutions for the promotion and protection of human rights, in particular in their advisory capacity to the competent authorities, their role in remedying human rights violations, in the dissemination of human rights information, and education in human rights...". It encouraged "... the establishment and strengthening of national institutions...".

The World Conference also affirmed that "the rights of the child should be a priority in the United Nations system-wide action on human rights"(Vienna Declaration and Programme of Action, World Conference on Human Rights, Vienna, June 1993, UN General Assembly A/CONF.157/23, paras. 21, 36 and 45 et seq). The almost universal ratification of the Convention on the Rights of the Child indicates the global commitment to recognising and realising the rights in the CRC for all children. The Treaty Body for the CRC, the Committee on the Rights of the Child, has consistently advocated the establishment of independent institutions to monitor, promote and protect children's rights.

ENOC's Membership Criteria

At its third meeting in Madrid in 1999, ENOC agreed an interim statement to define membership criteria. This was amended in 2002 and the following statement agreed:

"ENOC recognises that the concept of independent institutions for children - children's ombudsmen, commissioners and so on - is a developing one, and that its criteria for membership will need to be kept under review.

"Membership of ENOC is open to offices within Council of Europe member-countries

which meet one of the following criteria:

- 1. Independent national or regional children's rights institutions set up through legislation specifically to promote children's rights and interests;*
- 2. Independent national or regional human rights institutions set up through legislation which include a specific focus on children's rights".*

ENOC is committed to promoting the establishment of independent statutory children's rights institutions in every state. It recognises that the concept is a developing one and that individual states will need to design a model appropriate to their governmental and legal systems, which takes account of existing institutions and makes the most effective use of available resources.

ENOC recognises that independent children's rights institutions may be established as separate bodies (Children's Ombudsman, Children's Rights Commissioner, Defenseur des Enfants, etc) or as an integral part of a human rights commission or general ombudsman. National and/or regional institutions may be established. ENOC believes that in all cases, account must be taken of the special status and needs of children.

The Paris Principles

In 1993, following a series of workshops and seminars throughout the UN system, the General Assembly endorsed a set of "Principles relating to the Status of National Institutions" (known as the "Paris Principles").

The Principles affirm that national human rights institutions are to be vested with competence to promote and protect human rights and given as broad a mandate as possible, "clearly set forth in a constitutional or legislative text".

The International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights has established a Credentials Committee (comprising one institution from each major geographic region). The Credentials Committee has developed a questionnaire for applicants for

accreditation, based on conformity with the Paris Principles. In reviewing applications, the Credentials Committee considers national institutions' mandate, pluralism in composition, jurisdiction, stability of operation and independence. ENOC may consider in time developing a similar process.

These Standards incorporate and use the Paris Principles as their basis. Any independent institution established to monitor, promote and protect the human rights of children should conform with the Paris Principles. In addition, in designing and establishing such institutions, states will need to recognise the special status of children. Institutions that are designed only with adults in mind are most unlikely to serve children effectively.

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Standards for independent children's rights institutions

These Standards are aspirational; not all ENOC member-institutions meet all of the Standards. But its members agree that parliaments and governments should be encouraged to review the status of existing institutions in the light of the Standards and to ensure that the design of new institutions conforms with the Standards and with the Convention on the Rights of the Child (CRC).

ENOC believes that in order to be effective in monitoring, promoting and protecting the human rights of children, a human rights institution must conform with the Paris Principles, the CRC and the European Convention on Human Rights. The full text of the Principles is reproduced below. The following is an unofficial summary of the key implications of the Principles, relating them, where appropriate, to children's human rights in particular:

Competence and responsibilities

An independent institution set up to monitor, promote and protect the human rights of children must:

- be established by legislation;
- have as broad a mandate as possible in relation to the monitoring, promotion and protection of children's human rights, based on the CRC;
- have the right to provide and to publicise opinions, recommendations, proposals and reports on its own initiative or at the request of other authorities on any matter concerned with the promotion and protection of children's human rights, including:
 - * legislative or administrative provisions and provisions relating to judicial organisation, intended to preserve and extend the protection of human rights. The institution will consider legislation, etc., in force and proposed and when necessary recommend adoption of new legislation, etc., or amendment;
 - * any violation of children's human rights which it decides to take up;
 - * preparation of reports on human rights in general, or on more specific matters;
 - * drawing the attention of the Government/Parliament to violations, making proposals for remedies and when necessary commenting on the position and reaction of Government/Parliament.

- promote and ensure harmonisation of national legislation with the Convention on the Rights of the Child and all other international human rights instruments relevant to children's rights to which the state is a party, and promote their effective implementation;
- encourage ratification of or accession to any such instruments;
- contribute independently to the monitoring and reporting process under the CRC and other relevant instruments;
- co-operate with the United Nations and with UN and other agencies, regional institutions and national institutions of other states competent in the promotion and protection of children's rights;
- assist in formulating and executing programmes for the teaching of and research into human rights;
- publicise human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, through information, education and making use of the media.

Composition, independence

The institution must have adequate funding to enable it to have its own staff and premises in order to be independent of Government. It must not be subject to financial control which might affect its independence.

Arrangements for appointment of ombudspersons, commissioners and members of a commission must be established by an official act, setting out the duration of the mandate and any arrangements for renewal. The composition and methods of appointment of the institution must be appropriate to enable effective co-operation with, for example, appropriate NGOs and professional organisations, universities, Parliament and Government departments.

Methods of operation

The institution must be able to:

- freely consider any questions falling within its competence, whether submitted by Government or taken up on its own initiative;
- hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;
- speak freely to the public, directly or through any media;
- meet regularly and whenever necessary in the presence of all its members duly convened;
- establish working groups and set up local or regional sections to assist it in discharging its functions;

- maintain relationships with other bodies responsible for the promotion and protection of human rights including with a broad range of non-governmental organisations.

Hearing and considering complaints

Some institutions will be authorised to hear and consider complaints from individuals or groups. If this is the case, additional principles are proposed to base such functions on. Without prejudice to the other principles, the institution may:

- seek an amicable settlement through conciliation, or through binding decision within limits prescribed by law; or, where necessary, on the basis of confidentiality;
- inform the complainant of his rights and of available remedies and promote access to them;
- hear complaints or transmit them to any other competent authority within the limits prescribed by the law;
- make recommendations, in particular for changes in law, regulations and administrative practice which might have remedied the situation complained of.

Designing human rights institutions for children

In addition to conforming with the Paris Principles, ENOC believes that the design and development of the institution must take full account of the special status of children and the particular difficulties for children in exercising their rights.

The legislation establishing the institution must be linked explicitly to promoting implementation of the Convention on the Rights of the Child - thus covering children's economic, social and cultural rights as well as civil and political rights.

Conformity with the Paris Principles requires the institution to consider all other relevant human rights instruments which the state has ratified or acceded to.

The legislation must include provisions setting out specific functions, powers and duties relating to children and their rights, linked to the Convention. "Children" should be defined as in Article 1 of the CRC. For example:

- duties to pay particular regard to the views of children, to take active steps to maintain direct contact with children, organisations of children and organisations established to promote children's rights; and to promote respect for the views of children throughout society;
- the institution must be readily accessible to children and able to respond to any individual communications from children.

- powers to have regard to the situation of children in the family, in schools and in all other institutions;
- powers to consider the promotion and protection of children's rights in relation not only to government but also to private bodies;
- the right to have access to children in all forms of alternative care and all institutions which include children;
- the right to report freely and separately on the state of children's human rights.

The institution must review whether children have access to advice and advocacy and complaints procedures and services, and make appropriate recommendations.

The institution must seek to ensure that children and adults are aware of the principles and provisions of the CRC.

The institution must include or consist of an identifiable person or persons concerned exclusively with the promotion of children's human rights - a Children's Ombudsman, Children's Rights Commissioner or Children's Rights Commission. This should be a person/people who can bring status and public and political respect to the office. They should have a high public profile and so enhance the status and visibility of children. The institution will need to ensure awareness of its existence and mandate amongst children, using appropriate channels including for example schools, other institutions which accommodate children, youth organisations and media used by children.

The institution needs to have appropriate, multi-disciplinary staffing dedicated to the promotion and protection of children's human rights and a ring-fenced minimum budget to enable it to work effectively.

A transparent procedure for appointments should be established, for example including advertising the appointment publicly and/or establishing an appointments committee including, eg, children, children's NGOs, governmental representatives, etc.

Responding to complaints from children and their representatives

If an institution includes in its mandate considering and responding to complaints from children it will need to take account of the particular difficulties for children in making complaints. Complaints procedures designed with adult complainants in mind are most unlikely to be used significantly by children. The institution will need to ensure, for example:

- that its mandate and powers are well and appropriately publicised to children and their representatives throughout the jurisdiction in a form and language they can understand, with special attention to very young children, disabled children, children in difficult circumstances and in all institutions;
- that children have free and easy access to the institution, for example through free telephone lines, e-mail access and local offices;
- that it is able to give advice and refer children to appropriate bodies;
- that there are clear confidentiality policies, explained to children and others before they use the institution's services.

Children themselves should be involved in the design and review of complaints procedures and advice and advocacy systems.

PRINCIPLES RELATING TO THE STATUS OF INDEPENDENT NATIONAL HUMAN RIGHTS INSTITUTIONS - THE 'PARIS PRINCIPLES'

Following discussion and debate by United Nations agencies and non-governmental organisations concerning the need for national human rights institutions, the "Principles relating to the Status of National Institutions" (known as the Paris Principles) were adopted by the UN General Assembly in 1993.

This is the text of the Principles:

Principles Relating to the Status of National Institutions

Competence and Responsibilities

1. A national institution shall be vested with competence to promote and protect human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, *inter alia*, have the following responsibilities:
 - (a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicise them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:
 - (i) Any legislative or administrative provisions, as well as provisions relating to judicial organisation, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption

of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

(ii) Any situation of violation of human rights which it decides to take up;

(iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

(iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

(b) To promote and ensure the harmonisation of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations, and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To co-operate with the United Nations and any other organisation in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;

(f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

(g) To publicise human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness; especially through information and education and by making use of all press organs.

Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members; whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective

co-operation to be established with, or through the presence of, representatives of:

(a) Non-governmental organisations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organisations, for example, associations of lawyers, doctors, journalists and eminent scientists;

(b) Trends in philosophical or religious thought;

(c) Universities and qualified experts;

(d) Parliament;

(e) Government departments (if they are included, these representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not to be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

Methods of operation

Within the framework of its operation, the national institution shall:

(a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;

(b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence

(c) Address public opinion directly or through any press organ, particularly in order to publicise its opinions and recommendations

(d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened

(e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;

(f) Maintain consultation with other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular, ombudsmen, mediators and similar institutions);

(g) In view of the fundamental role played by non-governmental organisations in expanding the work of national institutions, develop relations with non-governmental organisations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialised areas.

Additional principles concerning the status of commissions with quasi-judicial competence

A national institution may be authorised to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organisations, associations of trade unions or any other representative organisations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

(a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

(b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;

(c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices,

especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

General Assembly Resolution 48/134 of 20 December 1993, Annex

ANNEX 8
LIST OF PARTICIPANTS

European Network of Ombudspersons for Children
6th Annual Meeting
Brussels, 2-4 October 2002

List of Participants

Name, Organization	Address	Tel/Fax/Email/ Internet
<p><i>AUSTRIA:</i> Mr. Christian Theiss Ombudsperson for Styria</p>	<p>Kinder & Jugend Anwaltschaft Stempfergasse 8/3 A-8010 Graz Austria</p>	<p>Tel: 43 316 877 4922 Fax: 43 316 877 4925 Email: christian.theiss@stmk.gv.at Internet: www.kija.at</p>
<p><i>BELGIUM (French community):</i> Mr. Claude Lelièvre Délégué général aux droits de l'enfant de la communauté française de Belgique</p> <p>Stephan Durviaux, Conseiller du Délégué</p>	<p>rue de l'Association 11 1000 Brussels Belgium</p>	<p>Tel: (32 2) 223 36 99 Fax: (32 2) 223 36 46 Email: dqde@cfwb.be Internet: http://www.cfwb.be/dgde</p>
<p><i>BELGIUM (Flemish community):</i> Ms. Ankie Vandekerckhove Children's Rights Commissioner, Flemish Parliament</p>	<p>Leuvenseweg 86 1000 Brussels Belgium</p>	<p>Tel: (32 2) 552 9800 Fax: (32 2) 552 9801 Email: ankie.vandekerckhove@vlaamsparlement.be Internet: www.kinderrechten.be www.kinderrechtencommissariaat.be</p>
<p><i>DENMARK:</i> Mr. Klaus Wilmann Chairperson</p>	<p>Danish Council for Children Boerneraadet Vesterbrogade 35a 1620 COPENHAGEN Denmark</p>	<p>Tel: (45 33) 78 3300 Fax: (45 33) 78 3301 Email: brd@brd.dk kw@brd.dk Internet: www.boerneraadet.dk</p>

Name, Organization	Address	Tel/Fax/Email/ Internet
<p>FRANCE: Ms. Claire Brisset Defenseure des Enfants</p> <p>Mr. Claude Desjean Chef de cabinet</p>	<p>85, boulevard du Montparnasse 75006 Paris France</p>	<p>Tel: (0033) 1 53 86 1550 Fax: (0033) 1 53 86 1578 Email: claire.brisset@defenseurdesenfants.fr claudedesjean@defenseurdesenfants.fr</p>
<p>HUNGARY: Mr. Albert Takacs Deputy Ombudsman Hungary</p> <p>Ms. Magdolna Bihary-Varga Advisor and Interpreter</p>	<p>Parliamentary Commissioner's Office Republic of Hungary Nador u. 22 H-1051 Budapest Hungary</p>	<p>Tel: (361) 475 7124 Fax: (361) 269 3546 Email: takacs@obh.hu</p>
<p>ICELAND: Ms. Thorhildur Lindal The Ombudsman for Children</p>	<p>Laugavegur 13 101 Reykjavic Iceland</p>	<p>Tel: (354 552) 8999 Fax: (354 552) 8966 Email: ub@barn.is Internet: www.barn.is</p>
<p>LITHUANIA: Ms. Grazina Imbrasiene Ombudsperson for Children</p> <p>Mr. Aurimas Miskinis Senior Advisor to the Ombudsperson</p>	<p>Subaciaus 5 LT-2001 Vilnius Lithuania</p>	<p>Tel: (370 5) 210 7077 Fax: (379 5) 210 7176 Email: gimbr@lrs.lt</p>
<p>MACEDONIA: Ms. Nevenka Krusarovska Ombudsperson for Children</p> <p>Mr. Milan Danjanovski Interpreter</p>	<p>Dimitric Cupovski 2 1000 Skopje Macedonia</p>	<p>Tel: (38 92) 129 351 Fax: (38 92) 129 327 Email: ombudchild@mt.net.mk</p> <p>Tel: 3892 129 351 Email: ombuds1@mt.net.mk</p>
<p>NORWAY: Mr. Trond Waage The Ombudsman for Children</p> <p>Mr. Knut Haanes Deputy Ombudsman for Children</p>	<p>P.O. Box 8125 DEP N-0032 OSLO Norway</p>	<p>Tel: (47 22) 242 630 Fax: (47 22) 249 524 Email: trond.waage@bo.dep.no Internet: http://www.barneombudet.no</p>

Name, Organization	Address	Tel/Fax/Email/ Internet
<p><i>POLAND:</i> Mr. Pawel Jaros Ombudsman for Children</p> <p>Ms. Anna Ostaszewska Director Children's Ombudsman Office</p>	<p>Śniadeckich str. 10 00-656 Warsaw Poland</p>	<p>Tel: (48 22) 696 55 44 Fax: (48 22) 629 60 79 Email: rpd@brpd.gov.pl http://www.brpd.gov.pl</p>
<p><i>RUSSIAN FEDERATION:</i> Alexey Ivanovich Golovan Ombudsman for Children in Moscow</p>	<p>Ul. Novyi Arbat 19 Of. 1803 127025, Moscow Russian Federation</p>	<p>Phone: +7 095 203 8356/4060(of), 720 6422(mob) Email: compforlives@mtu-net.ru</p>
<p><i>SLOVENIA:</i> Mr. Matjaz Hanze Human Rights Ombudsman of Slovenia</p> <p>Ms. Polona Selič Counsellor, Slovenia Human Rights Ombudsman Office</p>	<p>Dunajska 56 1109 Ljubljana Slovenia</p>	<p>Phone: +386 1 475 0024 or : + 386 31 379 707 Fax: + 386 1 475 0048 polona.selic@varuh-rs.si</p>
<p><i>SPAIN (Madrid):</i> Mr. Pedro Nuñez Morgades Ombudsman in Madrid</p> <p>Ms. Carmen Gonzalez Deputy Ombudsman in Madrid</p>	<p>Ventura Rodriguez 7 6° planta 28008 MADRID Spain</p>	<p>Tel: (34 91) 563 4411 Fax: (34 91) 561 8173 Mobile: 34 670 603979 Email: defensor@dmenor-mad.es Internet: www.dmenor-mad.es</p>
<p><i>SPAIN (Catalonia):</i> Mr. Jordi Cots Deputy Ombudsman, Barcelona</p>	<p>C/Josep Anselm Clavé 31 08002 Barcelona Spain</p>	<p>Tel: (34 93) 301 8075 Fax: (34 93) 301 3187 Email: jcots@sindicgreugescat.org</p>
<p><i>SWEDEN:</i> Ms. Lena Nyberg Ombudsperson for Children and Young Persons</p>	<p>Norr Malarstrand 6 Box 22106 10422 Stockholm Sweden</p>	<p>Tel: (46 8) 692 2950 Fax: (46 8) 654 6277 Email: bo@bo.se Internet: www.bo.se</p>

Name, Organization	Address	Tel/Fax/Email/ Internet
<p><i>UNITED KINGDOM (Wales):</i> Mr. Peter Clarke Children's Commissioner for Wales</p>	<p>Oystermouth House Phoenix Way Swansea Enterprise Park Llansamlet Swansea SA7 9FS United Kingdom</p>	<p>Tel.: (44 1792) 765 600 Fax: (44 1792) 765 601 Email: peter@childcom.co.uk</p>
<p><i>EXPERT:</i> Mr. Peter Newell Expert, Child Rights</p>	<p>77, Holloway Road London N7 8JZ United Kingdom</p>	<p>Tel: (44 207) 700 0627 Fax: (44 207) 700 1105 Email: peter@endcorporalpunishment.org</p>
<p><i>OBSERVER (Canada):</i> Ms. Céline Giroux, Vice-Présidente de la Commission des droits de la personne et des droits de la jeunesse</p>	<p>Rue Saint-Jacques 360 2nd floor Montréal (Quebec) H2Y 1P5 Canada</p>	<p>Tel: (1 514) 873 5146 Fax: (1 514) 873 2373 Presidence@cdpdj.gc.ca</p>
<p><i>OBSERVER (Greece):</i> Ms. Myrsini Zorba Member of the European Parliament</p>	<p>Office 13G157 Rue Wiertz 60 1047 Brussels Belgium</p>	<p>Tel: 32 2 284 5170 Fax: 32 2 2849170 mzorba@europarl.eu.int mzorba@hol.gr</p>
<p><i>OBSERVER (Tunisia):</i> Mr. Rached Ben Hamida, Chargé de mission au Secrétariat d'Etat chargé de l'Enfance</p>	<p>Ministère des Sports El Menzah Tunis Tunisia</p>	<p>Phone (provisional): (216) 841 433 (216) 842 906</p>
<p><i>UNICEF:</i> Ms. Lesley Miller Project Officer Child Rights</p>	<p>Palais des Nations 1211 GENEVA 10 Switzerland</p>	<p>Tel: (41 22) 909 5736 Fax: (41 22) 909 5900 Email: lmiller@unicef.org</p>