



ENOC 15th ANNUAL CONFERENCE

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

14, 15 and 16th September 2011
Warsaw, Poland

PRESENTATION OF THE INSTITUTION & SUMMARY OF ACTIVITIES

Name of the member institution : Vlaams Kinderrechtencommissariaat – Flemish Children’s Rights Commissioner’s Office

Current Ombudsperson: Bruno Vanobbergen

I. Role and structural organization

- Legal framework

Inspired by the UN Convention of the Rights of the Child of 1989, other relevant international guidelines and examples in other countries, the Flemish Parliament adopted a decree (the specific name for a law adopted by this parliament) on July 15th 1997 establishing the function of the Children’s Rights Commissioner and the Children’s Rights Commissioner’s Office.

The decree specifies the main principles and tasks of the new office. It is, in general, an independent spokesperson on the parliamentary level, a megaphone for children on a political forum upon which they have no representation. Although lacking a specific and own position in politics, children do take up their place in our current society. Just like adults, they are civilians too, experiencing the same effects of policy decisions in their daily life. The Children’s Rights Commissioner’s Office keeps a close watch on their rights and interests.

- Principal functions as defined by law

The decree stipulates different tasks for the Children's Rights Commissioner and the team.

1. Recommendations for policymakers

In general, the Children's Rights Commissioner's Office has to monitor the implementation of the Convention on the Rights of the Child. This includes checking whether legislation is consistent with the principles of the Convention on the Rights of the Child, giving advice on how the Convention on the Rights of the Child can be put into practice and stimulating a child friendly policy in which the position of children can be strengthened. In this area most work has to be done on the participation issue, since this is the most debated element of the Convention on Children's Rights.

Recommendations are given in a reactive as well as a pro-active way. The different commissions of the Flemish Parliament often ask for advice on different topics. However, we regularly give advice on topics we have chosen ourselves. Every year, we choose one topic that is set in the picture by a report, seminars, and visits to institutions. Several recommendations have been given to the Flemish parliament and other authorities on different topics: family mediation, youth care, youth work, media, foster care and adoption, juvenile justice, violence and all forms of child abuse, sports, education, discrimination, student councils, urban planning, ... Recommendations are based on the CRC (and commentaries), on ombudscases, on what children and young people tell us and on research material.

2. Ombudswork

The Children's Rights Commissioner's Office also receives and investigates complaints on possible violations of children's rights or handles questions on children's rights in individual cases. In this work we can act in different ways: giving advice to children, referring them to the adequate help services when needed, mediate and investigate.

The competences of the Children's Rights Commissioner's Office are of a structural nature. We cannot decide or interfere in individual cases, but we can give general policy recommendations. As the Commissioner is not elected, these recommendations are not binding, only advisory.

In handling the complaints we do have broad investigatory powers: we have access to relevant documents, visit institutions and demand explanations.

This ombudstask is fundamentally different from any social or judicial service. We do not handle cases in the sense of solving a problem, but we investigate whether children's rights have been violated. If there is a problem or a need for specific help or support, we refer the child to the most adequate services.

The ombudswork is not always easy since many of the complaints touch on the relationship between children and adults, mostly parents and teachers. It is very delicate to step into this relationship and tell adults what to do.

3. Communication

We also inform the general public, children as well as adults, on the contents and the importance of the Convention on the Rights of the Child and we raise awareness on children's issues.

We organize campaigns, mass events and projects to inform people of the existence and the importance of the convention, thereby working on a change in peoples' attitudes towards children and young people. We publish and distribute books, leaflets and an annual journal for young people. We have also created a website with sub sites for kids, young people and adults.

Our campaigns have a specific focus on participation rights, because these are indeed the most forgotten and less 'accepted' rights. Raising awareness on these rights is needed even more than for the provision and protection rights.

In this work, we also develop networking strategies with relevant partners on the field.

4. Research

We have conducted research projects on issues such as divorce, leisure time, violence, isolation in youth care, asylum and we follow up on several other research projects and data-collection.

5. Report

The decree also stipulates that the Commissioner's Office reports annually to the Flemish Parliament. We do so every year around November 20th, taking advantage of the situation to put children's rights on the agenda both on the level of politics and in the media. The annual report can also serve as an instrument

to put pressure on policymakers: we report if a certain recommendation is not carried out, thus stimulating the discussion.

- Structural organization

The link with the parliamentary level, as opposed to the executive level, is very important for the democratic and independent status: all political actors (parties) can be addressed. The Commissioner's Office does not depend on the policy or the cabinet of one single Minister. Every year, we receive an annual budget from the Flemish Parliament based on a budget application. Up until now, our request has been honoured in most cases and we have received sufficient financial support.

The first Commissioner was appointed on May 13th 1998 for a period of 5 years. The Commissioner's Office started its activities in January 1999 after an initial period of setting up the office and recruiting a multidisciplinary staff. This staff with specialties in law, criminology, sociology, pedagogy, social work and media science(1) have been growing over the years. At this moment the Commissioner's Office has 11 full-time people at work.

II. Individual complaints (if the institution has a competence to handle individual complaints)

- Scope of competences of the Ombudsperson in handling individual complaints

This is already dealt with in I.

- Relevant statistics (if available) on:

We received about 1100 questions and complaints. We also received 150 requests for schoolwork: homework assignments on children's rights, documentation, presentation materials etc.

As always about one third of the questions and complaints came from children and young people. The youngest children are about 7 years, although it remains rare that children under the age of 10 contact the Commissioners Office. From the age of 10, the number of complaints are growing, with the biggest representation of youngsters between the age of 15-17 years old.

On the issues we do not see much difference with the former years. Most cases deal with trouble at home: divorce, custody, abuse, parent-teen conflicts, educational problems...As the years before we received also a lot of complaints about education at school. Popular items are complaints about rules in schools and classrooms, authority problems between teachers and pupils, disputes on exam results. Legal work seems to be necessary here to limit the discretionary powers of schools. The third topic is related to problems concerning youth care: long waiting lists in youth care, discussions about the measures being taken against children, incomplete rules,...

III. Expressed opinions, statements, policy recommendations and/or proposals for legislative and/or other reforms

Between September 2010 and August 2011, we presented policy recommendations on the following topics:

- The legal position of minors in detention
- The use of video conferences instead of face to face contacts in juvenile justice
- The exclusion of non accompanied minors in Belgian soccer youth teams
- The use and meaning of unplanned visits by special youth care consultants
- Child poverty and social exclusion
- The Flemish Youth Policy Plan 2011-2014
- Young people and sexuality
- Childcare

- School bus travelling problems
- Overconsumption of medication of children

We expressed our opinions in the media on the following topics:

- Child slavery and the cacao industry in Ghana and Ivory Coast
- Shortage of care
- Family justice system
- Adoption
- Co-school membership
- Fines
- Minors in detention and problems related to the youth prison of Tongeren
- The cultural and educational rights of young asylum seekers
- Child poverty in Flanders

IV. Research, investigation, studies

We finished two dossiers this year: one on sexual rights of children and one on violence.

The starting point of our report on sexual violence lies in the fact that a new discussion has started in our federal parliament about the age children can have sex. We advocate an integrated policies on youth and sexuality. This is a "legal" framework for sexual acts between young people themselves. Along with a strengthened policy on relationships and sexuality education and an extra incentive and support for positive sexuality in youth services and education.

In our dossier about violence we used a survey to ask 2000 children between 0-18year about their experiences with violence: physical, psychological, sexual violence. And that in three contexts: in the family, at school and in their spare time. Many children are confronted with all kind of violence. Especially at school the violence is enormous. Children are mostly victims of other children. Recommendation about policy change are give: coordination framework, sensibilisation, parents assistance and promotion of non-violence education among others.

V. Communication, Promotion and Publications

- Publications.
 - i. Information brochures on the CRC for children and young people: with participation of young children and adolescents
 - ii. A yearly magazine for young people (12-18) paying attention to the FAQ's received by our ombudswork office
 - iii. A yearly magazine for children (6-12) paying attention to the Faq's received by our ombudswork office
 - iv. A yearly report for the members of the Flemish parliament

VI. Other activities

- Exhibition on being dangerously young