

Child Participation and Children's Ombudsman Institutions within the European Union

Preliminary Report

BY RACHEL HODGKIN AND PETER NEWELL

December 2008



The European Network of Ombudspersons for Children (ENOC)

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

- to serve as a forum of colleagues for the exchange of information, capacity-building and professional support among the members;
- to promote and safeguard children's rights and to work on strategies for the fullest possible implementation of the Convention on the Rights of the Child;
- to promote the establishment of independent children's rights institutions (ICRIs) in countries worldwide and offer support to such initiatives;
- to stimulate contacts and support with and among other ICRIs worldwide and their networks.

ENOC was established at a meeting in Trondheim, Norway in 1997, when an initial group of 10 institutions met, together with UNICEF (UNICEF's regional office for Western Europe in Geneva agreed to provide a Secretariat for ENOC for the first 10 years. In 2008 ENOC established an independent Secretariat in Strasbourg, with office accommodation provided by the Council of Europe). ENOC holds an annual meeting each year. By 2008 it had grown to include 32 institutions in 24 countries, including in 18 of the 25 EU member states. The Network adopted detailed "Standards for independent children's rights institutions" in 2001.

There are two categories of membership of ENOC – full and associate. Full membership is open to independent children's rights institutions within the 47 Council of Europe member-states which meet certain criteria, including being established through legislation with the function of protecting and promoting children's rights. Where the Bureau of ENOC decides that these criteria are not fully met, the institution may be considered for associate membership, if it demonstrates it is actively seeking to meet the criteria. Associate members are able to attend ENOC meetings and participate fully in ENOC activities and information-sharing.

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The ENOC Secretariat can be contacted at:

Council of Europe D Building office n°208-210
67075 Strasbourg Cedex
tel. +33 3 90 21 54 88
Email: secretariat@ombudsnet.org

CHILD PARTICIPATION AND CHILDREN'S OMBUDSPERSONS INSTITUTIONS WITHIN THE EUROPEAN UNION

PRELIMINARY REPORT – DECEMBER 2008

Prepared by Rachel Hodgkin and Peter Newell

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Introduction

ENOC, the European Network of Ombudspersons for Children, carried out this survey, funded through the EU Fundamental Rights and Citizenship Programme, in 2008. It looks at the work of children's ombudspersons' institutions in relation to aspects of the implementation of article 12 of the Convention on the Rights of the Child – children's right to express their views freely on all matters affecting them and to have those views given due weight.

The survey covered:

- The degree to which the legislation setting up children's ombudsperson institutions included child participation provisions;
- Child participation in the structure and administration of children's ombudsperson institutions;
- Child participation in particular research or campaigning activities of children's ombudsperson institutions;
- Children's ombudspersons' work in promoting respect for children's rights to participation in society and government – for example encouraging changes to law, policy or practice to ensure that children's views are heard and taken seriously in line with article 12.

This is a preliminary report on the responses received from ENOC institutions in EU member-states. A full report including the responses from all ENOC member-institutions will be published in 2009.

Article 12 of the Convention on the Rights of the Child

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The contributing institutions

The institutions who responded to the survey are all full or associate members of the European Network of Ombudspersons for Children (ENOC):

Austria – the Ombudsman for Children from the Länder of Styria (representing the ombudspersons of the other Länders)

Flanders (Belgium) – Children’s Rights Commissioner

French Community (Belgium) – Delegate General for Children’s Rights

Catalonia – Ombudsman for Children’s Rights

Cyprus – Commissioner for the Protection of Children’s Rights

Denmark – Chairperson of the Danish Council for Children’s Rights

England - Children’s Commissioner (“11 Million”)

Finland – Ombudsman for Children

France – Institution of the Defender of Children

Greece – Ombudsman for Children

Hungary – Parliamentary Commissioner for Civil Rights

Ireland – Ombudsman for Children

Lithuania – Childrights Ombudsman

Luxembourg – Ombuds-Committee for the Rights of the Child

Madrid – Defender of Children

Malta – Commissioner for Children

Poland – Ombudsman for the Children’s Bureau

Scotland – Commissioner for Children and Young People

Slovakia – Public Defender of Rights

Sweden – Children’s Ombudsman

Wales – Children’s Commissioner

For the sake of brevity and ease of reading the full titles of the institutions are not used in the report; instead, the name of the institutions’ country/city/region is given, or sometimes we refer to an unspecific “children’s ombudsperson” or “institution”.

1. Legal requirements on ombudspersons to promote child participation

The institutions were asked about their founding statutes. Catalonia, Slovakia, France, Belgium French Community, Greece, Hungary, Poland and Sweden responded that the legislation did not require them to do anything in relation to child participation (although Sweden pointed out that it had an implicit duty to communicate with children in order to fulfil its statutory obligation to represent them).

Otherwise, some statutes require the ombudsperson to consult and involve children in its activities, including those of Flanders, Lithuania, Denmark, Madrid, Austria, England, Wales, Scotland, Northern Ireland, Ireland and Cyprus.

Alternatively or additionally, some require that the ombudsperson must promote children's rights to be heard by others: Lithuania, Cyprus, Finland, Malta, Scotland, England and Ireland.

Scotland provides an example of strong legislation requiring the institution to relate to children directly:

- (1) The Commissioner must encourage the involvement of children and young people in the work of the Commissioner.
- (2) The Commissioner must, in particular, take reasonable steps to—
 - (a) ensure that children and young people are made aware of—
 - (i) the functions of the Commissioner;
 - (ii) the ways in which they may communicate with the Commissioner; and
 - (iii) the ways in which the Commissioner may respond to any issues which they raise;
 - (b) consult children and young people on the work to be undertaken by the Commissioner; and
 - (c) consult organisations working with and for children and young people on the work to be undertaken by the Commissioner.
- (3) In carrying out the duties under subsections (1) and (2) the Commissioner must pay particular attention to groups of children and young people who do not have other adequate means by which they can make their views known.
- (4) The Commissioner must prepare and keep under review a strategy for involving children and young people in the work of the Commissioner in accordance with this section.

The statute also states that: “Where the Commissioner publishes a report which is not specifically designed for children or young people the Commissioner must also publish a child friendly version of the report.” (The term “child friendly” is defined in the legislation).

Cyprus’s law gives an example of where the institution also has outward-looking responsibilities in this respect: it must “identify and promote the views of children where they themselves cannot be heard,” and the England statute reduces the function of the children’s ombudsperson to a single duty – that of “promoting awareness of the views and interests of children in England.”

2. Children’s participation in the administration of the institution

The institutions were asked how children were involved in its internal administration, for example in staff appointments, publications and publicity, budget-allocation or deciding priorities of work.

A number of offices said they did not have any provisions for involving children in the running of their organisation. Some acknowledged this to be a shortcoming and were thinking about how it could be remedied - for example, Finland reported that the Board of the Finnish Children’s Parliament of seven to 12 year-olds has recently been asked to act as an advisory group for the Ombudsman.

Committee on the Rights of the Child – advice on children’s right to participation and children’s ombudspersons

The Committee on the Rights of the Child has underlined the importance of child participation in its General Comment on “The role of independent national human rights institutions in the promotion and protection of the rights of the child” (CRC/GC/2002/2).

The Committee advises that institutions “should be geographically and physically accessible to all children. In the spirit of article 2 of the Convention, they should proactively reach out to all groups of children, in particular the most vulnerable and disadvantaged, such as (but not limited to) children in care or detention, children from minority and indigenous groups, children with disabilities, children living in poverty, refugee and migrant children, street children and children with special needs in areas such as culture, language, health and education. The legislation should include the right of the institution to have access in conditions of privacy to children in all forms of alternative care and to all institutions that include children. (para. 15)

The Committee also notes that institutions have a key role to play in promoting respect for the views of children in all matters affecting them, as required by article 12 of the Convention, by Government and throughout society: “This general principle should be applied to the establishment, organization and activities of national human rights institutions. Institutions must ensure that they have direct contact with

children and that children are appropriately involved and consulted. Children’s councils, for example, could be created as advisory bodies for institutions to facilitate the participation of children in matters of concern to them.” (para. 16)

The Committee proposes that institutions “should devise specially tailored consultation programmes and imaginative communication strategies to ensure full compliance with article 12 of the Convention. A range of suitable ways in which children can communicate with the institution should be established.” (para. 17)

Among a list of activities for institutions proposed in the General Comment are:

- In light of article 12, ensure that the views of children are expressed and heard on matters concerning their human rights and in defining issues relating to their rights;
- Advocate for and facilitate meaningful participation by children’s rights NGOs, including organizations comprised of children themselves, in the development of domestic legislation and international instruments on issues affecting children;
- Promote public understanding and awareness of the importance of children’s rights and, for this purpose, work closely with the media and undertake or sponsor research and educational activities in the field;
- In accordance with article 42 of the Convention which obligates State parties to “make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike”, sensitize the Government, public agencies and the general public to the provisions of the Convention and monitor ways in which the State is meeting its obligations in this regard. (Para 19)

The Flanders respondent commented:

“We must admit that our office does not have any structures or methods to include children in our administration and decision-making. I have always been hesitant to do so, because I am not yet convinced on how to proceed with such structures to guarantee authentic and lasting participation. (I hope this study will prove me wrong). In a very indirect way, children and young people do influence for example the choice of issues on which we draft recommendations, by means of the complaints they send us.”

The doubts expressed by the Flanders respondent are understandable. There are difficulties with involving children in administrative matters: for example, times of meetings have to be altered to fit in with the children’s school hours, official and professional jargon may have to be translated and the work involved may be unattractively boring to children. The “lasting” participation of children will never be possible, since at 18 they outgrow their qualification for the job.

England also raised concerns about resources:

“We are currently reviewing our approach to participation as there have been significant difficulties in sustaining it, in terms of gaining continued support from youth workers – whose

budgets are not certain – and securing staff who are able to work with children who are highly vulnerable or have difficult family situations.”

Nonetheless, children currently constitute a strong presence in the England institution:

“Children and young people are actively involved in our business planning cycle. Over the past two years children have decided the main themes of our work. This is supported by ‘buddy groups’, which are children and young people who support our spotlight work in specific policy areas who have experience of the issue we are trying to improve.

Children have also been involved in the recruitment of all permanent staff and in the development of the new brand, values, mission, vision, and the development of the new website.”

Ireland, too, systematically involves children, by means of a standing Youth Advisory Panel (YAP):

“The panel currently has 22 members. Members participate on a voluntary basis, with travel and subsistence costs associated with their activities as YAP members paid for by the children’s ombudsperson. Panel meetings take place every 6-8 weeks. YAP members’ activities with the Office include:

- recruiting staff. (A group of 15 young people was involved in the selection process for the appointment of the Ombudsman for Children. This included developing the job description, designing the advertisement and interviewing candidates for the job. The first YAP was involved in the recruitment of the Office’s senior management team. This followed training and support on devising job descriptions, developing interview questions and sitting on an interview and appointment panel. More recently, YAP members have been involved in recruiting staff for vacancies across teams in the organisation. YAP members take part as equals with the adults on the appointment panels. Panels usually consist of an independent chair, two members of YAP and two staff members);
- advising on the Office’s communications with children and young people;
- informing the Office of emerging issues for children and young people;
- assisting with the design, planning and implementation of activities to raise awareness of the Office and the UN Convention on the Rights of the Child;
- participating in appropriate national and local media work;
- representing the Office at events for children and young people and supporting children’s and young people’s participation in activities and events;
- co-facilitating workshops and making presentations at conferences.”

Seven other institutions - Cyprus, Madrid, Malta, Scotland, Northern Ireland, Greece and Wales – also routinely involve children in administration and office matters. And in almost all the institutions children play a significant role in marketing the ombudsperson, by advising or determining the design and content of the institution’s website, logo and other publicity materials. Hungary responded to explain that,

although there was no independent institution for children, the Parliamentary Commissioner for Civil Rights had launched an Internet home page for children with the collaboration of primary school pupils.

Cyprus is required to involve children under its founding statute: a quarter of the membership of the Commissioner's Advisory Committee must be children. The Cyprus respondent said that, as well as regularly consulting this Advisory Committee on administrative matters and policy decisions, the Commissioner is legally required to collaborate with two other bodies of children – the Cyprus Children's Parliament and the Pancyprrian Students Council:

“The involvement of these bodies is achieved through frequent meetings, either at our premises or by attending the bodies' meetings. During the meetings children are thoroughly informed on policy and administration issues and challenges that the Institution is confronted with and their active participation in this regard is sought... the Commissioner [consults] the children as regards the institution's future activities and priorities and the ways of pursuing the objectives and the priorities decided upon by the Commissioner and the children's representatives.”

Malta has an advisory group which comprises nine adults and four children, meeting once every three months.

In 2006 Scotland's Commissioner for Children and Young People set up a “Reference Group” of 12 young people aged between 14 and 21, who were recruited to be geographically representative (through national advertising campaigns then interviews). The group meets six times a year with a view to advising the Commissioner on her work, resources and publications. The respondent commented:

“...The model of meeting six times per year (once every two months) has limited the capacity for the group to be involved in the day to day decision- making processes. We have considered how we could involve individual group members in the governance of the organisation, however we have decided it would not be appropriate to have individual group members sitting on management committees at this stage.

We conducted a national consultation in 2005 which involved 16,000 young people and this identified our priorities for taking forward our work. The Reference Group's key role has been to advise and comment on our ideas for taking some of this work forward e.g. our ‘detective kits’ work which we used to find out more about children's views on ‘things to do’ – the top issue from our national consultation. To a lesser extent we have consulted with the group on some specific issues.

Inevitably there have been opportunities for the young people to become involved in making decisions about other pieces of our work. For example: young people from the reference group (and other SCCYP groups) have been supported to sit on interview panels for the recruitment of SCCYP staff, and young people have been supported to take part in tender interviews for specific

pieces of work e.g. web site designers, annual report designers etc. Their views have carried the same weight as the staff members' views who also took part."

Other institutions have undertaken ambitious national surveys to determine what the ombudsperson should prioritise. These projects are described in the next section, on how children are involved in the work of the institution.

The Madrid office has set up a Council of Children's Participation, comprising nine children aged 12-13, elected by local children's councils, who participate in administration and internal decision-making when requested to do so – for example they have proposed areas of future research.

The French Children's Ombudsperson has set up a consultative committee of 20 young people aged between 15 and 18 who "represent the voice of their generation for the Children's Ombudsperson." By and large they inform the work of the institution, addressed in the next section, but this group also help determine priorities of work and those who can easily attend the office participate in writing and designing the materials. (The French institution also told us they had recruited "young ambassadors" to promote the role of the Ombudsperson, as will the Belgium French Community institution in 2009, but as the ambassadors are adults, aged between 18 and 25, they are not the subject of this paper).

Northern Ireland has a Youth Panel of 26 members, representing different regions, religions, abilities and ethnic groups. Its role includes:

- Sitting on planning teams for work projects (two young people for each team) and participating in monitoring projects;
- Developing policy;
- Providing additional information from a young person's point of view to support NICCY's responses to Government consultations;
- Media and Public Relations work;
- Recruiting permanent staff: the panel members are given recruitment and equality training to enable them to sit on interview panels. They also are involved in role plays when used as part of the recruitment process;
- Sitting on shadow ethics committee for research projects (running parallel to the NICCY ethics committee);
- Advising on research or service reviews.

Wales has two Young People's Advisory Groups of 11-16 year-olds, one in North Wales and one in South Wales. The members are representatives from their local authority youth forum, with nominations "especially welcome" from children from minority groups or experiencing difficult circumstances. They have input into recruitment, policy, publications and methods of working.

The Greek institution is in the preliminary stages of setting up an advisory group, which will have 20 members aged 13-17. Its task will be to advise on priorities, how to communicate with children and to comment on the work (including the handling of individual complaints), but it will not – as yet – participate in budget allocation or staff appointments.

The impact of children’s participation on institutions’ administration

The institutions of Madrid and Cyprus consider the participation of children in office life to have been a success; France said this had not yet been evaluated and Scotland commented on its Reference Group as follows:

“From our experience of working with the group it has been evident that the young people would like their involvement to go beyond this. Some group members have wanted to be more involved in decision-making processes. On the other hand other group members have stated that they would like to be more involved in some of the pieces of work they have been making decisions about. So for example rather than just deciding who should design our web site the young people would like to be more actively involved in the design and content gathering process.

“Where possible we have tried to support some of this but this has raised both practical and capacity issues. The young people live in various different regions of Scotland e.g. Orkney Islands and this has proved difficult to increase the intensity of contact with them to support some of their wishes. Furthermore our core staff team for participation has fluctuated between 3-5 team members which has proved challenging to support a more participative approach.

“We are in the process of reflecting on our work with the group thus far to gain learning which we hope will inform our work with any future group that is established.”

Ireland also mentions problems relating to geography, resources and meeting the children’s expectations, but is firm about the benefits:

“The energy, creativity and commitment that young people typically bring to their work with us are very motivating for staff... A further positive side-effect on the organisation has been the internal collaboration and corresponding team-building regarding our work to provide for children’s participation. Finally, our commitment and corresponding work to provide for children’s and young people’s participation enhances the credibility of our work to promote children’s right to be heard and corresponding provision by others for children’s participation (‘walking the talk’).”

Northern Ireland commissioned an independent evaluation of its Youth Panel. This found overall satisfaction with its operation, but recommended that its interaction with the various staff members should

be developed, with one individual identified as the main administrative co-ordinator, and suggested that formal links with other children's groups could bring in a wider range of views.

Wales observed, although children had a visible impact on publications, promotion, corporate identity and staff recruitment, in relation to the children's vote on work priorities:

“We have found challenges in implementing what children and young people have decided we should do since, while the organisation recognises the importance of them having a say, we have often needed to react to external events which means that by the time the What Next? process is complete there is little space in the work programme and it has been unclear what resources are available.”

3. Children's participation in the work of the institution

All the institutions in one way or another consulted children about issues that affected them, and most institutions had also taken initiatives which involve children more actively in projects, including research and advocacy.

What children were consulted about, the projects they were involved in, who the children were, how they were selected and what the impact was, are explored below.

Consulting children about their views and experiences

The institutions were asked what measures they had taken to consult children. Most of the institutions sought general feedback from children about what was wrong (and right) about their lives, sometimes in response to events like the country's periodic report to the Committee on the Rights of the Child or the UN Study on children and violence, but usually in order to find out what issues were particularly important to children.

Some were highly systematic in these consultations, and some canvassed the views of impressively large numbers of children, as is discussed below. Others, like Catalonia, admit they rely on a spontaneous expression of views by children, for example through its website. Some, like Lithuania, approached existing children's groups like the Schoolchildren Parliament or Children Against Violence, and one (Belgium French Community) relied on another adult organisation, UNICEF, to do this consultative work, and on academics to test information materials on children rather than doing it themselves. One of the Austrian institutions commented that its provincial government had established a young advisory group which it so rarely consulted that “sometimes we, the ombudsoffice, talk with these young people about their needs, wishes, problems, opinions.”

In addition, some of the institutions undertake more in-depth consultations. For example Flanders described three research projects:

“ ‘Children and divorce’: in this report we carried out a small scale qualitative research with children who had gone through the divorce of their parents and how that had affected their lives. This research was carried out together with the University of Ghent because of their experience in divorce and interviewing children.

‘Children in asylum’: in a report on asylum and deportation we interviewed children who are living in closed centres with their parents, awaiting deportation.

‘Accessible youth care’: we involved children in a research project on the issue of how accessible (or not) the Flemish youth care is. This research was done together with an organisation specialised in qualitative child-research.”

France mentioned two specific issues on which it had consulted children: the proposed creation of a new status for ‘third parties’ in parenting and the recommendation of the Committee on the Rights of the Child that France prohibit all forms of corporal punishment. Finland had researched the rights of Sami children, and was embarking on work on Roma children. Luxembourg consulted children about whether homosexuals should be allowed to adopt children, on children’s access to violent films and on how to campaign concerning the new law to prohibit drinking for under-16s. Scotland and Malta consulted children about the care system and about children’s health issues; Cyprus about the deficiencies in implementing Article 12; Denmark and Madrid about school bullying (these were large-scale projects: almost all the institutions had ensured some child input on the issue of school bullying). Greece organised regional meetings to consult children, including special needs children, about pupil participation in schools.

Directly involving children

While consulting children is an essential element of the work of a children’s ombudsperson, it is also unavoidable – all official statements and research must be backed by evidence, and where the subject is children, children’s views and experiences will inevitably be sought. However, for the children concerned consultations are a fairly passive form of participation, the results of which are often obscure (though of course the consultative process is often also a means of awareness-raising and information-dissemination).

It was therefore exciting to learn about projects where children were more actively engaged in the work of the institution. For example, Slovakia, whose mandate includes dealing with individual complaints, embarked on an ambitious project of recruiting children to act as ombudspeople:

“The core involvement of children lies with the work on individual complaints, where children are chosen as “Children ombudsmen” to facilitate communication between the children/youth of their age group in their respective school and the Office of the Public Defender of Rights, to make their voices better heard but also to encourage the children themselves to get involved in resolution of their problems. The activity is ...based on the idea that children/youth are more likely to communicate their problems to an age- related peer, rather than to an institution or adult.

The Project has only been launched recently (September 2008) in several pilot schools (age group above 10) and is exercised in parallel to other possibilities (direct/via guardian) to reach the office.

“The “Children ombudsmen” have designed advertisement posters in their schools to inform their peers about the project itself, but also about the various children’s rights topics. The project has also been launched on some school websites. The scope of the information channels is broadening all the time, as more ideas brought by the children themselves come on board.”

Austria also involves children in helping other children with particular problems – several of its institutions run a “teens4teens” programme, where young people answer a telephone hot-line which they set up themselves, getting assistance from the Ombudsperson staff only when they need it.

Flanders and Lithuania involve children in public media broadcasting: Flanders entered into partnership with a television channel, TMF, on the grounds that television was the best way to reach children. The goal was to inform children about their rights, highlight children’s rights day and publicise the work of the Commissioner:

“Young people were involved in... defining the programme issues and the making of the programme. They also made separate pages on the TMF website about the action. A professional team supported them and our office was present for questions about the content.”

Lithuania’s Children’s Rights Ombudsman Institution organises a monthly radio programme to discuss children’s rights, to which children with relevant experience are invited to contribute. In Luxembourg, children proposed and created a ‘thumb cinema’ (or flip book) to explain the Convention on the Rights of the Child for the children’s ombudsperson.

Children have been involved in other media activities: for example the Ombudsoffice of Upper Austria produces a children’s rights newspaper which is written with and by children and the Ombudsoffice of Carinthia organised a story-writing event which culminated in a published book of stories by 8 to 12 year-olds about children’s rights.

Cyprus told us that it involved children in all its press conferences, and encouraged their active participation. It also describes a children’s project:

“... to set up a theatrical production to be presented at our Institution’s celebrations for the 20th of November. Children were asked to write the script and direct the play in any way they thought appropriate and were then invited to present it before state officials such as Ministers, Members of the Parliament, parents and children. At the same event, children were also invited to express themselves through painting and these paintings were exhibited.”

As well as consulting children about research-topics, the institutions have also engaged children to design and undertake research themselves. For example, the Scottish office described two projects where children were asking the questions as well as answering them:

“Three young people from SCCYP’s Reference Group volunteered to be involved in researching young people’s views about the arrangements for the Education Maintenance Allowance (EMA). The young people considered a range of issues, then selected this one as their focus for research. This has involved designing and delivering field research (questionnaires and focus group) and writing up their findings.

One member of the Reference Group and young people from other disability organisations have been involved in the research and decision-making process of our work on a report about the issue of moving and handling for people with disabilities.”

Northern Ireland trained young people to act as peer researchers in two studies, looking at how young people are treated in shops (by a street survey) and on school transport (running focus groups).

Lithuania’s Children’s Rights Ombudsman was presented with a petition signed by 1,500 children which called attention to the disproportionate influence of television and the Internet, given how little time their parents spent with them. The children called for more selective broadcasting and greater care in the presentation of violence.

The Ombudsman responded to this initiative by requesting the 60 Educational Divisions to follow up the petition by consulting children more widely; it also organised radio broadcasts and press conferences for the children to express their views and

“Finally, on the 20th November 2007, the most active children from various schools of Lithuania participated in the discussion on child’s right to be safeguarded from all types of violence and negative influences with the President of the Republic of Lithuania, the representatives of the Government, judges of the Constitutional Courts, Parliament members and members of Advocacy of Lithuania.”

Malta’s children took on the Minister of Education:

“During World Children’s Day a large number of children were involved in a debate relating to the brand new initiatives proposed by the Ministry for Education relating to removal of streaming in schools and the deferral of examinations at the primary to secondary level interface.”

The Austrian Styrian ombudsman also mentioned children’s involvement in a project called “European Participation Investigators” (EPI) in which children from different European cities visited each other and

tried to find out how child participation works in the different cities. The respondent said, “The project was dominated by the ideas and questions of the children – adults worked and helped only in the background. The Styrian Ombudsoffice gave some support.” This interesting project did not feature in any other institution’s response.

Who are the participating children and how were they “selected”?

The children’s ombudsperson institutions had clearly given a great deal of thought to how best to choose children who could contribute to their work, although it should be noted that all offices maintain websites where any child with access to a computer can join in discussions or raise issues.

One of the oldest children’s ombudsperson institutions, Sweden, has learned that a variety of approaches are needed:

“The methods we use for child participation in our office are:

Standing Children’s Councils

During the last years, our office has been using five different councils where children from the age of pre-school to high school are included. Representatives from our office meet these councils at school, or at our office if they go to high school. The councils represent children from the Stockholm area only due to our lack of resources. We try to select the schools having in mind a representation of different socioeconomic areas in the city. The children who form every council are appointed by their classmates.

Contact Classes

Our office has cooperated with different schools in the whole country which works as a consulting arena where we pose questionnaires which are to be answered through the internet. The number of classes is around 1000 and the number of children is around 2000 between 4th grade and high school.

Satisfied Children Index

We have developed a method based on statistical tools where children have chance to express their ideas on different issues. The method is based in a child participation exercise from the beginning and resulting in a questionnaire which is posed to a specific sample of children. When processed, the index might be able to indicate for decision makers the areas in life that should be improved according to the children’s own views.

Reference Groups

When needed, our office arranges meetings with specific groups of children such as children from different ethnic minorities. Another example is a specific project with art educators and children.”

As has already been described in previous sections, many institutions used some kind of standing committee of children. France, for example:

“Twenty young people, eleven boys and nine girls, make up the Children’s Ombudsperson’s consultative committee. Whether they are called ‘Laurent, Mohamed, Chloé, Redha or Rose...’ they are aged between 15 and 18 years old and come from all walks of life, schools and families. They live in families, biological or adoptive, in care or in a home; some are in secondary school, others in high school and sometimes in boarding schools to follow vocational training apprenticeships. Each one of them conveys the views from her/his environment and together they represent the voice of their generation for the Children’s Ombudsperson. They are recruited from spontaneous candidatures and through associations working with young people especially in the schools environment. The Ombudsperson for Children meets these young people twice a year to hear their point of view directly. These meetings take place in January and May.

Or Catalonia:

“The office has a Youth Advisory Panel created in 2007. A group (14) of 15 year old children meets at our institution every two months. Cases of complaints are presented to them with a number of questions. Children get the questionnaires with sufficient time to collect information in their own schools and neighborhood and bring their views and opinions to the Panel. We write conclusion after every session. At the end of the year we incorporate their views into the Annual Report. They also have the chance to meet MPs at the end of the year to have a discussion about the issues they have worked in the YAP.”

Such committees are, in effect, a form of representative participation. A number of institutions also attempted to discover the views of children more directly, though national referenda, polls and ballots.

For example, Ireland organised a nationwide ballot – the largest national consultation involving children in Ireland ever - to discover what issues children would like the Ombudsperson to prioritise:

“The Big Ballot consultation itself was a quantitative approach to eliciting children’s views and was designed to provide for an inclusive, educational approach to facilitating children to identify priority issues for the Ombudsman to work on during the period of our current Strategic Plan (2007-2010). Children and young people were accessed through the formal education system, with all primary schools, post-primary schools, Youthreach centres and Senior Traveller Training Centres in the country invited to take part. Home-schooled children were also facilitated to participate. Almost 75,000 children and young people aged 4 to 18 years participated in the Big Ballot consultation, making it the largest national children’s consultation to have taken place in Ireland to date.”

France's institution also has plans for a major national event in 2009:

“... In the run-up to the 20th anniversary of the Convention on the Rights of the Child (1989 – 2009), the French Ombudsperson for Children has, since April 2008, been conducting a nationwide consultation open to all young people under the age of 18, entitled ‘Giving young people a say’. The programme is progressively opening up a public debate with young people under 18 on eight major social issues, chosen with the assistance of the consultative committee: education, the family, the legal system, internet and privacy, health, discrimination, violence, expression and participation.

A tour of France will be conducted with thematic forums organised at departmental and regional level, and workshops involving some 150 young people in each case. And on 20 November 2009, spokespersons for all those who have participated in the thematic forums will meet with famous specialists like psychologist Boris Cyrulnik or former Justice Minister Robert Badinter. On that occasion, a Golden Book representing the collected thoughts of the young people will be finalised and officially adopted, to be presented to the President of the Republic and to Parliament.”

Scotland provides another illustration of the methodology of these large-scale consultations, as noted briefly in section 2 above:

“We conducted a national consultation via schools, youth groups in Scotland and our website, which took the form of a voting card. We received 16,000 responses from young people aged under 18. The aim was to identify their top issues of concern - number one was a lack of ‘things to do’ for children and young people... The young people’s Reference Group (recruited through a national advertising campaign followed by interviews) was given the role of advising and commenting on our ideas for taking this work forward e.g. our detective kits work which we used to find out more about children’s views on ‘things to do’... We received 2,500 completed kits and this helped us to identify things such as the top five things to do for young people and the top five barriers for things to do for children in Scotland. We have also received qualitative data which we aim to analyse so that this can further inform our endeavours to have influence on extending opportunities to play for children and young people in Scotland.”

Wales also runs a “What Next?” annual event for under-elevens and over-elevens to vote for the two most important work themes for the next year (the list is drawn up on the basis of issues and projects that have emerged in the preceding year).

One noticeable aspect of these consultations is that most consultations or participatory programmes are with children in the 12 to 15 year-old age range – only Sweden had a pre-school council of four year-olds to inform its work, and few drew from primary schools. There are obvious reasons for a focus on this older, more knowledgeable, articulate and independent group of children. But article 12 requires that children’s ombudspersons should arguably also attempt to reach younger children. It was good to learn about a development in Finland:

“There are also a dozen school classes (aged between 6 - 12) that are special partner groups for our website, and when a new topic is launched by the website team the children of these partner groups are encouraged to write their own thoughts about the topic and take part in the discussion. New partner groups are recruited by contacting teachers. On the website there is also an opinion poll with regularly changing questions.

The Ombudsman has also a mascot, a cat called “Sisu”, who travels in a suitcase around the country from school to school. Sisu encourages children to worktogether in their own environment on issues concerning child's rights, to take photos and to write about their thoughts. Sisu's visits in different schools are reported on the website. Sisu meets children aged between five and 12.

Our first report "How can these little ones think so cleverly?", on the opinions of children, was made during the autumn 2006. Primary and secondary school children talked about the things that affect their wellbeing. Some 3,400 children and young people throughout the country took part in the debates. The report was based on a survey replied to by 68 pupils' boards or children's groups at school.”

A second reservation about the selection of children is that many appear to be self-selected, or elected by peers, which is logical in that the ombudsperson office is guaranteed to have a group of highly motivated children, but is also problematic as these children may tend to represent the views of a confident elite rather than marginalised or minority groups, or even “ordinary” children. Denmark has grasped this nettle by asking its national Statistical Records Office to select the 1,500 twelve year-olds who act as its standing panel (responding four times a year to a questionnaire from the office). Greece’s conferences on pupil participation were organised by invitation and then a random draw among the applicants, making sure that all involved schools were covered. In the Flanders institution’s research into youth care, a strict methodology was observed:

“This research was done together with an organisation specialised in qualitative child-research. Children and young people were involved in the two phases of the research: a qualitative and a quantitative study. For the qualitative research children and young people were selected through a general call by website, magazines and institutions.... Attention was paid to selecting groups in different social strata, education levels, ethnic background etc.

In the qualitative research, focus groups and in depth interviews were conducted. The questions in the quantitative research, a set questionnaire, were deduced from the qualitative research so that the stated questions were as relevant as possible to other peers. The questionnaire was distributed through schools and according to the rules of representativeness. 519 children of approx. 11 years old and 2476 young people between 12 and 21 (average 15) years old filled in the questionnaire.”

Article 12 requires that states – and by extension the children’s ombudsperson – listen to the views of children on “all matters affecting the child.” Plainly, where research is conducted into a particular area of

concern, the views of the average child will have less weight than the views of children personally affected. So, for example, Finland's research into Sami children was with Sami children:

“Sami children and young people were asked what they think of their lives and the realization of their rights. Sami people are the only indigenous people's group living in the EU-region. In Finland the researcher also gave lectures in children's rights in every school at sami homeland region in Lapland (about 10 schools). Lectures were given in Finnish or in Sami language. In the interviews and the study Sami children talked about the things that are going well in their lives and about where there is room for improvement. In Finland, over 80 young people aged between 13-18 from upper secondary schools and high schools in Utsjoki, Inari, Enontekiö and Sodankylä Vuotso took part in preparing the report.”

Children who have experience of traumatic events, such as war, or sexual or physical abuse, or children who are disabled or sick, may sometimes find the consultative experience upsetting. Those working with them have to find ways to minimise anxiety, as well respond to any requests for help. The Flanders office described its work with children of families seeking asylum:

“In a report on asylum and deportation we interviewed children who are living in closed centres with their parents, awaiting deportation. We made appointments for different visits to the closed centres. The staff announced our visits and asked the children if they wanted to participate in our research. We made a list of topics and questions inspired by the CRC about their life. This was our non-structured guideline for talking with the children. We made cards of these topics to use in our dialogue (in a playing way) with the children. They expressed their anxieties, told stories about the arrest, the uncertainty, the fear, and the way their daily life went on in the closed settings. These were often very emotional testimonies.”

And Ireland commented:

“Agencies working with and/or on behalf of specific groups of children who can be harder to reach have been very important as a way for us to access, include and engage with these children. If we are consulting on a sensitive issue, we work closely with services, which have developed a relationship of trust with the young people involved and which can provide ongoing support if necessary.”

Of course, when children are involved in projects that require time and commitment, they are likely to experience some kind of selection process. For example the “children ombudsmen” of Slovakia were chosen by their schools:

“Since the project involves various types of secondary schools (secondary school, crisis centre, technical school), the schools were given a free hand in choosing the selection criteria (at some schools the gender principle was strictly observed and as a result two ombudchildren were

chosen; some let the children vote on the person according to the essay written on the subject “why do I want to be a children ombudsman?”, etc.)”

And of course in many countries there are existing Children’s Parliaments or local children’s councils, as well as children’s groups set up by NGOs like Save the Children. It is plainly sensible for the children’s ombudsperson to use any such available resources (although it is important that he or she does not entirely delegate measures to secure children’s participation to others). For example, Cyprus described the two organisations that pre-existed the Cyprus Children’s ombudsperson, and which now inform its work:

“Cyprus Children’s Parliament consists of 70 members, aged 12 – 18, representing the five districts of the Republic in the same proportion as the Republic’s House of Representatives. However due to the ongoing occupation of the Northern part of Cyprus by the Turkish army, it is now operating with 56 members. The term of office is two years and the parliamentarians are elected by District electoral assemblies which consist of delegates nominated by the Student Councils of secondary schools (ages 12 – 15) and of non-school delegates (up to 10%) who apply for membership. The Pancyprian Students Council, PSC, consists of 10 High School students’ representatives, aged 15-18, elected through school procedures. At the first stage of the election process, each High School Class elects its own Class Student Council. At the second stage, the Classes’ Student Councils elect the Schools’ Student Council. At the final stage, the Schools’ Student Councils elect the PSC.”

The impact of child participation on ombudspersons’ activities and advocacy

The institutions were asked what was the impact of consulting and involving children in their work. Some described the overall impact of involving children, such as Austria:

“Every time we involve children directly we can see:

- ... fresh ideas
- ... their ideas don’t need a lot of money
- ... it is useful to have a lot of time and many staff members
- ... they are interested in a lot of themes
- ... it is not so easy to “hold them” for a long period in a project
- ... the staff has still a lot of work in accompanying children
- ... but it is fun to work with them
- ... they want to see results
- ... they hate it, if you promise too much

... it is much easier to work with and for them than with politicians.”

Or Catalonia:

“Children’s views are refreshment for the institution. Their views are sometimes original, although not always possible or reasonable to incorporate. Our understanding is that the Youth Advisory Panel has power more in terms of widening their knowledge about rights and mechanisms to fight for them, than in bringing specific ideas for writing case-complaints resolutions. We have learned that children’s views have no ‘institutional bias’. Although there are difficulties for them to know legislation or other specific policy issues, they have non-contaminated views about justice that can be very helpful to solve complaints.”

Poland said that meeting with children was an “inspiration” for the work of the institution, as well as bringing a wider perspective to their problems. Slovakia said that the impact had not yet been evaluated but they had noted “significantly raised interest both on the side of the children and the pedagogical staff to get involved in the project.”

By contrast, Denmark raised a more functional purpose of child participation:

“We find it beneficial to have a direct contact with pupils all over Denmark. This is important as we are the only institution which has for its main purpose to further the rights of children in society general. In this way the children’s opinions are channeled to the media and decision-makers.”

ENOC’s Standards and children’s right to participation

ENOC adopted detailed “Standards for independent children’s rights institutions” in 2001. These incorporate the Paris Principles (Principles relating to the status of national institutions for the promotion and protection of human rights, UN General Assembly resolution 48/134, December 1993, annex) and emphasize that, in addition, “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”. ENOC recognizes that the Standards are aspirational – not all ENOC member-institutions comply fully with them.

The Standards emphasise that in the light of article 12 of the CRC, institutions should: “ensure that the views of children are expressed and heard on matters concerning their human rights and in defining issues relating to their rights;

advocate for and facilitate meaningful participation by children’s rights NGOs, including organizations comprised of children themselves, in the development of domestic legislation and international instruments on issues affecting children.”

If institutions include in their mandate considering and responding to complaints from children, they 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 Standards suggest that children themselves should be involved in the design and review of complaints procedures and advice and advocacy systems.

Sweden, Finland and Scotland all said that consultation with children largely determined the institution's work priorities – for example Scotland's "things to do" campaign was as a direct result of canvassing children about their top concern. Scotland also mentioned the impact on specific projects: the young people's health group had led to the production of a poster to raise awareness on how to gain access to health services, and the care group had produced a "leaving care" leaflet. There were also occasions when the views of the young people's Reference Group had influenced government policy – for example persuading the Government not to pass a measure which might have undermined children's right to confidentiality, or regarding the closure of schools and youth facilities or the siting of gypsy/traveler sites.

Finland wrote:

"Child participation is almost always enjoyable for both adults and children. It makes us realise that children's priorities are often different from those of adults. For example, in talking about wellbeing of school we directly relied on the feedback and priorities that we have received from children through different surveys. Their emphasis was on school meals, school buildings, school yard activities and stopping of bullying at school.

Our contacts with children and the studies mentioned above have had a crucial impact on our substantial priorities. We have lobbied for the better realizations of Sami children's rights, lobbied for the participation of children in their daily life, especially at school, and defined the concept of school wellbeing from the point of view of children. During this autumn the ombudsman also had meetings with a group of children with experience in child protection services who have been in institutional care. Their opinions have had an impact on how we define the priorities in the child protection services development area. This co-operation is planned to continue next year."

And Lithuania responded:

"Consulting with children enables us to understand the relevance of the question for children, to measure effectiveness and efficiency of the remedies intended to solve a problem, their positive and negative influence on particular groups of children, to foresee situations where suggested decisions may not succeed etc. Moreover, child participation in discussions - especially where problems raised by children themselves are being discussed - gives a better opportunity to show the importance of the problem for children and at the same time to encourage particular governmental or non-governmental institutions into more effective action."

Lithuania gave an example of a practical result: the children's ombudsperson had invited children's opinion on a proposal to impose a day time children's curfew. As a result of the children's expressed disapproval of this idea, deliberations on this new law were stopped.

Malta reported improvements to communication:

“The discipline required to make documentation accessible to children has also helped to communicate ideas at all levels, including making documentation easier to handle for adults and children alike. It is noteworthy that the Ministry for Education in publishing its recent policy documents have also for the first time included a child friendly version.”

Cyprus also considered the multiple benefits, both to the institution and to the children:

“Consultation with and direct involvement of children has resulted in creative and successful campaigns, representative research and child-centred policy positions. At the same time this practice urges other children to actively pursue their participation rights.

As regards research, these really illustrate the existing situation as regards the implementation of children’s rights and the promotion of more child-friendly tactics. As regards policy positions that the Commissioner is adopting, beyond the need to secure compliance with the CRC, the views of children and the way they comprehend the evolving issues are always taken into consideration and reflected therein.

Furthermore, direct involvement of children demonstrates to their peers that participation in decision making can really make the difference.”

4. Ombudspersons efforts to promote respect for children’s participation rights in government and society

It was necessary here for the respondents here to stop, take a breath, and move their thoughts away from working *with* children. The question now was about how the office had worked *for* children, possibly without their involvement, to secure article 12 rights in central and local government, professional practice and society generally.

This proved surprisingly tricky: a few respondents continued to describe activities bringing children’s voices to the ears of decision-makers, but the definition of “participation” also proved to be problematic. For example, “children’s right to enjoy public spaces on an equal basis to adults” is clearly about a form of participation (children’s participation in public spaces), but is not about the principle of Article 12 – the right of children to have their views heard in matters that affect them. Likewise issues such as the decriminalisation of consensual sex between teenagers, or an equal right to euthanasia, or to confidentiality in child protection procedures, all involve the right of children to be heard but are not primarily about that right.

Many respondents also pointed out that almost every speech, broadcast, article or briefing made by the children's ombudsperson celebrates the importance of listening to children, with a view to transforming traditional assumptions that children should be seen and not heard. As Lithuania noted:

“The ombudsman always highlights the necessity of listening to a child and that a child's right to express his/her opinion is one of the underlying child's rights during all events – in conferences, round table discussions with the representatives from governmental and non-governmental organizations, on radio broadcasts, at the time of her visits to foster homes or schools, while communicating with children's parents as well when giving official conclusions on particular violation of child's rights.”

And England:

“We actively promote the involvement of children's views in speeches, consultation and meetings. Takeover Day, where we have encouraged others to allow children's voices to be heard, has proven very successful in demonstrating that children have rights and great ideas. We have also successfully encouraged other organisations to take on board children's views, including the BBC Trust, and we also supported Government departments on where they might start in the process of involving children.”

Some institutions also chose to make Article 12 the theme of their annual work programme, for example:

“The 2008 Priorities Plan of our Institution was named “Children have a voice” and consequently, a large number of activities and campaigns for 2008 focussed on participation rights of children in various contexts, such as the family and schools.” (Cyprus)

“The theme of the annual report/yearbook of the year 2007 was the right of children to participate and to be heard. This included examples and recommendations about how to involve children better in their affairs at school and in other spheres of life. This yearbook was delivered to national decision makers and other contact groups (about 2000 copies). The annual report is sent to all Members of Finnish Parliament and all the Ministries, to all municipalities etc.

For children's right's day in November 2007 the Ombudsman for Children sent a letter to 1,500 people in positions of influence in Finland, reminding them of children's rights to be heard and participate and explaining about the Convention on the Rights of the Child.” (Finland)

As well as general consciousness-raising about Article 12, a number of the institutions have attempted to incorporate its principles at the very highest level of national law. For example:

- The Ireland children’s ombudsperson recommended that an Article 12 provision be inserted in the Irish Constitution, when the Constitution was being reviewed by Parliament;
- Because ratification of the Convention on the Rights of the Child meant that it was automatically incorporated into Belgian domestic law, the institution in the French Community of Belgium logically recommended that civil procedures be reformed so that the principles of Article 12 were upheld;
- Austria lobbied for the voting age to be reduced to 16;
- Flanders argued that children should have an unconditional right to vote at any age;
- Slovakia advocated that children’s rights to participate be recognised in the National Action Plan for Children, currently under preparation;
- Sweden urged the systematic inclusion of children’s views in the ‘child impact assessments’ used in central and local government.

Schools were the places where the message of child participation was most commonly preached. This is hardly surprising, given children spend so much of their lives in school and given the number of opportunities within schools to promote (or obstruct) children’s participation. Most of the children’s ombudsperson offices also routinely

ENOC position statement on communication with children (2003)

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

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

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

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

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

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

We recall the previous statement of ENOC urging the governments of all European States to review their law, policy and practice to ensure consistent respect of Article 12 of the CRC and stating that the governments themselves need to develop procedures for consulting children on all relevant policy development...”.

work in and with schools, often in an educational capacity – and when children are being informed about their rights, the ‘general principle’ of Article 12 will inevitably be a major focus. As Catalonia said:

“...we give talks at schools and other forums about rights. There is always reference to the importance of children’s rights to participate. There are also school materials produced by our office that include aspects of participation.”

Flanders mentioned some specific aspects of schooling relevant to article 12:

“The child’s right to defend him/herself in disciplinary proceedings in school should be guaranteed... Pupils should have the right to draft school regulations (like dress code, disciplinary systems)... A complete and holistic student statute is needed, including all rights (protection, provision and participation).”

And Greece:

“At the beginning of every school year, during the last three years, the Ombudsman publicized a special press release explaining the importance of operating school elections and representation in pupils’ councils.

The ombudsman is planning to provide a detailed report to the Ministry of Education, on children’s participation, in which the opinion and proposals of children will be included, followed by the ombudsman’s documentation on proposals on how democracy can be strengthened in schools.”

Cyprus also raised the question of children's right to freely express any view:

“The issue of the Regulations of Operation of Secondary Education Schools has been an issue of public discussion during the last year in Cyprus. The main issue was the addition in the Regulations of a phrase limiting the right to expression of students to make sure they could not promote the views of a political party. The issue was repeatedly discussed in Parliamentary Committees to which the Commissioner was invited. The expressed opinion of the Commissioner as regards this issue was explicit: “No limitation to the right to freedom of expression can be justified”. This position has been repeatedly expressed publicly through the media”.

In 2006 Northern Ireland ran a large conference called “Democra-School” to which the Minister for Education sent a videoed statement of support.

The second major target for the child participation message was local government. Sweden, Denmark, Madrid, Finland, Poland, Luxembourg and Austria all specifically mentioned working with local authorities – for example, in Austria the Styrian ombudsoffice has organised a biennial award for the municipalities that most promoted the idea of participation, and Luxembourg said that it was lobbying its 115 municipalities to set up local children's councils (five achieved to date).

The third aspect of children's lives most frequently mentioned in this context was the family. No details were provided about how children's participatory rights in the family were being promoted - the impression given was that this was a subject continually being raised and discussed, rather than being the subject of an awareness-raising initiative or campaign for legal reform. Given sensitivities about the relationship between children's rights and parents' rights in every country, this is clearly an area which requires careful advocacy - although it is true that children's lack of participation rights within families is a regular cause for complaint.

Finally, some respondents identified specific groups of children whose participatory rights were being promoted. Principal among these was Flanders, which provided a substantial list of examples of where its institution had pursued Article 12 rights. As well as the voting rights and school rights mentioned above, the list included children's right to:

- veto an adoption as of 12 years of age;
- have a voice in the regulations in youth care facilities;
- have the same right as adults to informed consent to and refusal of medical treatment;
- to apply for asylum and to have their story taken seriously, even when it is different from their parent's. When their legal status is being regularised, it is important that children's views and their life in the country of reception is taken into account as well as that of their parents;
- be listened to carefully and respectfully in cases of abuse;

- have their views respected in all family decisions, either “heavy” decisions about divorce, custody, choice of school and education, or decisions on a more daily basis;
- be able to start judicial proceedings, on their own initiative if necessary, assisted by specialised youth lawyers and with a guaranteed right to be heard by the judge.

Other examples of specific issues were encouraging the participation of children who were in state care (Greece and Northern Ireland), the participation of children who are the subject of child protection proceedings (Cyprus) or in court proceedings (Malta and Sweden) and the establishment of a representative body for Sami under 18-year olds by the Sami People’s Parliament (Finland).

What impact have ombudspersons had on participation rights?

This is the ultimate prize for children’s ombudspersons: to be able to point to an improvement in children’s lives - in this case, greater reflection of children’s article 12 rights - and say, “were it not for our existence, this would not have happened.”

But of course such prizes are rarely come by. Legal reforms can often take decades to achieve; changes in social attitudes may be impossible to quantify, and who can claim responsibility is sometimes hotly disputed. And the fact that change does not come may not be the fault of the ombudsperson, who may have to work with restricted resources in difficult or actively hostile circumstances. Flanders called participation rights “the most contested rights” and this does seem to be the case. Even though Article 12 only requires children’s views to be heard and given due weight, this modest and reasonable request appears to cause adults great perturbation. So some institutions reported that progress on this issue had not yet occurred, or occurred only in individual institutions and at the grass-roots.

Nonetheless the respondents did identify a number of concrete successes:

“In 2007 following a request put forward over a number of years by the Ombudsperson for Children, children considered capable of discernment can now have a right to be heard by the children’s affairs judge. The child must be informed of this right, although she/he can also choose to say nothing in front of the judge, and the child’s view will not determine the decision which must remain that of the judge.” (France)

“In Styria the law for municipalities had been changed, so now mayors and local authorities must regularly involve children. The youth welfare law has been improved to ensure that social workers ask children about their needs. The “Kindschaftsrechtsänderungsgesetz” now provides that children from 10 years should be asked about their needs if parents divorce or separate. And the voting age has been reduced to 16 years – a longstanding item on our agenda.” (Austria)

“The Child Care Act 2006 requires local authorities to have regard to the views of young children when planning early years services as well as the requirement on inspectors to consult children when visiting schools and other institutional settings.” (England)

“Thanks to the ombudsman’s lobbying work (in collaborations with some NGOs) the five-year government platform included a ‘child, youth and family policy programme’. The goal is to create permanent structures that affirm the perspective of children, including their views, in national and municipal activities.

The Ombudsman also influenced the 2006 Child Welfare Act, which gave children rights to be heard in their cases from the age of 12, as well as other participation rights.” (Finland)

“Through different contacts we have had with children involved in criminal trials we have found out that these children do not always what is going on. Our office developed a brochure advising the judges and attorneys who have contact with these children, which has been used and to a certain extent has changes policies and procedures.” (Sweden)

“Our office submitted the proposition to the government that every child should have the right to be defended by a lawyer specialised in children’s rights in every judicial proceeding. The new text changing the law was voted by the Chamber the 20th of November 2008.

Unaccompanied minors get immediately a tutor and a lawyer in order to guarantee their particular protection and to defend their rights. These dispositions were decided on suggestion of our Committee who wrote an advice to a new law of asylum submitted by the Minister of Foreign Affairs.” (Luxembourg)

“New protocols have been developed to ensure that children in care are involved in their planning process.” (Northern Ireland)

Lithuania also identified a less quantifiable change in professional and judicial practice:

“It should be noted that during the past four years the attitude to child’s opinion has changed. In consideration to the ombudsman’s emphasis on the importance of listening to a child’s opinion, municipal institutions for the protection of children’s rights consider child’s opinion more when collecting information about child’s family and implementing other functions prescribed by laws. Moreover, courts also highlight child’s opinion more when reaching decisions.” ←

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