

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 :

The Ombudsperson for Children

Current Ombudsperson:

Mrs. Mila Jelavić

I. Role and structural organization

Legal framework

The institution of the Ombudsperson for Children in Croatia was established in 2003 as the first specialized institution of its kind in the Republic of Croatia, with the aim of monitoring, protecting and promoting the rights and interests of children.

The institution was established by the Law on the Ombudsperson for Children, which was enacted by the Croatian National Parliament on 29 May 2003 and published in the Official Gazette.

Pursuant to Article 3 of the Law, the Ombudsperson for Children acts independently and autonomously and no one is allowed to instruct him/her or give orders.

The Ombudsperson for Children acts on the basis of complaints received, or on his/her own initiative, whether responding to individual violations of children's rights and interests, or in general.

The Ombudsperson for Children is appointed by the Croatian Parliament for a period of eight years, and can be reappointed.

Principal functions as defined by law

Pursuant to Article 6 of the Law, the Ombudsman for Children:

- monitors whether the laws and other regulations in the Republic of Croatia, relating to the protection of the rights and interests of children, are in the line with the provisions of the Constitution of the Republic of Croatia, the Convention on the Rights of the Child, and other international documents relating to the protection of the rights and interests of children,
- monitors whether the Republic of Croatia fulfils its obligation under the Convention on the Rights of the Child and other international documents relating to the protection of the rights and interests of children,
- monitors the implementation of all regulations relating to the protection of the rights and interests of children,
- monitors violation of individual rights of children and studies general aspects and types of violation of the rights and interests of children,
- makes efforts towards protection and promotion of the rights and interests of the disabled children,
- proposes measures aimed at creating an integrated system for the protection and promotion of the rights and interests of children and for the prevention of harmful actions threatening the rights and interests of children,
- informs the public about the state of the children's rights,
- informs and advises children on the manner of the realization and protection of their rights and interests, cooperates with children, encourages children to express their views and respects their opinion, initiates and participates in public activities aimed at improving the position of children and proposes measures to increase the influence of children in society, etc.

The state administration bodies, local and regional administration bodies, and legal and natural persons, have the obligation to cooperate with the Ombudsperson for Children and submit reports upon his/her demand, and give answers to his/her inquiries.

Structural organization

Expert and administrative work for the Ombudsperson for Children has been performed in the Office of the Ombudsperson for Children.

The office is organized as a head office in Zagreb and three regional offices in different part of the country. The office is divided in two departments: Expert Service Department and General Service Department, employing (altogether with the Ombudsperson and the Deputies) 19 persons in permanent positions.

The Ombudsperson for Children has two Deputies, and currently in Zagreb (head office) work Ombudsperson for Children, two Deputies, six advisors, and four employees doing technical administration and accounting.

Staff consists of people with background in law, psychology, social and human sciences, media and information, financial matters and office management.

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

Scope of competences of the Ombudsperson in handling individual complaints Ombudsperson is entitled by law to:

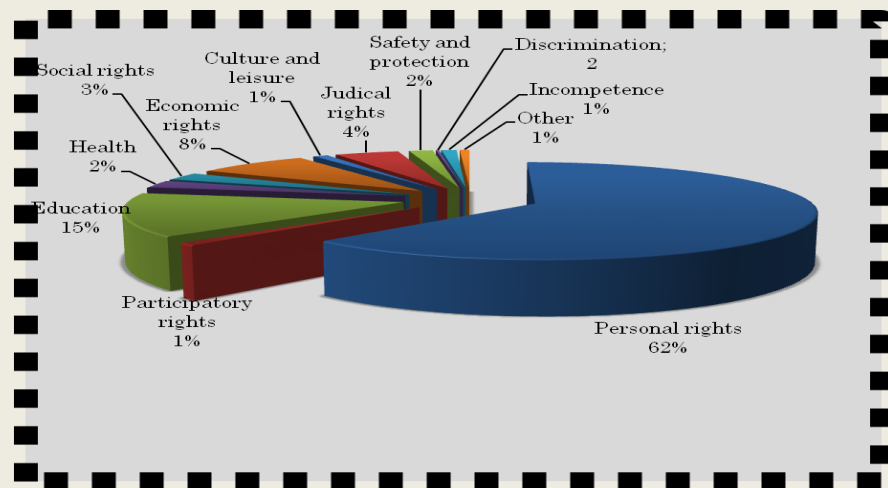
- monitor violations of individual rights of children
- inform and advise children on the manner of the realization and protection of their rights and interests
- warn, give proposals and recommendations
- propose to the competent state administration bodies, local and regional administration bodies, and legal and natural persons the measures aimed at preventing harmful actions threatening the rights and interests of children and to demand the reports on performed activities
 - Should such bodies and persons fail to act in accordance with his/her demand for reports within prescribed period of time, the Ombudsman for Children shall inform the body in charge of monitoring their work about it.
 - Should the body in charge of monitoring fail to report within 8 days about the identified facts and performed measures, the Ombudsman for Children will inform the Government of the Republic of Croatia about it.
- has accessibility and insight into all data, information and files regarding to the rights and protection of children, regardless of their degree of confidentiality
- has the right to enter the premises and gain insight into the manner of providing care for children who are staying or have been temporarily or permanently accommodated with natural and legal persons and other legal entities on the basis of special regulations
- has authority to file a report to the competent Public Prosecution Office and inform the competent center for social welfare and propose measures for the protection of the rights and interests of the child, whenever informed that a child is being subject to physical or mental violence, sexual abuse, maltreatment or exploitation, negligence or careless treatment

Relevant statistics (if available) on:

- Number of cases for the year 2010-2011 or for a given period in between:
 - From 1st September 2009 till 25th August 2011, **1043 NEW INDIVIDUAL COMPLAINTS WERE OPENED IN RESPONSE TO COMPLAINTS OF VIOLATIONS OF INDIVIDUAL CHILDREN'S RIGHTS** while another 1240 cases concerned general initiatives were launched by the Office.
- Complaints' main authors. What is the percentage of complaints initiated by children:
 - Over 65% of the complaints were submitted by parents, and 2% of the complaints were initiated by children.
- Age average of concerned children:



- Area of complaints (ex: situations relating to schools, social and housing problems etc.).



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

We participated in the activities of expert working groups in charge of preparing a draft proposal of the Juvenile Courts Act and for the Rehabilitation and Criminal Records Act, Foster Care Act and National programme for the protection and promotion of human rights 2012-2015.

With our activities, we endeavour to improve the level of legal regulation in order to ensure better protection of the rights of children in certain areas and the rights of children as members of individual groups. For this reason, the Office has been giving suggestions and opinions about **25 draft proposals of new legal regulations and amendments to the existing ones**. We also sent out **12 initiatives for change of existing laws or proposal for new legal acts**.

While proceeding upon individual cases, the Ombudsperson for Children regularly sends recommendations regarding the removal of shortcomings in protecting children and issues warnings in cases in which failings have been

established. These individual recommendations often develop into general initiatives on the part of the Ombudsperson for Children, focussed on protecting children better and achieving the more effective exercise of their rights to the competent ministries, units of local and regional self-government and legal persons. **The 36 recommendations** made between September 2010 and September 2011 fall into different areas: the justice system, protection from violence, protecting children with behavioural problems, education, health, family-law protection, the media, children's property interests, and other miscellaneous issues.

IV. Research, investigation, studies

Conducting a Poll among High School Students

The Ombudsperson's Office, in association with members of Network of Young Advisors to the Ombudsperson for Children, whose viewpoints and opinions gave impetus to certain activities in this field, conducted a poll among young people of Rijeka, Split and Osijek on their attitude towards specific aspects of the sexual abuse of children. One of the important segments of children's protection against sexual abuse and/or exploitation is the issue of the legal age of consent for sexual activity with an older partner. In cases in which a 14 or 15 year olds consensually engage in sexual intercourse with adults, there are no grounds for legal proceedings against the adults, thus allowing them to exploit children's immaturity.

For this reason the Ombudsperson for Children initiated seeking out different solutions in Criminal Legislation. Assuming that the present legal solution is insufficiently protective of children, the Ombudsperson proposed rising the age of consent, while at the same time avoiding criminalizing sexual activity between peers.

For the purpose of finding out children's views on this matter, **a poll was conducted among 2500 high school students in Zagreb, Split, Osijek and Rijeka.**

2367 respondents (94,68%) answered that the present age of consent of 14 is too low and that it should be raised. 1143 respondents (45,72%) believe that the age of consent should be 16, 562 (22,48%) opted for 17, 438 (17,52%) for 18 and 224 (8,96%) think it should be 15. Only 5,32% (133) of high school students polled think that the present age of consent of 14 is appropriate and that it should not be changed.

The poll results indicate the need for amendments to Criminal Legislation aimed at increasing criminal liability for adults who sexually exploit children, of which we also notified the Working Group on Criminal Law.

Queries sent to local districts

National Plan of Activities for the Rights and Interests of Children for the period 2006-2012 define the responsibilities of authorities and other bodies pertaining to the protection of children's rights and interests. One of the administrative units assigned such responsibilities are local districts.

In the period covered by this report the Office of Children's Ombudsperson addressed on several occasions local and regional self-government units regarding the protection of children's rights and interests, conducting comprehensive

surveys on the availability of certain programs for children as well as space, human resources and other requirements.

- We requested districts, cities and counties to report on their governing criteria in establishing the rules and regulations in subsidizing child day care program, the calculation of price of accommodation, and the possible effects of these measures on children's rights mentioned in the Convention. Recommendation regarding the subsidized child care was directed to 556 cities and districts, including the City of Zagreb, and all 20 counties in the Republic of Croatia.

- Due to an increased number of natural disasters, mainly floods, in 2010 the Office of Children's Ombudsperson engaged in monitoring the protection of children's rights in flooded areas.

During a period of natural disasters and disaster recovery and salvage, the children's rights and interests may be jeopardized in several ways, especially their right to life, the right to food and water, the right to accommodation, the right to live in a family environment, the right to health care, the right to institutional preschool care and the right to upbringing and education.

On this account the Office conducted a comprehensive survey and requested extensive reports on the scale of damage affecting the children and the actions undertaken by proper authorities.

Based on the gained knowledge of the current status we were able to issue specific recommendations.

V. Communication, Promotion and Publications

The Office of the Ombudsperson for Children has had extensive daily contacts with the media, often on their initiative. Journalists are most often interested in the Ombudsperson's specific activities undertaken in relation to individual cases of violations of children's rights. They often ask the Ombudsperson to comment on particular phenomena in society which, in their opinion, might involve violations of children's rights, and seek interpretation and assessment of certain legislative provisions relating to children's rights.

On the other hand, the printed and electronic media (particularly radio), often publish the Ombudsperson's communications and appeals, and sometimes provide coverage of her initiatives over extended periods of time, if they think such initiatives will "appeal" to their audience. We are particularly glad when they pick out a topic from our annual report and explore it in more detail.

We promote our activities most frequently by issuing communications, and through the Ombudsperson's media appearances, as well as through expert debates and other meetings, papers published in professional journals intended for professionals working with children and by organizing meetings with children in our Office and, more often, in schools, children's homes, children's hospital wards and in organizations and associations which bring children together. During our meetings with children we try to present the activities of the Office of the Ombudsperson for Children in a suitable manner and, by handing out posters, bookmarks, pocket calendars, memory cards and booklets containing the text of the Convention on the Rights of the Child (including its child-friendly version), we wish to promote children's rights and our institution.

In Šibenik, as part of the Day of the Convention on the Rights of the Child, our collected papers entitled "Children's Rights and Leisure Time" were presented.

Members of the Network of Young Advisors to the Ombudsperson for Children (NYA) from Split and Šibenik also participated in the production of these papers. Another promotion of the same publication was held in Zagreb, which attracted huge interest of media and they were reported on this issue.

VI. Other activities

Continuously one of the major priorities of the Office was to meet and co-operate with children with the aim of enhancing their influence in society. We organised one national and several regional meetings with members of the **Network of Youth Advisors to the Ombudsperson for Children, named “MMS” (Mreža mladih savjetnika)**. Moreover, members of the MMS were participated in the **CoE consultation process in the context of the Draft recommendation on the rights and legal status of children and parental responsibilities**. Consultations were held in Pula, Split, Zagreb and Osijek between 12 and 16 April 2011. In the process of consulting children, 17 members of the NYA participated (9 girls and 8 boys), aged between 13 and 17.

Two of MMS members were also participated in recently held ENYA meeting in Belfast.

The Ombudsperson for Children and her co-workers were active participants in the work of several international meetings and conferences and co-operation with a number of international bodies and organisations has been established.

Last but not least, it should be emphasized that the process of enactment of a new Croatian People's Ombudsman Act has been initiated. This Act anticipates the merging of existing specialized parliamentary Ombudsperson institutions, including the Children's Ombudsperson with People's Ombudsman.

During the last eight years of its activity the Office of Children's Ombudsperson has established itself as a specialized institution with interdisciplinary team of experts, actively involving children in its activities. This model was rated by domestic and international qualified specialist and institutions as effective and well-implemented within Croatian social and political context.

For this reason we apprehend that the dissolution of independent institution of Children's Ombudsperson in Croatia will, at the present, mean a huge step back for the protection of children's rights.

Therefore, starting from March 2011 we appealed on several occasions to various European bodies, to the Croatian Parliament, Government, Ministry of Justice, political parties, and general public through the media, pleading for the present model of Children's Ombudsperson. No results so far.