



Kummissarju ghat-Tfal

Commissioner for Children

Annual Report 2009



Celebrating 20 years  
of the UN Convention  
on the Rights of the Child



Annual Report  
2009

# Celebrating 20 years of the UN Convention on the Rights of the Child



**Kummissarju għat-Tfal**

Commissioner for Children

*The Office of the Commissioner for Children was set up in terms of the Commissioner for Children Act of 2003, to promote the welfare of children and the compliance with the UN Convention on the Rights of the Child, as ratified by Malta, and such other international treaties, conventions or agreements relating to children as are or may be ratified or otherwise acceded to by Malta.*

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## Celebrating 20 years of the UN Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child is widely recognized as the embodiment of children's rights, and an official acknowledgement that children need added protection as vulnerable and valuable members of society. The Convention in itself was adopted by the United Nations General Assembly on the 20<sup>th</sup> November 1989, the date itself being the 30<sup>th</sup> Anniversary of the adoption of the Declaration of the Rights of the Child. The UN Convention on the Rights of the Child came into force on the 2<sup>nd</sup> September 1990 after it was ratified by the required number of nations, Malta having done so on the 26<sup>th</sup> of January 1990. To date, the Convention on the Rights of the Child is the most widely and rapidly ratified human rights treaty in history, with only two countries not having ratified it.

The ratification of the United Nations Convention marks a formal commitment to ensure the realization of human rights, and to mark the progress on the situation of children in this respect. Through this Convention, children's rights are recognized as *fundamental* human rights, granted to the child in respect of their inherent dignity and without discrimination of any kind.

In marking the 20<sup>th</sup> anniversary of such an essential document, it is crucial to pause and take stock of where we have arrived to date, and where we still have to go. The



*The Commissioner for Children  
during Guginu's Tour*

adoption of the Office of the Commissioner for Children in itself is a significant consequence of the ratification of the UN Convention, through the introduction of the Commissioner for Children Act in 2003.

It is important to recognize the accomplishments which we have made in the past 20 years, whilst avoiding becoming complacent, and remaining diligent and conscientious of the progress we have yet to make. On the occasion of the 20<sup>th</sup> anniversary of the UN Convention of the Rights of the Child, I would once again like to take the opportunity to urge the full compliance with the UN Convention on the Rights of the Child. The rights enshrined in this Convention must be fully implemented on all levels, in order to ensure that children are given the space and possibility to develop to their full potential, and that their human dignity is given the level respect which it so deserves.

**Carmen Zammit**  
*Commissioner for Children*

## 1. Composition of Office

*The present Commissioner for Children is Ms. Carmen Zammit, who is the second individual to hold this post. The Commissioner for Children Act was passed through Parliament on the 5<sup>th</sup> December 2003, and Mrs. Sonia Camilleri started her mandate on the 16<sup>th</sup> December 2003 on a part time basis.*

Following the decision of Mrs. Camilleri not to accept the renewal of her term in office, Ms. Carmen Zammit was appointed Commissioner for Children on the 6<sup>th</sup> March 2007, for an initial three year term. Ms. Zammit has extensive experience in the field of social work, and was appointed following a consultation meeting held by the House of Representatives Social Affairs Committee.

Other than the Commissioner for Children, the Office is presently composed of a:

- Head of Office – Full Time
- Manager (Research and Policy) – Full Time
- Task Manager – Full Time
- Projects Officer – Full Time
- Teacher – Full Time
- Clerk – Full Time
- Driver/ General Hand – Full Time
- Legal Advisor on Children's Rights – Consultancy Basis
- Case Officer – Part Time
- Accounts Officer – Part Time

This year saw the introduction of a Task Manager, Projects Officer, and Education Officer to the staff complement at the Office of the Commissioner for Children. This growth was welcomed by the Commissioner for Children, as a measure aimed at strengthening the work capacity of the Office in reaching its goals as outlined within the Commissioner for Children Act. Due to increased demands on the Office on both a National and European Level, the Commissioner has expressed her wish that the office further continues to grow in order to be able to meet these demands more effectively.

There is an urgent need for increased space in the premises of the Office, particularly in light of the recent staff growth.

It is crucial that these premises are also child-friendly, and accessible to children. Without such facilities, the Office of the Commissioner for Children confronts inevitable limitations in the work which it is able to do.

The Commissioner for Children has ensured an investment in staff development, through the organization of staff days aimed at further increasing the levels of efficiency, communication, and organization at the Office of the Commissioner for Children. Two staff days were held during this year, as an ongoing initiative aimed at further strengthening the capacity of the office.

The independence of the Office of the Commissioner for Children is recognized by law by means of the Commissioner for Children Act 2003, which states that “the Commissioner shall act independently and shall not be subject to the direction or control of any other person or authority” (Art. 4). At present, there exist numerous obstacles which prevent this from being fully realized, thus limiting the ability of the Commissioner to act in the best interests of the child. Furthermore, at present a percentage of the annual budget is directly allocated to the Office of the Commissioner for Children, whilst some salaries and other expenses related to the day to day running of the office are paid directly by the Ministry for Social Policy. In order for the Office to be able to plan its activities more efficiently, the full annual budget should be allocated and made directly available to the Office of the Commissioner for Children. This would allow for more effective development and implementation of the Commissioner for Children's work plan.

In 2009, the budget for the office increased to a total of €100,000. This increase was welcomed by the Commissioner, and it is hoped that the budget will continue to grow in order to allow this office to continue building upon its strengths and capacities.



## 2. Council for Children

*Ref. Chap 462; Art 12*

The Council for Children is made up of:

- The Commissioner as Chairperson
- Five other members appointed by different Ministers
- Chairperson of the Social Affairs Committee of the House of Representatives
- Three other members co-opted by the Commissioner for Children and approved by the Council
- Four young persons co-opted by the Commissioner for Children and approved by the Council

The young persons forming part of the Council for Children were all elected for nomination to the Council by their peers, in elections held at the Office of the Commissioner for Children. This year, one post for a young council member became available, and elections were held during

the Rights 4U Course 2009. Participation in the Rights 4U course serves as a pre-requisite for the young people to vote, and to be appointed on the Council for Children. Nine young people put their names forward for nomination in this election, and the eight candidates who were not successful were invited to form part of an advisory group aimed at providing direct feedback and opinions on the projects and initiatives of the Commissioner for Children.

The function of the Council for Children, according to the Commissioner for Children Act 2003 [Chap 462, art. 12 (6)], is to:

(a) to monitor compliance with the United Nations Convention on the Rights of the Child as ratified by Malta and with all such other international treaties, conventions or agreements relating to children as are or may be ratified or otherwise acceded to by Malta;

(b) generally to advise and assist the Commissioner in the performance of the functions of the Commissioner as listed in this Act;

(c) to advise and assist the Commissioner in the promotion of the welfare of children as specified in article 11.

The present Council for Children was appointed on the 22<sup>nd</sup> May 2009, following an absence of five months in which the Council was pending appointment due to a delay from some Ministries in appointing a representative. The present appointment is valid until the 18<sup>th</sup> January 2010. Following its appointment this year, the present Council has met regularly on a monthly basis, and has been very active in advising and assisting the Commissioner for Children in the performance of her functions. It is hoped that once the current appointment expires, there will not be a significant delay in appointing a new Council, in order for the Council to be able to continue with its work unhindered, with limited interruptions or time lapses.



*The Commissioner for Children with the newest Council Member, Andre George Agius*



### 3. Education and Public Awareness

*The Commissioner for Children featured regularly in the media this year, through numerous television programmes and newspaper articles.*

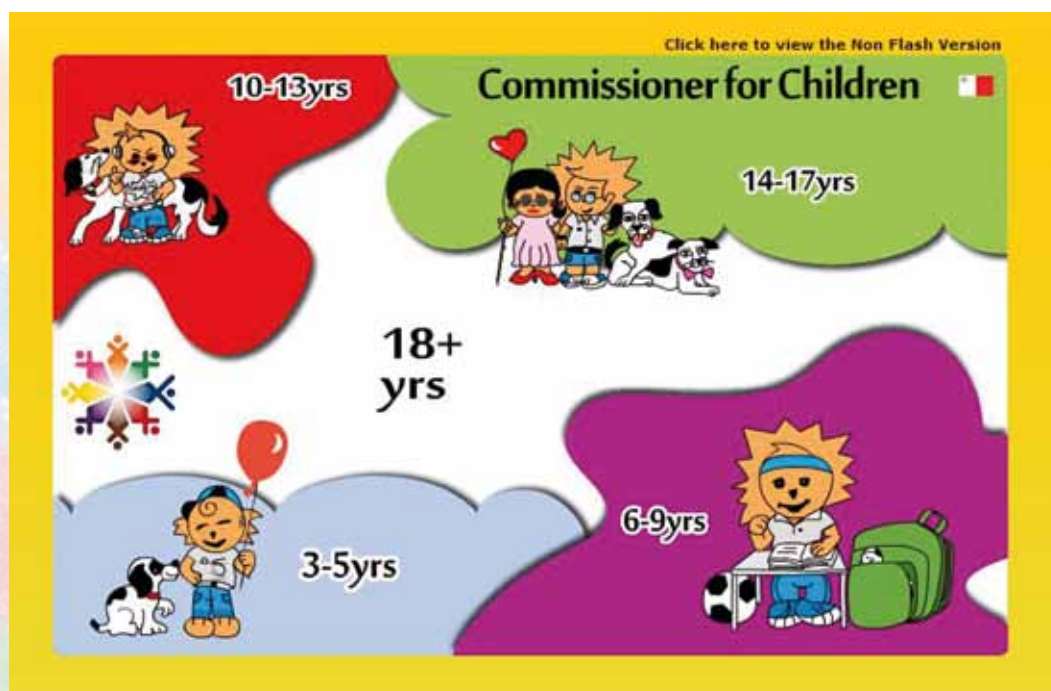
The Commissioner for Children also made regular appearances at numerous public events, participating in seminars and conferences, and giving talks and speeches on various subjects upon request. School visits were also carried out this year, in line with the Commissioner's aim of making the work of her office known amongst children. The Members of staff at the Office also contributed towards this aim, visiting schools to promote the activities of the Commissioner for Children, as well as delivering public lectures on the rights of the child at educational establishments such as MCAST, and the University of Malta.

In a bid to enhance co-operation between the office and other relevant stakeholders working with children, the Commissioner for Children regularly met with Ministers and representatives from Government Ministries, as well as members of the Curia, in order to identify avenues of further collaboration for the benefit of children.

In other efforts to increase the level of co-operation in this sector, the Commissioner for Children also officially launched the 'Platform for Children' initiative, aimed at bringing together voluntary organizations working with or for children in some way.

Following considerable efforts by the office over past years, the Commissioner also launched the official website of the Office, thus allowing greater accessibility for children, parents, and professionals to the Office of the Commissioner for Children. The website can be viewed on [www.tfal.org.mt](http://www.tfal.org.mt) and [www.zghazagh.org.mt](http://www.zghazagh.org.mt).

In terms of outreach and human rights education amongst children, much was accomplished this year, the most notable of which being the 'Guginu's Tour' project intended to commemorate the 20<sup>th</sup> anniversary of the UN Convention on the Rights of the Child. Guginu's Tour was a large scale event, in which the Commissioner traveled to 16 locations in a period of two weeks, in order to increase awareness of children's rights to over 3,000 children in Malta and Gozo. The Commissioner for Children also accomplished these aims through a number of means including the annual Rights 4U Course, and through a Theatre in Education project called 'Face Space', amongst other means.



Official Website of  
the Commissioner for  
Children's Office

## 4. Complaints received by the Office of the Commissioner for Children

*During the year 2009, there were 77 cases concerning children that were reported to our office. These complaints were made by parents rather than children, the projected reason for this being due to the lack of child friendly avenues available in order for children to contact the Commissioner for Children's office directly*

It is hoped that children will feel more encouraged to contact the office directly with their concerns, following the launch of the official website as a child-friendly avenue of communication with the Commissioner.

The cases received by the Office in 2009 are classified under: Family, Education, Court, Sports/Culture, Abuse, and Miscellaneous.

### Cases concerning problems in the Family

a. The large majority of complaints concerning the family involve issues of marital separation and child custody. Within such proceedings, the voice of the child is rarely heard, despite the fact that the Commissioner for Children has brought this issue to the attention of the competent authorities on various occasions. Given that the court decision will have a fundamental impact on the life of the child, it is crucial that the views of the child are adequately taken into consideration, in respect of article 12 of the UN Convention on the Rights of the Child. A great deal of incoming complaints also report that some court decisions are being ignored, thus requiring parents to file numerous applications to rectify the situation.

b. Another issue of great concern to the Commissioner for Children is the fact that a number of children who are placed under a care order still reside within the family home, notwithstanding the issuing of a care order. The care order may only be issued when it has been established that the child is in need of care, protection or control. In issuing the care order, an assessment would have been carried out determining that it is not in the best interest of the child to remain within the family home, as in some cases this may cause irreparable harm to the child. A care order outlines the duty and responsibility of the State to care for these children, by taking over the care and custody necessary for their present and future wellbeing. The office has

established that a number of these responsibilities are not being adequately responded to and is concerned about the impact on children who are at their most vulnerable. The gravity of this situation has been indicated on numerous occasions with little, if any, response. The Office has launched an inquiry into this issue which is underway.

### Cases concerning Education

Compared to previous years, the number of complaints relating to Education was relatively low in 2009. The main complaints which were received involved dangerous construction equipment near schools, and the state of some mini vans which are used for school transport. These were referred to the relevant authorities.

### Cases concerning Court issues

The Office of the Commissioner for Children receives numerous complaints relating to court judgements, including issues relating to child maintenance and custody. Parents often object to the court decisions which were made, claiming them to be biased or causing harm to the child. They thus approach the Office of the Commissioner for Children accordingly. Court delays are also regularly cited as an issue of concern, causing negative emotional and psychological affects on the child. The Commissioner has taken this up with the relevant authorities on numerous occasions.

### Cases concerning Sports

a. Complaints were raised with regards to the issue of children's registration with clubs, particularly football and basketball clubs. In some instances, children were being exploited by the clubs, thus not giving them the opportunity



to benefit from and participate in sport as an enjoyable and recreational activity which contributes significantly to their overall healthy development. An inquiry into this issue was initiated by the Commissioner for Children, and the results of this inquiry were recently forwarded to the parties concerned.

b. Complaints were also received by our office about the deteriorating state of playing fields, raising concerns about the safety of the children using these premises. Meetings were held accordingly with local councils and the relevant Minister in order to address this issue.

### Cases concerning Abuse

The cases received by the Office of the Commissioner for Children regarding Abuse were immediately forwarded to Agenzija Appogg for appropriate action. For the most part, these cases were already known to Agenzija Appogg, however the individuals concerned contacted the Office of the Commissioner for Children in the hope that more immediate action could be taken.

### Complaints received during 2009

Classification	Number	%
Family	29	37.7
School	13	16.8
Court	6	7.8
Sports/Culture	12	15.6
Miscellaneous	11	14.3
Abuse	6	7.8
<b>TOTAL</b>	<b>77</b>	<b>100%</b>

### Inquiries

The Commissioner for Children is empowered at law to launch an investigation into any alleged breaches of the rights of children [Commissioner for Children Act 2003, Article 14.]

Three inquiries were conducted in 2009. The first inquiry involved issues surrounding football nurseries, and this has been concluded with recommendations forwarded to concerned parties. The second inquiry regarded an adoption case, and is nearing conclusion, whilst the third inquiry concerns a court case of severe child abuse which was brought to the attention of the Commissioner for Children by the Courts. The children concerned were sent back home notwithstanding the issuing of a care order, due to lack of placements. The latter inquiry is still underway, and is expected to be concluded in January 2010.





*The Hon Minister for Gozo Giovanna Debono addresses participants at the Manifesto for Children Seminar in Gozo*

## 5. Research and Policy

### Manifesto for Children Seminars

In view of the 2008 general elections and the contesting parties' manifestos, the Office of the Commissioner for Children undertook to prepare a Manifesto for Children, in order to increase awareness amongst the political parties of matters requiring urgent attention with regards to children. The Manifesto for Children was based on principles laid out in the United Nations Convention on the Rights of the Child, as ratified by Malta in 1990.

The Manifesto for Children was a major project undertaken by the Office of the Commissioner for Children during 2007 and 2008. The project aimed to identify the needs of children in Malta. Numerous consultations were held with professionals in various fields, in order for the office to identify areas requiring improvement for children with regards to Poverty and Social Exclusion, Children in Conflict with the Law, Children and the Law, Education, Health, Work, Sport and Culture, and the Environment. These consultations were vital in obtaining a realistic and accurate picture of the situations that children are presently facing in Malta and Gozo, particularly with regards to the current provision of services and support which children require.

Following the great investment of resources in the Manifesto, the project was followed up in May 2008, by means of the public discussions on the issues brought forward in the Manifesto. Ten public seminars were held

every three weeks on a separate topic in the Manifesto, and were open to adults and children alike. Professionals and individuals active in the field were invited, along with members of the general public, to comment on the issues put forward in the Manifesto, share concerns, and make any necessary recommendations in order for the situation to be improved. Such public response is vital for the Commissioner to continue to represent and promote the best interests of the child, and is in line with the duty of the Commissioner for Children to “provide public information and education designed to promote an understanding of, and to invite public comment on, the work of the Commissioner” (Commissioner for Children Act, art 11 [h]).

The Seminars held on the Manifesto for Children culminated in a one-day seminar held at the Grand Hotel in Gozo, on Thursday 30<sup>th</sup> April 2009. Although the points raised in the Manifesto were applicable to the Maltese islands in general, certain issues with specific regard to Gozo such as residential care and the services of care professionals were highlighted in the Manifesto, in order to increase awareness of the situations which require additional attention in Gozo. Given the nature of these matters, the Commissioner for Children felt that it was necessary to hold the last seminar in Gozo itself, in order to fully understand how the points raised in the Manifesto relate to the population of Gozo.





The Hon. Giovanna Debono, Minister for Gozo, opened this seminar which was attended by several individuals employed within the educational and social sectors in Gozo. She spoke about children's rights, especially those of children who go through particularly difficult situations. Whilst praising the initiative taken by the office of the Commissioner for Children, the Minister stressed the importance of the holding of similar activities, even in Gozo. This will continue to increase awareness about different social aspects, which are all relevant towards the attainment of an inclusive society that protects the rights of the individual. 'This particularly relates in the case of children who belong to a category that needs more protection', continued Minister Debono. Whilst referring to the contents regarding Gozo in the Manifesto for Children, the Minister mentioned projects that aim to strengthen the services offered in this sector. She mentioned that two new child-care centres were being planned whilst preliminary talks had been held in order to establish alternative temporary residential services for children, while services offered by the social workers unit in Gozo had also been improved.

Dr. Chris Said, Parliamentary Secretary for Public Dialogue and Information, made a brief intervention during the seminar, in which he also congratulated the Commissioner for Children on the work being done in order to raise awareness on the rights and needs of children. According to Dr. Said, the Manifesto for Children was an important tool in encouraging and strengthening our investment in children. As Parliamentary Secretary

also responsible for Local Councils, Dr. Said spoke of the long process of consultations his office has undertaken in order to enable local councils to offer improved services in various localities. Recommendations were collected from members of the public, and a dialogue with children was seen as very important to this process. Dr. Said expressed his belief that the voice and opinions of the child are valuable, and in this respect it is vital for adults to listen to what children have to say. Dr. Said encouraged co-ordinated efforts in this respect, in order to be able to work together in the best interests of children.

Hon. Anton Refalo MP, in closing the seminar, spoke on the distinction which currently exists in the definition of 'children' and 'youth', and the fact that these currently fall under the responsibility of two separate Ministries. A definition of children and young people is important in this regard, instead of simply referring to the age of majority as is often the case.

Hon. Anton Refalo MP also suggested the formulation of a compendium of the rights and responsibilities of children, according to how they are found in various laws including the Civil Code and the Criminal Code. Hon. Anton Refalo MP stated that such a collection of legal provisions may facilitate in educating children and adults on the legal aspects of their rights and responsibilities. In this respect, it would be possible to increase awareness of the fundamental rights of children, in accordance with the Commissioner for Children's recommendation to do so.

Ms. Carmen Zammit, the Commissioner for Children, encouraged feedback from participants present at the seminar, mainly made up of professionals working with or for children in Gozo. The Commissioner stressed that it was important for the work of the Commissioner to be informed by public feedback, in order to enable the Commissioner's office to continue working in the best interests of the child.

Work has already begun on a follow up document to the Manifesto for Children based on the content of these seminars, and it is envisaged that this document will be launched in 2010. This will then be presented to the relevant authorities in order to encourage the implementation of the recommendations put forward. It is envisaged that such work will remain ongoing as a means of giving direction to the work of the Commissioner for Children, and as part of the continuous effort to implement children's rights in Malta to the greatest possible degree. All consultations held during this project were instrumental in outlining the achievements reached thus far, as well as the way forward which is required from this point on.

## Looked After Children

In 2007, the Commissioner for Children embarked on a three year project concerning children in out-of-home care. This project was intended to include comprehensive research that will lay down the foundations for a National Policy and a National Strategy on Looked After Children. It will also include an aspect of lobbying to put children in care on the national agenda as a social justice issue, so direct action is taken rapidly on their more urgent needs. Meanwhile, it has come to the attention of the office that during 2009 a Strategic Plan for Looked After Children has been drawn up by the Department for Social Welfare Services, and it is augured that this plan will continue to contribute towards the larger goal envisaged by the Commissioner's office.

The main types of out-of-home care in Malta are provided either by the Roman Catholic Church or the State and include Residential/Institutional care and Family Foster Care. Family Foster Care refers to when children are taken out of their family for valid reasons, and placed under the care of trained and assessed foster carers in order to be brought up in a more family-oriented environment. Residential care on the other hand, is mainly provided by religious orders, NGO's, and other entities, and implies children living as part of a group within an institutional environment. The majority of children in out-of-home care currently reside in the latter.

Whilst the significant work done by such institutions is to be recognized, local, European and International

qualitative research has shown that children placed in foster care fare better than those placed in institutionalized care. Nonetheless, there are by far more children who are placed in these large institutional and residential homes, as opposed to being placed in foster care given that the availabilities for the latter type of placement are still scarce.

When analyzing current service provision in Malta for residential care, a critical factor is a lack of adequate places. Most residential homes are either full, there exist long waiting lists in some, or the personnel in the homes are not professionally equipped to meet the emotional and psychological demands of the child most effectively. Homes run by the Catholic Church also face staffing difficulty, due to the dwindling number of religious vocations. Furthermore, the present situation is also hindered by the financial difficulties experienced by many homes. It is a matter of grave concern to the Commissioner for Children that due to the lack of space, some children in urgent need of admittance into care still reside at the family home, in an environment which is potentially dangerous and not conducive to their healthy development. Some of these children still reside in the family home despite the fact that they have been placed under a care order, and are thus officially under the care and custody of the State. This information has been made available to the Commissioner through different sources, although it has been indicated by official sources that care orders are never refused on the grounds of lack of placement. However, it was also indicated that at times, care orders are not recommended to the Minister in the first place due to this reason.

The lack of a comprehensive Children's Act increases the difficulty of professionals working in this sector in Malta, and is a significant lacuna which must be addressed in order for children's basic rights to be met. It is vital that legislation relating to the voluntary placement of children in care be enacted, and regulates *all* placements. At present, a discrepancy exists in Malta between children entering care under a care order, and those in voluntary care. The latter are not entitled to the same services and assistance granted to the former, when the cases in themselves would often be quite similar to one another.

It is crucial that a system is put into place to regulate voluntary placements by law, whereby the support of the State is requested, following which there must be a binding contract with the family which regulates the placement of the child. Such a contract would stipulate clear time frames, allowing for the State to then take responsibility for the child if the provisions of the contract are not met.

Out-of-home care must have a scope and an aim. Children are currently placed in out-of-home care as a result of a lack of options regarding where they can receive appropriate care. Furthermore, this is often undertaken as a long-term



solution, rather than a temporary arrangement with the aim of reinstating the child within the biological family where possible. The placement of the child should be a placement of choice, following an evaluation by a Family Assessment Unit which then determines the kind of placement in the best interests of the individual child. This will not be possible without the availability of diversified services and options. Out-of-home care should be just one in a range of multiple services. We must open the gate not only to fostering, but to a multitude of alternatives. This would include (but is not limited to) prevention programmes, community-based services, day shelters, etc. A 'one size fits all' approach can not apply.

### • Working group

For the purposes of this project, a working group was set up in 2007, comprising of various professionals working locally in the field of out-of-home care, in order to elicit their feedback on the current situation and draw out possible directions on how to move forward and encourage the investment and attention in this sector which is so desperately needed. This is in line with the duty of the Commissioner to "foster the development of alternative care to children who need such care with special reference to fostering and adoption" [Commissioner for Children Act 2003, Article 9(e)].

One of the ideas proposed by the working group was that of the creation of an effective public communications strategy, aimed at increasing public awareness of the social justice issue at hand, and mobilizing public reaction on the issue of children in out-of-home care. It was decided that a public communications strategy must communicate the idea that looked after children are our responsibility, and a shared responsibility at that. Furthermore, any communications strategy undertaken must take great care not to further stigmatize any children currently in care. Meetings with media experts were held regularly in 2009 in relation to this proposed campaign, and it is envisaged that this campaign will be launched alongside the publication of the commissioned research currently being conducted on children in out-of-home care.

### • Research

The focus group also agreed that the aspect of lobbying should be given high importance in order to bring about change in the area of looked after children. A significant amount of research already exists, highlighting the needs of children in out-of-home care. In terms of local research,

it became evident that the research available on out-of-home care was qualitative and not quantitative. This identifies a significant gap in the research, as quantitative information is vital in lobbying and presenting numbers to policy-makers. It is also vital in influencing the public and making them more aware of the issue at hand. In this respect it was agreed by the focus group that more long-term work was needed in order to be able to lobby more effectively, and that a research group should be set up in order to address the most pertinent questions regarding out-of-home care in Malta. A research group made up of six researchers was set up in late 2007, and began working on a large scale project to this effect.

The research project in itself has been split up into three phases:

- 1 The Effect of Institutional Placement for Children under 5 (Based on international research)
- 2 Mental Health needs of children in care (Using the Child Behaviour Checklist, Strengths and Difficulties Questionnaire, and Case File Studies)
- 3 Exploring the long term outcomes of youth leaving care (through case files, interviews, and other data)

The first phase of the research project supports the recommendation that children under the age of five should not be placed in institutional care. This phase, which has already been completed, has shown that residential care causes attachment difficulties and problems with socio-behavioural development, which tend to be carried on later in life. The impact of institutionalization on cognitive development often depends on the duration of institutional care, the age of entry, and the conditions within the institution. Early intervention through removal of the child into family based care can result in recovery.

It is important to note that whilst care within a family environment is often favoured, this research recommends that residential care should also remain, and be provided to children above a certain age only if absolutely necessary, and in an environment which is therapeutic and family-oriented.

The first phase of the project, in the form of a literature review, has shown that "the first three years of life are critical for health and development. Young children (0 to 3 years) placed in residential care institutions without parents are at risk of harm in terms of attachment disorder, developmental delay and neural atrophy in the developing brain. The neglect and damage caused by early privation of parenting may be equivalent to violence to a young child" (Dixon and Misca, 2004)<sup>1</sup>. Remaining mindful of

1 Quote originali meħuda mir-rapport: 'Mapping the number and characteristics of children under three in institutions across Europe at risk of harm: Report of Proceedings', EU Dixon, L. and Misca, G., Eds (2004) Daphne Programme 2002/3; WHO Regional Office for Europe, Copenhagen, Denmark

this fact, the first phase of the research project has strongly recommended that no child in Malta under the age of 5 should be placed within a residential institution setting, even if the institution supports a high level of care. The research has also recommended the setting up of a gradual process of deinstitutionalization, in which the State takes full responsibility for the process whilst working in close liason with all stakeholders.

The second phase of the research focused on the mental health needs of children in care, particularly those aged between 5 and 16. Given the likely possibility of traumatic experiences of many looked after children, as well as their experience within the care system and their high levels of need, early identification of mental health needs is not only beneficial for the child, but is also a cost effective intervention. The aim of this phase of the project is thus to outline the psychological, behavioural, and academic impact of out-of-home care, thus identifying the children's needs in these areas. All children in out-of-home care are being included in this study, which is being carried out with the support of the social workers working within the Looked After Children's service within the national child welfare agency 'Agenzija Appogg.' Out of home care in this instance refers to children in institutional care, children in kinship care, and children in unrelated foster care. The primary strength in this phase of the project lies in the fact that previously unavailable quantitative data on effects of out-of-home care will be collected. Furthermore, the research design includes all children in care in Malta, thus eliminating the risk of sampling bias, and providing a broad snapshot of children in care and the current situation.

The final stage of this project, also being undertaken at present, is that of exploring the long term outcomes of youth leaving care. It is known that the transition to adulthood is more accelerated and compressed among youth leaving care, given that they are expected to become independent at an age much lower than the average age at which other youth leave home. Thus, they become among the most vulnerable and disadvantaged social groups. Available research indicates that youth leaving care have a higher likelihood to:

- Be undereducated or not completed high school
- Be unemployed or under-employed
- Have lower income or living below the poverty line
- Become a parent at a younger age
- Be incarcerated or involved in the criminal justice system
- Experience homelessness
- Live in unstable housing arrangements
- Be dependent on social assistance
- Have mental health issues
- Be at higher risk of substance/alcohol abuse

In this respect, this phase of the project on looked after children will consider outcomes in terms of adult self sufficiency (educational attainment, employment/economic stability, residential status, housing); behavioural adjustment (criminal behaviour and substance/alcohol abuse); family and social support systems (marital/family stability, parenting capability, friends/social life); and sense of well-being (mental and physical health and satisfaction.) Other research has already suggested that the transition to independence could be better aided through several factors, such as the provision of a stable, positive experience in care, as well as family contact and the availability of extended support.

It is envisaged that the research project will be finalized by March 2010, following which the Commissioner will utilize the data collected in further lobbying for necessary resources and legislative measures in the sector of looked after children. These are urgently needed, and their absence has become an increasing concern of the Commissioner for Children's Office. Lobbying will also be achieved through a media campaign which will coincide with the launch of the research project, held at an official conference for this purpose. It is also hoped that the results of this research project will also be taken into consideration within the Strategic Plan on out-of-home care, drawn up by the Ministry for Social Policy for the next 10 years.

### Platform for Children Launch

The Platform for Children, an initiative stemming from the Commissioner for Children, was officially launched on the 12<sup>th</sup> October 2009. The initiative arose from the need for a Platform incorporating all civil society entities who work for and with children in various sectors, providing a service to children or working for their rights in some way.

Although there are a substantial number of these entities working in this field, necessary information and resources are not always available when needed. At times there is an overlapping and duplication of efforts and resources, gaps in issues that remain to be addressed, as well as an overall lack of awareness on initiatives being taken by other similar organizations. For this reason, it is vital that there is improved co-ordination and co-operation amongst the entities concerned, in pooling resources where possible and exchanging examples of good practice with one another. In this respect, the Platform for Children is intended to provide opportunities for networking amongst organizations involved, in co-ordinating efforts and working in the best interests of children. The Platform will also provide the opportunity for groups working for and with children to speak as a unified voice on matters of concern in this sector.





*The Commissioner for Children addressing members of the press during the launch of the Platform for Children*

The terms of reference for the Platform for Children, as decided upon by the entities involved, incorporate the aim of the Platform to “advocate on behalf of children to the various authorities, and act in the interest of children in every aspect of society.” In this spirit, the Platform for Children will immediately set to work on lobbying for the effective promotion of children’s rights, an issue which unites the entities involved with the Platform for Children. The Platform will strive to place children’s rights on the national agenda, mainly by ensuring a holistic and child-centred approach within policy, practice and legislation. The Office of the Commissioner for Children is currently providing administrative and logistical support to the

Platform for Children, with the aim of strengthening the Platform to the point where it will eventually function as an entity independent from the Commissioner for Children’s Office.

The Platform for Children is currently made up of representatives from Inspire (Eden Foundation and Razzett tal-Hbiberija), the People for Change Foundation, Gift of Life, the Malta Unborn Child Movement, Kopin (Koooperazzjoni Internazzjonali), Equal Partners Foundation, the Daniel Delicata Memorial Association, Central Office ‘Ejjew Ghandi’ (Churches Homes), and Caritas Malta.





## 6. Children's Rights Education

### Theatre in Education Project – 'Face Space'

The Commissioner for Children, with the collaboration of the Drama Unit within the Ministry of Education, initiated a Theatre in Education Project entitled 'Face Space.' This project aimed to increase awareness and educate children about various aspects of internet safety, including cyber bullying, and the dangers of revealing personal information online, particularly in chat rooms and on social networking websites. Given the potential hazards present in modern mass media, this project aimed to involve children in addressing possible conflicts and situations which may arise, and to encourage dialogue with their parents or guardians on these issues. It was vital that in making children aware of the underlying dangers, children were not discouraged from accessing mass media. Rather, the project aimed to empower children to utilize the various forms of media in a responsible manner.

Around 22 performances were held at the Drama Unit, with approx 82 students present at each performance. A total of 1830 students attended these performances overall.

Staff from the Curriculum Management and E-Learning Department was also present for the performances, in order to discuss the salient issues of the play with the children. Performances began on the 21<sup>st</sup> January, and continued until Friday 6<sup>th</sup> February.

### Guginu's Tour

In order to commemorate the 20<sup>th</sup> anniversary of the UN Convention on the Rights of the Child, the Office of the Commissioner for Children organized a large scale project named Guginu's Tour. Guginu's Tour was aimed at familiarising children and young people with the important rights granted to them under the UN Convention, in a way which is child-friendly and tailored for the children themselves. The Tour focused on five fundamental rights



'Face Space' Theatre in Education Project

in particular: the right to an Education, the right to Health, the right to Play, the right to a Family, and the right to a Voice. In respect of children's right to a voice, the name for the project in itself was proposed and chosen by a group of children, who had previously participated in the annual Rights 4U course and now form part of an advisory board for the Commissioner for Children.

The adoption of the UN Convention on the Rights of the Child (CRC) in 1989 was a significant step in the realisation of children's rights, and is marked through World Children's Day which is celebrated on the 20<sup>th</sup> November of every year. It is a day whereby the welfare and happiness of the child is given distinct attention, through the promotion of the fundamental rights which are due to every child in the world. The date marks a significant milestone in the recognition of the rights of the child, and was given due significance by Malta through the ratification of the UN Convention in 1990.

Guginu's Tour was a traveling interactive programme designed to teach children about their rights according to the UN Convention in a child-friendly manner. It took place over a period of two weeks from the 16<sup>th</sup> November until the 1<sup>st</sup> December 2009. Guginu's Tour was officially launched at a press conference held at St Ignatius College, Siggiewi Primary, one of the schools visited by the interactive tour. Hon John Dalli Minister for Social Policy, as well as the Shadow Minister Hon. Michael Farrugia, were also in attendance in order to address the members of the press.

The tour consisted of a large mobile trailer visiting one selected primary school per day during this period, as well as local councils on the weekend, in order to present an interactive educational programme to primary school children. Each interactive programme included a forum theatre performed by Curtain Raiser and based on these five rights, games, a video clip, and distribution of free educational materials and souvenirs. The interior of the trailer was designed in a vibrant and colorful manner, in order to depict the main rights being taught to children through this project. Guginu l-Iljuncinu, the

Commissioner's mascot who the tour was named after, was present throughout the two week programme, interacting and playing with the participants who were present.

The Commissioner for Children was in attendance during the programme, in order to directly communicate with the children about their rights as assured under the UN Convention.

Guginu's Tour visited St. Gorg Preca College Floriana Primary, St. Clare College San Gwann Primary, St. Theresa College Lija Balzan Primary, St. Dorothy's Primary School in Zebbug, St. Ignatius College Siggiewi Primary, St. Thomas Moore College Zejtun Primary, Maria Regina College Mellieha Primary, San Andrea School in Mgarr, St. Nicolas College Mgarr Primary, Gozo College Xewkija Primary, De La Salle College in Cottonera, and St. Benedict College Birzebbugia Primary. Aside from the primary schools which were visited during the week, the trailer also visited Qormi local council on Saturday 21<sup>st</sup> November, The Palace in Valletta on Sunday 22<sup>nd</sup> November (as part of the World Children's Day celebrations), Nadur Local Council on Saturday 28<sup>th</sup> November, and Ta' Qali National Park on Sunday 29<sup>th</sup> November. All children were welcome to visit Guginu's Tour on these occasions.

The project received a considerable amount of press coverage, for which the Commissioner for Children was grateful. During the tour, the Commissioner was also



*Fun and Laughter with Guginu's Tour*















honoured to receive visits by His Excellency Dr. George Abela the President of Malta, Mr. and Mrs. Joseph Muscat, Hon. Giovanna Debono MP Minister for Gozo, Hon. Michael Farrugia MP, Hon. Justyne Farrugia MP, Dr. Chris Said Parliamentary Secretary for Public Dialogue and Information, Ms. Micheline Sciberras Director General for Educational Services, and Chev. Frank Gatt Gozo College Principal.

Guginu's Tour was kindly sponsored by Attard Services Limited, Malta Dairy Product Ltd, Jokate Group of Co Ltd, Gozo Channel line, and Thomas Smith Insurance Broker Agency.

### Rights 4U

This year's Rights 4U Course was given the theme 'Giving young people a voice.' Child participation is a central theme of the course, and has been identified by the United Nations as an essential principle of human rights, and a working practice of citizenship for all people. In this regard the UN Convention on the Rights of the Child outlines the obligation of state parties to *"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"* (Article 12). This Article stresses the necessity for adults to respect children's capacities to take part in decisions which affect them, and to recognize children as partners.

The interactive programme of the Rights 4U course includes various activities in which children not only learn about their rights, but also actively explore and engage in discussions on their rights. Children are also given the tools to stand up for their rights, and to participate in matters of social concern to a higher degree, in such a way that they are empowered as active and independent members of society. The Rights 4U course also focuses on personal development, as the young people develop critical thinking skills, build social ties, and practically implement the concepts which they are learning about in the course. These include: respect, responsibility, inclusion, and independence. The right to participation is one of the underlying aims each year, as the course serves as one of the main ways in which feedback and opinions of the young people are elicited, in an environment which is child-friendly and tuned to their needs.

This year, 45 participants between the ages of 13 and 15 were selected to participate in the Rights 4U course, which was held from the 10<sup>th</sup> to the 12<sup>th</sup> July 2009 at Manresa House in Gozo. The process of the selection of participants was fair and transparent. The process ensured that there was representation from all applicant schools.

Participants were accepted based on age and gender and also their written reason for wanting to attend this course. The participants were asked to pay €30 in order to confirm their place as well as to cover some of the costs incurred for their attendance. The Office covered the rest of the expenses, including transport to and from Gozo. Preference for participation was given to young people coming from economically challenged families, who were given full sponsorship in order to be able to attend the Course.

Each year, members from the Office form part of the coordinating team. This year, it was possible for the coordinating team to be made up of two members of staff from the Office of the Commissioner for Children due to the increase in staff. These members of staff took care of the promotion of the course, by visiting one school from each college; designing a poster; logistics; finding the location; distributing and collecting application forms; visits to schools, media and all the material needs. The following schools were visited in line with these aims: St. Clare College Boys Secondary in Gzira, St. Nicholas College Girls Secondary in Rabat, St. Gorg Preca College Boys Junior Lyceum in Hamrun, St. Margaret College Boys Secondary in Bormla, St. Clare College Girls Secondary in Pembroke, St. Michaels Foundation in San Gwann, Sir Temi Zammit Boys Secondary School in Mtarfa, Our Lady Immaculate in Hamrun, St. Benedict College Girls Secondary in Tarxien, St. Gorg Preca Boys Secondary in Marsa, Saint Elias College in Santa Venera, Maria Regina College Girls Secondary in Mosta, St. Ignatius College Boys Secondary in Zebbug, G.F Agius De Soldanis Girls Junior Lyceum in Gozo, the Bishop's Seminary and the Bishop's Conservatory in Gozo, and Ninu Cremona Boys Junior Lyceum in Gozo.

The coordinating team also consisted of two Youth Workers who were selected to plan and deliver the course itself. Four Group Leaders were also selected in order to guide and assist the participants during the activities being carried out since the young people themselves were divided into four groups. Two night shift workers were also selected in order to ensure that all went well during the night. The participants were encouraged to approach the nightshift workers should they have wished to discuss any matters that were brought up during the course.

The young people on the Council for Children, whose role is to advise and assist the Commissioner for Children as well as to promote welfare for children, were also invited to participate as part of the work they were elected to do. The young members committed themselves to participate in the seminar and to help in its running as necessary. Prior to this year's course, a meeting was held with the three young council members in order to discuss the programme, and a number of changes were made to reflect their comments.



This year, the Rights 4U Course had a specific theme, that of giving young people a voice. This theme was considered to be of utmost importance as it would enable the Office of the Commissioner for Children to receive the feedback of young people on how adults can empower children and young people to participate more effectively in decisions which affect them. During the Rights 4U Course, the young people were helped to perform role play depicting different scenarios in which their voices must be accorded the respect that they deserve. Each one of the four teams focused on one of the following particular areas – family, courts, school and media. The groups worked on the same scenario with alternative endings, showing one ending where the rights of children have not been respected and an alternative ending where the opinion of the child has been taken into consideration. In each area when the different endings were compared, it was evident that there was a preferable ending to the situation where the children had been consulted and their opinions given their due consideration. Each of these role plays were then filmed by the young people and were then included in their presentations which were to be given to the rest of the participants. Through these videos, the young people expressed their frustrations when they are not consulted when decisions affecting their lives are being taken.

The participants of the course were visited by the Hon. Minister for Gozo Giovanna Debono, as well as Hon. Dr. Justyne Caruana MP, both of whom were on hand to hear the presentations which the young participants prepared. In their presentations, the young participants outlined what they felt were the obstacles to their effective participation in societal matters, and how these could be alleviated. The participants also made suggestions as to how they could be helped to participate meaningfully in such decision-making processes on a local, national, and European level.

At the end of the course, elections were held in order for the young participants to select one of their peers to be co-opted to the Council for Children (according to art. 12 of the Commissioner for Children Act, 2003.) The participants voted for one of the participants to be co-opted to the Council, in order to provide guidance and direction to the work of the Office of the Commissioner for Children. In previous years, four young persons would be elected in order to be co-opted to the Council for Children. However this year only one additional council member was required since the other three members had already been co-opted from previous years. The other candidates, who were not elected, were nominated to be on an advisory board in order to advise and assist the Commissioner for Children.



Children's Rights Education at the Rights 4U Course









## Website

In 2009, the Commissioner for Children launched the official website [www.tfal.org.mt](http://www.tfal.org.mt) and [www.zghazagh.org.mt](http://www.zghazagh.org.mt), which aims to grant further accessibility to children and adults alike in communicating with the Office of the Commissioner for Children. Given that the Office of the Commissioner for Children at times confronts certain limitations in terms of its accessibility to all children and young people in Malta and Gozo, the official website will serve as an important tool in working towards this aim.

The official website was designed in order to be engaging and appealing to children of all ages, facilitating their communication with the Commissioner for Children. Various consultations were held in various schools in order to ensure that the website would be attractive and appealing to diverse age groups. Feedback was elicited from children and young people on the content and design of the website. In total, 7 schools were visited around Malta and Gozo, and 248 children and young people between the ages of 4 and 15 were consulted. The children gave very useful suggestions as to how the website could be improved, and following an analysis of the consultations with children, a number of modifications were implemented in order for







*The Official Website of the Commissioner for Children's Office*

the end product to better reflect the wishes and opinions of the children and young people. The website is divided into sections for children aged 3-5, 6-9, 10-13, and 14-17.

The website also incorporates a section for an older audience (18+), in providing information on resources and legislation for researchers, academics, and those interested in the field of children's rights. The website is available in both Maltese and English.

The official website of the Commissioner for Children was sponsored by the HSBC Cares for Children Fund.

## Comic Book

The Commissioner for Children constantly strives to produce fun material which serves as an educational resource for children and young people, helping children to learn about their rights in a manner which is adapted to them. One such contribution is a comic book entitled 'Guginu and Friends: Mark's Dream,' the title of which was chosen by the children forming part of the advisory board to the Commissioner for Children. The comic book was launched through Guginu's Tour, being included as one of the educational items being distributed to children. It is targeted towards children aged 8-13.

The story of the comic book takes children through a typical day in the life of Mark, where his rights are not being respected. Mark dreams of a conversation with Guginu, where Guginu shows him how his day could have been different had his rights been fully respected. At the end of the story, Mark is shown how to contact the Commissioner for Children's office, in the same way that other children are encouraged to if their rights are not being respected in a similar way.

*Cover of the Comic Book*

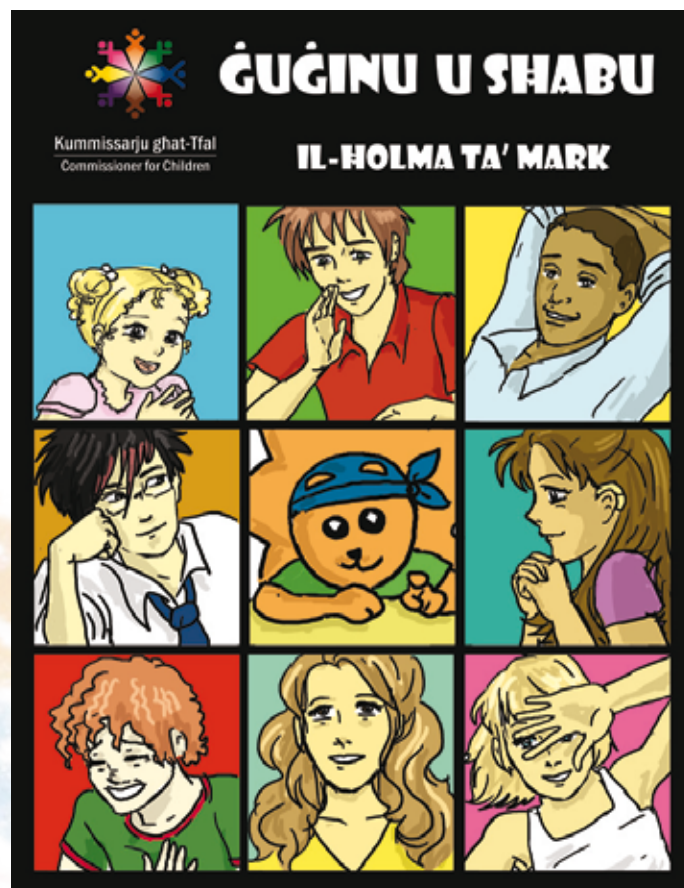
## Drawing competition

The Commissioner for Children, in conjunction with the organizers of Skolasajf, organized a drawing competition for children aged between 8 and 11. The winning drawings were used for the design of the educational material distributed to children as part of the celebrations of the 20<sup>th</sup> anniversary of the UN Convention on the Rights of the Child, namely bookmarks and informational child-friendly brochures explaining the work of the Commissioner for Children's office. The winning drawings were also incorporated within the design of this Annual Report.

The CFC drawing competition was held within all Skolasajf centres and Klabbsajf Appogg, Cottonera. Children were asked to draw examples of children's rights, and the things which they believe children and young people need in order to be happy and healthy. Staff from the Commissioner for Children's office toured a number of schools in order to promote this competition, namely: Rabat Primary B, Siggiewi Primary, Mosta Primary B, Zabbar Primary B, Fgura Primary B, and Paola Primary B.

The selected drawings were chosen by a board made up of a representative from the Office of the Commissioner for Children, a representative from the Education Directorates, an artist, and a young representative.

An exhibition of a selection of drawings from this competition was held on Wednesday 16<sup>th</sup> September 2009





at the Office of the Commissioner for Children, where the winners of the competition were awarded their prizes. Prizes included books and educational games, and were kindly sponsored by Toyland Limited in Mosta, and Juniors Fun and Learn Centre in San Gwann.

The winners of the competition were: Geraldine Farrugia, Chris Frendo, Shaymaa Ben Saad, Rebecca Calleja, Eman Mizzi, Sarah Zammit, Chantelle Farrugia, Cedric Muscat, Ryan Farrugia, Martha Sacco, and Jesmar Grech.







The winning entries





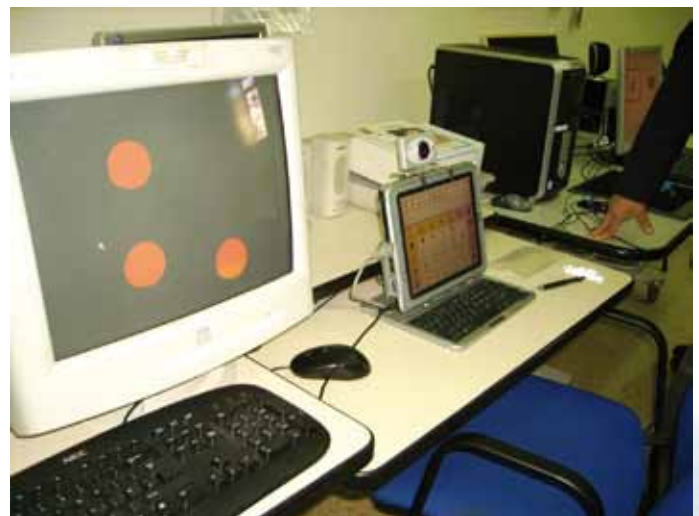
*The Competition Winners*

## Media Presence

The Commissioner for Children featured regularly in the local media this year, through numerous television programmes and newspaper articles. The Commissioner for Children also made regular public appearances at numerous events, participating in seminars and conferences, and giving talks and speeches upon request.

During such events, the Commissioner for Children makes it a point to highlight the Rights of the Child, as enshrined in the UN Convention. Attention is generally paid to a specific right, according to the nature of the occasion, in order to promote and increase awareness on child rights.

The Commissioner for Children is also a regular guest on the breakfast show *Zveljarin*, on Favourite Channel. Every week, the Commissioner for Children makes an appearance on the show in order to discuss the different articles under the UN Convention on the Rights of the Child. Each week, a different article is selected, and is then explained and discussed in detail on the show.



## School Visits

The Commissioner for Children visited many schools this year, the purposes of which were mainly linked to the promotion of activities organized by the Commissioner, such as the Rights 4U course, Guginu's Tour, and the drawing competition.



*A Visit to the ACTU*





In each school visit, the Commissioner for Children initiates a discussion with the children on their rights, and receives feedback from young people on various issues which are relevant to them. The Commissioner attempts to retain direct contact with children regularly through school visits, in order to keep abreast of situations which children are facing and to understand them from their own point of view.

In addition to schools, the Commissioner for Children attempts to maintain contact with children and the professionals working with them through other means, such as visiting young patients at Mater Dei Hospital along with Guginu l-Iljuncinu, the Office Mascot. The Commissioner for Children also visited the Access to Communication and Technology Unit (ACTU) within the Student Services Department, in order to learn more about their work in improving the quality of life of children with communication disabilities.



### Participation in other awareness-raising events

Where it is invited to do so, the Office of the Commissioner for Children regularly participates in fairs aimed at disseminating information to the general public, in line with the chosen theme for the event. The Commissioner for Children has set up stands on occasions such as the Europe Close to You Fair, and Europe Day, amongst other events, in order to further communicate the work of the Commissioner for Children's office amongst members of





*The Choir performing the Commissioner for Children's Official Song*

the general public. In addition to this, the Commissioner for Children regularly makes public appearances at events organized for and with children, such as Bethlehem f'Ghajnsielem, which incorporated the participation of children in bringing the story of the Nativity to life.

## Song

An official theme song was written and composed for the Office of the Commissioner for Children this year, in order to communicate the message of the Office to children in a

fun and entertaining way. The song, Id f'id, was composed by Mark Spiteri Lucas and written by Paul Ellul. Following an initial consultation in which the message to be put across in the song was discussed, the resulting song depicts an image of a world where the basic fundamental rights of children are respected, and can be achieved in a spirit of co-operation.

The song is performed by a choir consisting of 10 children between the ages of 8 and 16, and the song formed part of the programme for Guginu's Tour.

## Id F'Id

Ahna t-tfal ghandna vuçi  
u nixtiequ li ninstemghu  
ghax lehinna jaf iwassal  
hafna 'l boghod.

Bhalma niehdu gost ma' shabna  
u thoss ferh fil-qalb kull hin,  
dan il-ferh nixtiequ nhossu  
go familja migburin.

Icçahhduna qatt mill-kotba  
u mid-dritt li nistudjaw,  
u kull tifla w tifel fostna  
jikbru fl-gherf, jimmaturaw.

*Id f'id, harsitna 'l fuq  
id f'id, noholmu jum  
id f'id, li fih kulhadd  
jaghmlilna l-qalb.*

*Id f'id, harsitna 'l fuq  
id f'id, noholmu jum  
id f'id, li fih kulhadd  
id f'id, jaghmlilna l-qalb.*

Ahna rridu dinja sbejha  
fejn li nghidu jkun mismugh,  
fejn ikollna çans nilagħbu  
bla perikli fil-miftuh.

Ahna rridu ambjent hieles  
minn kull forma ta' tnigġis,  
ahna rridu l-arja pura,  
qalb il-fwieha tan-narçis.

*Id f'id, harsitna 'l fuq  
id f'id, noholmu jum  
id f'id, li fih kulhadd  
jaghmlilna l-qalb.*

*Id f'id, harsitna 'l fuq  
id f'id, noholmu jum  
id f'id, li fih kulhadd  
id f'id, jaghmlilna l-qalb.*

Ma rridux li tiddistingwu  
bejn kuluri u drawwiet,  
ma rridux li xi hadd minna  
wahdu jxerred dmugh fis-skiet.

*Id f'id, harsitna 'l fuq  
id f'id, noholmu jum  
id f'id, li fih kulhadd  
jaghmlilna l-qalb.  
Id f'id, harsitna 'l fuq  
id f'id, noholmu jum  
id f'id, li fih kulhadd  
id f'id, jaghmlilna l-qalb.*

Nimxu id f'id

# 7. Responses on the General Circumstances of Children in Malta

## Intercultural dialogue and immigrant children

Given the fact that the general population is gradually becoming more ethnically diverse, there is an increased need for initiatives to be taken in order to promote intercultural dialogue. As the Manifesto for Children has already noted, “Children often come into contact with children from different cultures. It is vital to encourage cross-cultural understanding and respect for different cultures in the classroom, and in recreational activities. This requires further efforts to foster cultural sensitization among teachers and youth workers [Manifesto for Children, Office of the Commissioner for Children, 2008].

Furthermore, it is crucial that efforts are ongoing in order to ensure that the rights of immigrant children in Malta are also duly observed by the authorities, and protected under the provisions of the UN Convention on the Rights of the Child. The increased vulnerability of these children thus increases the need for authorities to be vigilant in this area.

The Office of the Commissioner for Children was glad to participate in initiatives to this effect in 2009, including the National Forum on Intercultural Dialogue (held in order to conclude activities held in commemoration of the 2008 Year of Intercultural Dialogue), Access to Protection and Externalization of Asylum in Europe (held on the occasion of World Refugee Day 2009), a European Migration Network Seminar on Unaccompanied Minors, and a workshop organized by the International Office of Migration entitled ‘Health of Migrants through the Lifespan: Maternal and Child Care, Youth Health and Care for the Elderly.’ The Office of the Commissioner for Children also participated in a workshop entitled ‘Memento: Little moments of awareness against stereotypes,’ which aimed at ‘counter stereotyping’ and stimulating an alternative approach towards existing stereotypes which should thus be challenged.

## Education Reform and Special Schools Reform

In 2009, the proposed Education Reform was officially announced, outlining timely and necessary measures aimed at easing the transition for students from primary to

secondary education, amongst others. The reform includes a plan for the phasing out of streaming, which has already begun, as well as the discontinuation of the Common Entrance Examination. These measures were welcomed by the Commissioner for Children as a highly positive development, enabling children to better achieve their full academic potential. The Office of the Commissioner for Children facilitated the collection of important feedback during the consultation period through the organization of the Manifesto for Children seminar on Education, which brought together high officials within the Ministry of Education and practitioners within the education system in order to discuss issues of concern to them.

The year 2009 also saw the launch of the consultation on the Special Schools reform, through the presentation of a consultation document proposing the transformation of Malta’s special schools into a system providing primary education through to post secondary. The schools will now be incorporated within a college, and thus reflect the school transition practices adopted by mainstream educational institutions. Rather than having each school cater for a variety of scholastic levels, the new system will entail primary education being handled by San Miguel School, secondary education in the hands of Guardian Angel School, the Helen Keller School focusing on post-secondary education, and Dun Manwel Attard functioning as a young adult education resource centre. These proposals were welcomed by the Commissioner for Children, as a positive step forward towards inclusive education.

## Strengthening the Family

The family has been identified as “the fundamental group of society and the natural environment for the growth and well being of all its members and particularly children,” and in this respect, the family “should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community” [UN Convention on the Rights of the Child, Preamble]. The Commissioner for Children has given her full support towards initiatives aimed at strengthening the family, in





order for the family to undertake child-raising duties in the most responsible and effective manner. The Commissioner has also participated in such initiatives, through attendance at conferences such as the Doha Colloquium entitled ‘Strengthening Marriage and Supporting Families,’ in which the legal consultant for the Office also delivered a paper, as well as regular meetings at the Ministry for Social Policy as part of the Family Forum, bringing together entities within the Ministry for Social Policy working towards the strengthening of the family unit in some way.

It has regularly been noted that no singular model of the family exists anymore, and this was particularly stressed during a paper delivered to Għaqda Nisa Laburisti. Changing socio-cultural trends have necessitated the need for recognition of various co-existing models of the family, all of which hold a crucial role in the holistic development and care of their children. Many challenges are confronted by the family regularly, and these have been highlighted on numerous occasions by the Commissioner in tandem with the need to place the best interests of the child at the forefront in facing such challenges. This had been simultaneously raised through participation within other seminars, such as the Seminar on Social Conscience and the Family, a seminar on Balancing Work and the Family, and the Seminar on Family Law in Malta and the EU (both organized by the Ministry for Social Policy), as well as a Seminar on the Voice of the Child in the Family Court organized by the Chamber of Advocates.

The Commissioner for Children also participated in numerous discussions with the Social Affairs Committee on these topics, addressing the effects of separation on the family and on children, and the role of the father within the context of marital separation. In addition to this, the Commissioner for Children has attended discussions with the Social Affairs Committee regarding issues affecting the family and children, such as domestic violence, poverty, substance abuse, and gambling.

The Commissioner for Children has also delivered lectures on the topic of separation from the child’s viewpoint, stressing the need to place importance on the best interests of the child within the separation process. This was done within the context of a two and a half day course aimed principally at providing training in mediation skills with a focus on the emotional, psychological, social and legal aspects of family experience of separation. Furthermore, the Commissioner has delivered talks at support groups for separated parents, related to the importance of maintaining direct communication with individuals currently going through this process. The Commissioner for Children has underlined that children should constantly be kept at the forefront of both partners’ considerations, and that the life of the child should be disrupted to the least possible degree. It is essential that parents remain mindful of how

the situation is affecting the child. The lifestyle and routine which the child is accustomed to should be protected as far as possible, despite any alterations and adjustments in the parent’s living situations. Furthermore, it is vital that children are granted the possibility of expressing their views, opinions, and interests without any fear. The Office of the Commissioner for Children attempts to work towards the full participation of the child in matters of relevance to them, and if this right is to be fully implemented it necessitates that the voices of children are listened to and given due significance within separation proceedings. This issue has also been addressed in meetings with the Chief Justice and Magistrates, in order to discuss how children may be given a stronger voice in Court. The Commissioner is also directly involved in furthering the rights of children to access justice through her contribution to the ENOC working group on child friendly justice. The Office legal consultant also keeps the Commissioner updated with developments to the ongoing Council of Europe project on access to justice for children where she is an independent expert.

### Children in Prison and Mount Carmel Hospital

The Commissioner for Children has publicly commented on the lack of facilities for children in conflict with the law, leading to these children being sent to the Young Offenders Unit for Rehabilitation Services (YOURS) within Corradino Correctional Facility, in an atmosphere which is not conducive to their successful rehabilitation. Some children were also sent to Mount Carmel Hospital due to a lack of alternatives, despite the fact that they were not known to be suffering from any mental health problems.

In 2009, 7 children were housed in Corradino Correctional Facility, in spite of Article 40 of the UN Convention on the Rights of the Child which states that a child alleged as, accused of, or recognized as having infringed the penal law is “to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society” [Article 40, UN CRC]. Furthermore, Article 40 also requires that “a variety of dispositions, such as care, guidance and supervision orders; counseling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well being and proportionate both to their circumstances and the offence.”

Through the Manifesto for Children, the Commissioner for Children has previously suggested that “it would be more appropriate if the youth section at Corradino Correctional Facility has a therapeutic residential set up which caters exclusively for children in conflict with the law under the age of eighteen.’ This set up should be located outside of the present facility. The Commissioner for Children actively urges the realization of this proposal, in order for due importance to be given to the rehabilitation of the child, and fostering respect within the child for the fundamental rights of others. The Commissioner for Children has visited both Corradino Correctional Facility and Mount Carmel Hospital during this year, in order to hold in-depth discussions with the professionals within these establishments.

### **Hotline to fight Child Abuse Over the Internet**

At the beginning of the year, the Commissioner for Children expressed her concern over the lack of services for reporting internet abuse. The Commissioner for Children initiated the Theatre in Education project ‘Face Space’ at the beginning of the year, which aimed at increasing awareness and educating children about various aspects of internet safety, including cyber bullying, and the dangers of revealing personal information online, particularly in chat rooms and on social networking websites.

Whilst every effort is being taken in order to guide children towards safe practices on the Internet, organizers of this project confronted several limitations in referring children towards appropriate assistance should they themselves need to report any abuse over the internet. There is currently a lack of clear official child-friendly avenues for children to report cases of internet abuse themselves.

A few years ago, Agenzija Appogg, with the help of the Ministry responsible for Information and Communication Technology, applied for funds from the European Commission to set up a Hotline to fight Child Abuse over the Internet. Much ground work was done prior to its launch in July 2006 as the first and only service of its kind, within the already existing Supportline 179, a national helpline also run by Appogg. Unfortunately, by the end of the project term in February 2008, the response from the European Commission for a renewal of the project was negative. This means that there are currently no funds to provide a service. The service is currently hanging on by a thread, through the efforts of a few individuals who dedicate a few hours a week to the service on a voluntary basis.

It is pertinent to note that during this project, in the period between September 2006 and May 2008, 363 reports were received on the Hotline, 294 of which were on potentially illegal websites. Out of the reports received, 261 reports were on indecent material involving children, and another 9 were on other types of child abuse. A total of 89 reports were transmitted to the Cyber Crime Unit within the Police force.

These statistics in themselves highlight the urgency of this issue, and outline the need for such a service to continue and be available to the Maltese public.

At the end of 2009, a new project proposal was submitted to the Safer Internet Plus Programme, under the title ‘Be Smart Online! A Safer Internet Centre for Malta’. The proposal, spearheaded by the Malta Communications Authority and incorporating entities such as Agenzija Appogg and the Office of the Commissioner for Children as stakeholders, aims to set up a Safer Internet Centre in Malta, including an awareness node, hotline and helpline. A response is awaited from the European Commission.

Whilst the Commissioner commends such efforts to secure funding, it is vital that such a service does not depend entirely on occasional funding, and the service should certainly not be suspended because funds from the European Commission are not forthcoming. This initiative must be viewed as a responsibility to our children, which does not depend on occasional EU funds.

### **Portrayal of children in television programmes**

The Commissioner for Children publicly expressed her disapproval towards certain programmes during this year, which portrayed children in a negative manner or aimed to ridicule and humiliate children in some way. One such programme involved a candid camera episode, where pranks were played on the children that were being filmed. Children were called in to the studio and supposedly for rehearsal purposes, required to sing a song for the programme. Instead, these children found themselves insulted, mocked, and pushed around for the purposes of the prank while at the same time being filmed. The crew who were present in the studio made numerous (and successful) efforts to provoke the children to tears and anger, all in the name of entertainment. This two-hour long programme incorporated name-calling, yelling directed at the children, and a staged fight aimed at drawing a reaction from the shocked children that were present. The Commissioner for Children publicly expressed her disapproval towards this programme, urging audiences to also show their censure by boycotting such programmes. The Commissioner



for Children also urged all broadcasting stations to professionally invest in creating programmes of quality which are identifiably good, particularly programmes which are produced for and with children.

The portrayal of children in the media has been an issue of concern to the Commissioner for some time. The Commissioner for Children has worked closely with the Broadcasting Authority in a continuous manner, in order to continue to promote socially responsible and positive broadcasting amongst all stations, in line with the aims of both the Commissioner for Children and the Broadcasting Authority. The entities and professionals concerned are working on revising the Guidelines pertaining to the portrayal of children in programmes directed at adult audiences. It is hoped that these Guidelines will support broadcasting entities to be conscientious in their portrayal of children as subjects within their programmes, and to undertake this in a socially and ethically responsible manner.

### Mental Health

The Commissioner for Children has regularly commented on the importance of fostering good mental health, particularly amongst children and families. To this end, the Commissioner for Children has addressed participants in conferences such as 'Mental Health Conference: Our Hidden Secret,' 'Mental Health in Youth and Education,' and a conference aimed at discussing the European Pact for Mental Health and Well Being. Importance was placed on the necessity to protect and nurture the mental health of children and young people, and to battle any stigma which may be associated with mental illness. The Commissioner has highlighted the need for a *variety* of services to be provided in this field in order to meet the individual needs of children and families with regards to mental health. These must be broad, and delivered in a way which is both accessible and efficient. A one-size-fits-all approach is insufficient, and often fails to take the individual into consideration. It is also essential that such services are made available on a community-based level, in order to facilitate the integration and treatment of those with mental health problems within the local community. Systems of care must be created on the premise that the mental health needs of children and their families may be more effectively met within their home, school, and community environments. These systems must be developed around the principle of being child-centred, family-driven, strength-based, culturally competent, and involving interagency collaboration.

### Children in Residential Care

In addition to the significant work being undertaken through the long-term project of the Commissioner for Children's Office on Looked After Children, the Commissioner further contributed towards other initiatives aimed at addressing the present situation pertaining to children in out-of-home care.

In March 2009, the Commissioner for Children's Office collaborated with the Support Services Team within St. Patrick's School in organizing the conference 'Where is Home?' The legal consultant to the Commissioner's office also delivered a paper during this conference. The three day conference highlighted the need for therapeutic care amidst a variety of services for children in out-of home care, an issue which remains of great concern to the Commissioner for Children's Office. For the purposes of the conference, the term 'out-of-home care' incorporated foster care, residential care, and therapeutic residential care, amongst others. It is in this respect that the Office of the Commissioner for Children was glad to collaborate in an initiative exploring such issues and putting them at the forefront of public discussion.

The Office of the Commissioner for Children continues to support initiatives aimed at giving a voice to issues which children face, in order to ensure that these issues remain at the forefront of public discussion. The issue of looked after children in particular is an urgent one, which must be given due prominence. The Commissioner has stressed that our approach must be a holistic one, incorporating all stakeholders and professionals in this field, and directly acknowledging the current strengths in the field as well as addressing the present challenges which can not be put off any longer.

This conviction carried over to the Commissioner's participation in other initiatives in this area, such as the Launch of National Standards for Out-of-Home Child Care and Model Policies and Procedures for Out-of-Home Child Care. A Strategic Plan was also put forward for the next 10 years in this respect. During this launch, reference was made to the Looked After Children project being undertaken by the Commissioner's Office, as a research study which could greatly benefit future policy and service planning in this sector. It was stated that the Looked After Children research project could eventually influence the Strategic Plan, which is purposely flexible in order to be able to benefit from future initiatives and research projects, as well as those which are currently underway and are yet to be completed.

### Environment and Health

Following the decisions of the Fourth Ministerial Conference on Environment and Health (Budapest, 2004), the World Health Organisation Regional Office for Europe initiated a project to give guidance on strengthening environment and health policy-making, planning preventative interventions, and ensuring service delivery and surveillance in the field of environment and health. Through detailed environment and health performance reviews, the Regional Office provided country-based analytical descriptions of the environment and health situation in Member States, including Malta.

Based on the review that took place in Malta in March 2009, where the Office of the Commissioner for Children was duly consulted, a report was prepared in giving an overview of the current environment and health situation, evaluating the strong and weak points of environmental and health systems and services in Malta and formulating recommendations for further actions.

As a follow up to the review, the World Health Organization convened a workshop in which the Manager for Research and Policy also participated, with the objective to discuss how best to use the recommendations formulated in the report at national level. Participants at the workshop set priorities in the actions needed, discussed possible implementation mechanisms, and took responsibility for the implementation and monitoring of actions that are under their direct responsibility.

The Office of the Commissioner for Children has stressed the need to better address the requirements of children, and to remain mindful of the impact of environmental health issues on their development and wellbeing. In addition to the co-operation of the Office with the World Health Organization, the Office of the Commissioner for Children also participated in the National Seminar on Health Effects of Climate Change. The Head of Office was present for this seminar, organized by the Department for Environmental Health (Public Health Regulation Division), in collaboration with the WHO Regional Office for Europe. The aim of this seminar was to disseminate current knowledge of climate change in the Maltese islands and to raise awareness amongst policy makers, focusing on the associated health impacts, what measures are currently being taken in response to these changes and what further action needs to be taken. The seminar also contributed towards building local capacity to deal with climate change.

### Positive Parenting and the Abolishment of Corporal Punishment

The Commissioner for Children has frequently expressed her concern over the fact that corporal punishment is not yet fully prohibited by law. Corporal Punishment in the home is still allowed within the parameters of 'reasonable chastisement.' Extensive studies have shown that corporal punishment may be detrimental to the child's development and well-being, training children to accept violence as a valid disciplinary measure and practice in everyday life. Corporal punishment has been condemned by the UN Committee on the Convention on the Rights of the Child as well as in various EU Member States. The Commissioner for Children, through the Manifesto for Children, has stressed that measures should be taken to explicitly prohibit any use of corporal punishment, in favour of positive and non-violent forms of discipline.

During 2009, the Commissioner has addressed this issue on various occasions, delivering talks on the importance of promoting positive parenting and fostering the recognition of alternative and positive, yet effective, disciplinary measures. The Commissioner for Children addressed participants at the international conference 'Child Friendly Europe' in Prague as a member of the European Network of Ombudspersons for Children. In this conference, the Commissioner stated that due to the fact that corporal punishment is not only legally accepted, but is also socially accepted in a significant way, it is crucial that an approach to ending corporal punishment does not lie in legislative measures alone. The elimination of corporal punishment within legislation is an essential aspect to such a campaign; however it is urgent that this abolition go hand in hand with changing predominant mentalities and promoting positive parenting, in educating children through non violent means. It is only through such educational support that it will be possible to witness real change in the abolition of this practice. Parents must be guided to a full recognition of the fact that all discipline should be positive, and should emphasize good behaviour and be respectful of the child as an individual and a human being.

Locally, the Commissioner for Children has also delivered a paper at a seminar on corporal punishment organized by the Maltese Association of Social Workers, in which the Commissioner spoke of global campaigns which have been undertaken in order to abolish corporal punishment in all countries. This has thus far been achieved in 24 states, including but not limited to, Greece, Sweden, Finland, Spain, Israel, Denmark, and Cyprus amongst others. Human Rights bodies have expressed their concern on the lack of prohibition on corporal punishment in the countries that have not already done so. With regards to Malta in particular, the UN Committee on the Rights of



the Child has recommended that “the State Party take all effective measures, including legal ones, to include an explicit prohibition on the use of corporal punishment in the home; to ensure that this prohibition is adequately monitored and enforced, both at home and in the schools; and to promote positive, non-violent forms of discipline as an alternative to corporal punishment in the home” (28 June 2000, CRC/C/15/Add.129, Concluding Observations on initial report, paras. 29 and 30).

### **Collection of Statistics pertaining to Children**

The Commissioner for Children has often stated that in order for the Commissioner’s Office to remain updated at all times, it should be mandatory that child-related statistics are collected and supplied to the Commissioner for Children by relevant institutions. This would allow the Office to keep abreast of the current situations which children in Malta are facing, enabling swift action from the Office in acting towards the best interests of the child.

In 2009, the National Statistics Office embarked on a project with the aim of taking stock of all statistics regarding children at a national level. The aim of this project was also to identify policy needs which were not being met, and which need immediate attention. The Commissioner for Children’s Office formed part of a working group formulated towards these aims, which also incorporated other entities and Government Departments involved in the collection of statistics involving children.

The first working group meeting identified the statistics which are already available, whereas the second meeting aimed at identifying which statistics were missing and which data needed to be collected. The Office of the Commissioner for Children advised NSO on which questions needed to be asked in the pilot questionnaire which took place at the end of 2009. The questionnaire incorporated, amongst other subjects, questions relating to children’s use of the internet, their family and school life, and their participation in activities of sports, arts, and recreation. Working group meetings will continue, in order to further discuss the results of the pilot questionnaire which have since been obtained.

## 8. International Relations

International relations are important to our Office to:

- Keep informed of the way other offices with mandates similar to ours are operating, and the challenges which they are facing.
- Promote greater awareness of children and young people's realities in other countries.
- Keep up to date with major issues and violations of children's rights internationally.
- Keep alive the universal aspect of the Convention and children's rights, even in the presentation of children's rights.

### **A** 'Children and the European Union: Legal, Political and Research Perspectives,' International Conference, Liverpool

The Commissioner for Children attended this three-day conference, the aim of which was to generate in-depth discussion of developments that have taken place at EU level in relation to children's rights and welfare. The conference was hosted by the Centre for the Study of the Child, Family and the Law in association with EURONET.

This marked the first critical multi-disciplinary conference to assess this area of EU law and policy and involved children and young people, policy-makers at both domestic (Europe-wide), EU and international (including UN) level, practitioners, representatives from the NGO sector and academics.

The event responded to the landmark 2006 Commission Communication, which has paved the way for the development of the EU Strategy on the Rights of the Child. The conference also debated key constitutional issues such as the impact of the Lisbon Treaty on enhancing EU competence to legislate on children's rights issues, and considered some of the structural and attitudinal barriers to engaging children and young people more directly in such processes.

Critically, the conference provided an invaluable stimulant for critical, cross-disciplinary debate as to the value of EU regulation of children's rights, with a particular focus on how this could complement the children's rights campaign at both national and international level.

### **B** Human Rights Council – Working Group on the Universal Periodic Review (UPR), Geneva

Following the submission of Malta's National Report for the Universal Periodic Review (UPR) to the Human Rights Council in January 2009, the Commissioner for Children formed part of a Maltese delegation aimed at answering questions or queries in relation to this report. Malta was reviewed in the UPR working group within the Geneva-based Human Rights Council under the UPR mechanism in May 2009.

During the three-hour interactive discussion delegations noted a number of positive achievements of Malta. These included efforts to respect and promote gender equality; the establishment of a National Commission for the Promotion of Equality; efforts to eliminate wage differences between men and women; the establishment of the Office of the Commissioner for Children; educational sessions on human rights for administrators and teachers; the enactment of the Domestic Violence Act; measures being taken to combat discrimination against migrants, including providing free medical care to them; general efforts to upgrade the State's capacity to handle the growing influx of migrants and asylum seekers; and the broad consultations held with civil society in preparation of the national report for the UPR.

Some issues and questions were raised by the Working Group, which comprised of the 47 members of the Council, and Observers participating in the interactive discussion. These questions related to, among other things:

- Steps to ensure proper treatment of detained irregular migrants in full accordance with international obligations and respect for these individuals human rights;
- Steps being considered to address concerns regarding legal provision against racist expression, racially-motivated offences and racial discrimination.





- Creating a national sexual education policy;
- Plans to strengthen legal arrangement to combat any discrimination based on sexual identity;
- Continuing its policy in defense of the right to life and in defense of the family;
- Measures taken to combat human trafficking;
- Information on meeting the special needs of disabled children;
- Measures taken to align Malta's legislation to prohibit corporal punishment;

Steps taken regarding the training programmes on the protocol for armed forces staff and all relevant groups working with children, related to the Optional Protocol of the Convention on the Rights of the Child on children in armed conflict.

A number of delegations also posed specific recommendations to Malta. These included:

- To explore alternative policies concerning asylum seekers and consider working with UNHCR for training its professionals that worked with asylum seekers;
- To consider alternatives to detention in the case of asylum seekers;
- To broaden the scope and application of legal and institutional reforms to address all forms of discriminatory treatment against irregular migrants and asylum seekers, with special focus on protecting the rights of vulnerable groups among them;
- To improve training programmes on human rights for the judiciary, law enforcement personnel and lawyers;
- To strengthen efforts with regard to timely reporting to United Nations human rights treaty bodies;
- To continue the process of consultation with civil society in the follow-up to the UPR;
- To adopt all measures to ensure legislation is in accordance with its international obligations in the field of human rights;
- To establish an independent and effective national human rights institution in accordance with the Paris Principles.

The Working Group further recommended that Malta:

- Formulate a national policy on sexual education;
- Take further measures to advance equality on the ground of sexual orientation and gender identity;
- Take increased steps to prosecute traffickers and identify, assist and protect victims of trafficking;
- Consider raising the legal age of criminal responsibility;
- Ratify the Optional Protocol to the Convention on Rights of the Child on the sale of children, child prostitution and child pornography;
- Prohibit any kind of corporal punishment of children;
- Strengthen measures in order to prevent and combat child abuse and ill-treatment;
- Ratify the Convention on the Rights of Persons with Disabilities;
- Ensure effective access to health services, especially regarding reproductive and maternal health.

Members States taking the floor during the interactive discussion were Brazil, France, Azerbaijan, the Netherlands, India, Mexico, the United Kingdom, Ukraine, Egypt, Argentina, Burkina Faso, China, Italy, Slovenia, Germany, Canada, Nicaragua and Bangladesh. Observer States participating in the discussion were Finland, Algeria, Morocco, the United States, Turkey, the Holy See, Sweden, Palestine, Jordan, Maldives, the Czech Republic, Spain and Belgium.

## C

### **CRONSEE Conference on ‘Children and disputed divorces; Access for Children to National, International and European Justice,’ Dubrovnik**

The Office of the Ombudsperson for Children in Croatia supported by ENOC, Save the Children Norway, SEE and EUNOMIA hosted the Annual meeting of CRONSEE on 19-20 May in Dubrovnik, and organized a Conference on “Children and disputed divorces: Access for children to National, International and European Justice”. The Commissioner for Children was in attendance at this conference, along with many other distinguished invitees such as Ms Yanghee Lee, Chair of the UN CRC, and

Ombudspersons for Children from all across Europe. During this conference, a memorandum of cooperation was signed between South Eastern countries' Ombudspersons for Children, thus creating their own regional network.

On the same occasion, Mr Peter Newell presented the preliminary results of the ENOC survey on "children and disputed divorces" where he underlined the lack of harmony between legislation and practice and the discrepancy between desires and reality where more states still have a problem understanding children as holders of rights. He mentioned once again that in this sensitive issue the best interest of the child remains a primary concern, however it is often left to adults to interpret what the child's best interests are, which tends to leave room for manipulation and abuse.

The ENOC Sub-Group on ***"International justice for children: How can Children's Ombudspersons disseminate information and assist children, regarding their access to international justice; considering and promoting child friendly justice principles"*** met for a first time, supported by the project of EUNOMIA, managed by the Greek Ombudsman, under the auspices of the Office of the Council of Europe Commissioner for Human Rights. Participants discussed in groups and were asked to submit their ideas and proposals about the content of a set of Guidelines to be produced by ENOC. A synthesis of proposals made by members of the 3 working groups of the workshop has been prepared by ENOC.

### **D** **Third Malta Judicial Conference on Cross-Frontier Family Law Issues, hosted by the Government of Malta in collaboration with the Hague Conference on Private International Law**

The Commissioner for Children attended the abovementioned three day conference, which focused on how best to secure continuing contact between children and their parents who live in different countries, as well as the problems posed by parental abductions between the countries concerned. The legal consultant to the Office also attended the conference independently. The UN CRC clearly outlines the rights of the child in articles 10 and 11, which are concerned with family reunification across country borders, as well as the illicit transfer of children abroad. The Conference particularly explored:

- the development of closer co-operation and networking among the judiciaries both regionally and globally;
- the development of Inter-State administrative co-operation both regionally and globally;

- measures to prevent abduction or abuse of visiting rights and promote parental co-operation and agreement;
- practical arrangements needed to facilitate transfrontier visits;
- cross border mediation in family matters;
- the exchange of information concerning the laws and practices of the different legal systems;
- the cross-border recovery of child support (maintenance).

In addition, the Conference continued to identify and elaborate the building blocks for the development of a legal structure which will provide a firm basis for judicial co-operation and which will provide parents with a secure international framework within which to resolve their differences. This included a consideration of relevant Hague Conventions, in particular the *Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children*, as well as bilateral and possible regional initiatives. One of the most important issues resulting from this meeting was the undertaking to set up a working group to study the prospect of inter-country mediation in the cases under discussion, in order to address family issues which require sensitive and culturally appropriate responses.

### **E** **Child Friendly Europe, Prague**

As part of its Presidency of the Council of the EU in 2009, the Czech Republic organized a conference entitled 'Child Friendly Europe', under the patronage of Mme. Džamila Stehlíková, Minister for Human Rights and National Minorities of the Czech Republic.

The Child Friendly Europe Conference was intended to monitor some development issues attained in the area of children's rights. Specifically, the conference aimed to focus on actual themes connected with children's situation in modern society as a whole. These were: Children and the Media, Positive Parenting, and Human Rights Education. Participants from governmental, non-governmental, and academic sectors discussed possible solutions for problems and strategies for the future promotion of children's rights. In this respect, the conference aimed to contribute to the exchange of information, opinions and experiences between the participant states and other subjects at European and International level.



The Commissioner for Children was in attendance during this conference, and participated in the panel discussion on positive parenting, where a short paper on the subject was delivered. This paper stressed the importance of promoting non violent forms of discipline within the family, and for this to go hand in hand with the abolition of corporal punishment in all Member states. Parents must be given the support and encouragement to undertake their parental duties and responsibilities in bringing up children in a non violent way, whereby discipline is provided in the form of guidance and direction as opposed to violence and humiliation.

The following conclusions were reached as a result of this conference:

1. There is an urgent need for the best interests of children to be respected in everyday political practice, as well as in the creation of concepts, policies and strategies in all European countries. This is crucial in order to work towards the creation of a child-friendly world. In light of experience gained by certain countries in organizing national contests to this aim (e.g. the Czech Republic and Austria), it was recommended that this concept is expanded to a Europe-wide competition for child-friendly municipalities.
2. The conditions necessary for the full observation of rights of children in Europe must urgently be put in place, particularly in terms of children with specific needs, such as: children with disabilities, socially disadvantaged children, and children from different cultural backgrounds and ethnic minorities. Greater child participation in democratic decision-making processes is also needed.
3. The importance and responsibility of human rights institutions must be reinforced, in order to strengthen their capacity to safeguard children's rights at national and European level, deepen European cooperation, and facilitate the exchange of experience and coordination in the fulfillment of children's rights. The establishment of a single authority responsible for promoting and protecting the rights of children (an ombudsperson) should also be encouraged.
4. In view of the Baltic Council's positive experience, it was recommended that the Visegrad countries expand their scope in the field of children's rights and expand regional cooperation, consultation and assistance, especially in the field of protecting children against all forms of interpersonal violence.
5. An EU directive should be proposed, concerning the protection of children from harmful content in the media. This should contain self-regulatory mechanisms for the media, proposal for the classification and labelling of the appropriateness of programmes, as well as a strategy for the media education of children and parents.
6. Education without violence should continue to be stressed, through the active promotion of positive parenting and the support of families in developing social skills within their roles as parents.
7. It is important to recognise that a fundamental pillar of human rights education lies in schooling and training, not only for children but also for adults.
8. Co-operation amongst member states is crucial, particularly with regards to the implementation of the Council of Europe Programme 'Building a Europe for and with Children' in the period 2009-2012, under the heading 'Provision, Protection and Participation for Children'.
9. In accordance with a recommendation by the International Online Charter (2008), it is recommended that information and media education is provided for parents and teachers, in order to enhance the online safety of children and prevent online forms of violence.
10. Co-operation between the EU and the Council of Europe in the field of children's rights should be strengthened, particularly in the preparation and implementation of legislation from the perspective of its impact on children.

## **F Eurochild General Assembly and Policy Forum, Brussels**

Ms. Suzanne Gili, Task Manager within the Office of the Commissioner for Children, attended the Eurochild AISBL General Assembly and Policy Forum between the 17<sup>th</sup> and 18<sup>th</sup> June 2009. Eurochild AISBL is a network aimed at promoting the welfare and rights of children and young people in Europe. Eurochild has embarked on a three year partnership agreement under the Progress Programme for Employment and Social Solidarity managed by DG Employment, Social Affairs and Equal Opportunities of the European Commission.

Isabelle Macquet, Secretariat of the indicators Sub-Group of the Social Protection Committee, DG Employment, stressed the importance of tackling and eradicating child poverty and social exclusion. In 2006, a Council Declaration was issued, which put forward measures that need to be adopted in order to fight child poverty. Focus was placed on child poverty in 2007, through the adoption of policies and creation of strategies aimed at tackling

child poverty. Equal opportunities and improvement of educational outcomes had to be ensured through quality jobs, as well as other means. Member States began to see child poverty as a key priority and over sixteen member states have set targets in order to eradicate child poverty.

The Commission has also set targets to be reached by Member States, and it is worthwhile to note that the year 2010 is the European Year for Poverty and Social Exclusion. A study will be made on child poverty and wellbeing in order to gain an accurate picture of the current situation of each member state, and to determine what services are currently available and those which are not. The second part of the study will determine child wellbeing indicators, which will be included with the overall social inclusion indicators. One of the main factors that will be focused on is migration, particularly child migration, with child poverty as the central issue.

Ms. Suzanne Gili also participated in a thematic working group on children without parental care. 1% of Europe's children live in institutional or foster care, and these children are considered to be at risk and most vulnerable. The aim of this workshop was to discuss key definitions and principles that underpin the Eurochild working group, and how the group plans to influence policy debate at EU level. A report was issued on children without parental care which included data collected from a survey distributed to all Eurochild's members.

### **G Eurochild Member's Exchange Seminar on Children without Parental Care, Prague**

The Member's exchange seminar was organized following the setting up of a Eurochild Thematic Working Group on Children without Parental Care. Ms. Sharon Attard, Manager of Research and Policy, was present at this seminar as a representative of the Commissioner for Children's Office. The aim of the thematic working group is to identify key issues and policy implications for achieving a better synergy between child protection policy and social inclusion strategies – at EU and national levels – so that children are not separated from their families through poverty and social exclusion. The Seminar in itself focused on the inter-linkages between poverty, social exclusion and children who are in, at risk of going into, or leaving alternative care. The Seminar was predicated on a set of assumptions that give direction to the outcomes sought from the conference, namely that:

1. No child or young person should be taken into care because of poverty and social exclusion.
2. No child or young person in care should be disadvantaged by poverty and social exclusion.

3. No young person should leave alternative care to fall into a situation of poverty and social exclusion.
4. Children and young people in the care system and their families should be empowered to influence decisions that affect their lives.
5. Policies aimed at preventing the separation of children from their families must be based on quality data to ensure needs are understood and interventions are effective.

### **H 13<sup>th</sup> Annual ENOC Conference, Paris**

The Commissioner for Children attended the 13<sup>th</sup> Annual Conference of the European Network of Ombudspersons for Children (ENOC), which this year focused on 'The Best Interests of the Child'. As an organization gathering independent children's rights institutions across Europe, ENOC serves as a forum for the exchange of information, capacity-building, and professional support. The network is considered a key player in the development, promotion, and implementation of policies to enhance the rights of children, particularly within a European context.

The Convention of the Rights of the Child (CRC) refers to the best interests of the child as both a core principle and a right, to be taken into account in all actions concerning him/her, and decisions adopted by legislative bodies or administrative bodies. However, the Convention itself fails to provide any methodology for this principle to be put into practice. In this context, Ombudspersons and Commissioners for Children in Europe are strongly called upon to assist policy and decision makers by conceptualizing the consistency of the best interest of the child. They should also support policy and decision makers in carrying out assessments of the impact of their action on the child's rights, in order to put into practice the principle of the best interest of the child.

The aims and objectives of the conference were as follows:

- Mutual learning: supporting the exchange of good practice between Ombudspersons across Europe
- Channeling the experience and expertise of Ombudspersons for Children, and through them, children's voices in European States as well as into EU policy-making where the best interest of the child is concerned.
- Strengthening the collective knowledge of ENOC members leading to the drafting of a vision of the 'Best interest of the Child' shared by all Ombudspersons for Children in Europe.



- Promoting the role of Ombudspersons for Children as a tool towards a better implementation of the UN Convention on the Rights of the Child in Europe, namely the best interest of the child as both a core principle and a primary consideration to be taken into account in all decisions adopted by legislative bodies or administrative authorities.
- Prioritizing a comprehensive approach in order to both involve the Ombudspersons in Europe as well as European representatives of the treaty based bodies, international experts and observers on themes they are most concerned with in the sphere of the best interest of the child.
- Gathering ENOC members' contributions on the central theme of the best interests of the child in a range of sensitive and challenging situations, which persistently represent serious institutional and environmental factors in the insufficient respect of children's fundamental rights.
- Facilitating the dissemination of information and guidance from European and international organizations.

During this conference, the Commissioner for Children delivered two key workshop papers in line with these aims and objectives, as examples of good practice undertaken by the Office of the Commissioner for Children. One presentation addressed the right for children to be heard and to participate in decision making in the community life. In this respect, the Commissioner gave an overview of the Rights 4U project, within the context of the presentation 'Giving young people a voice: the right of children to express views and opinions.'

The Commissioner for Children also delivered a workshop paper on children living in residential institutions or in foster care families, specifically in terms of the research project on looked after children which has been commissioned by the office.

### **Count Every Child: Global Birth Registration Conference, London**

Ms. Sharon Attard, Manager for Research and Policy, attended this conference as a representative for the Office of the Commissioner for Children, given the ongoing concern of the Office with the issue of children in Malta who are not registered at birth. Plan's global campaign for universal birth registration began in 1998 and since this date, Plan International has put forward countless efforts in

addressing barriers and obstacles to birth registration. Birth registration in this respect is seen as a 'passport to human rights', given that its absence may render children more vulnerable to dangers such as child labour and trafficking, amongst others. This must be seen as a child rights issue, given the risks involved with the absence of identification. Participants in this conference were encouraged to replicate or adapt ideas from this conference in their own countries, through learning and action.

Education was one aspect which was mentioned as being crucial in breaking the cycle of poverty, one of the causing factors leading to the absence of birth registration. Training was also essential in familiarizing people with children's rights, and enabling further awareness on how to *respond* to children's rights. Any weaknesses in the system of birth registration in any given country must be identified, addressed in developing a strategy. Mobilization activities should then take place, along with consultation with the community.

The Key note speech for the conference stressed the interdisciplinary nature of birth registration, and highlighted it as a fundamental human right, and an official record of existence, the lack of which could cause reverberations on access to basic services, and justice, amongst others. Approximately one third of children in the world are not registered. This causes numerous repercussions across fields that do not always collaborate on this particular issue. A lack of an official identity affects the capacity of an individual to make claims to the state, and does not allow the state to adequately calculate for the provision of services. There is a need for a rights-respecting social structure to be in place, and to tackle this issue of 'statelessness'. Children are otherwise subject to abuse and neglect. The document in itself should not be seen as a 'magic wand', however the lack thereof is potentially life threatening.

### **J L'Europe de l'Enfance, Stockholm**

On the day of the 20th anniversary of the UN Convention on the Rights of the Child, the permanent intergovernmental working group "L'Europe de l'Enfance" met in Stockholm at a high-level conference. L'Europe de l'Enfance strives to ensure that a child rights perspective based on the UN Convention on the Rights of the Child underlies all work in the EU that concerns children. The Commissioner for Children Ms. Carmen Zammit, as well as Mr. Raymond Dimech, Head of Office, were present for this conference.

The conference had three overall themes: the application of the Convention on the Rights of the Child in the Member States, children and young people's use of new media, and

possibilities for parents to combine work and family life from a child rights perspective.

European Commissioner Margot Wallström spoke on the subject of children and new media. Parallel to the conference, the Network for the Convention on the Rights of the Child organised a hearing at the Swedish Parliament (Riksdag) where children and young people had the opportunity to put questions directly to politicians. Participants included Mr Hägglund, European Commissioner Jacques Barrot and Marta Santos Pais, the UN Special Representative on Violence against Children.

Another theme within the framework of the conference was possibilities for parents to combine work and family life, and this was discussed from a child rights perspective. Researchers, politicians and representatives of NGOs took part in a panel discussion on the consequences of family policy for children.

Some of the conclusions focused on the importance of a flexible family policy that offers families freedom of choice so that they can meet the needs of each child. The discussion also touched upon how important it is from a welfare point of view for there to be more cross-sector research into the child perspective and the rights of the child. The Convention on the Rights of the Child is not just about legislative support for rights; it is also about how we perceive children in society and show respect for children.

### K

#### **Compasito Training Course on Human Rights Education with Children, Helsinki**

Ms. Suzanne Gili, Task Manager within the Office of the Commissioner for Children, was selected as a participant for a training course on human rights education with children, held in Helsinki from the 3<sup>rd</sup> to the 5<sup>th</sup> of December 2009, and organized by the Council for Europe.

The aim of this course was to develop competencies of professionals working in ombuds' offices and youth leaders/workers working actively in human rights advocacy, particularly in the field of protection of children's rights. The course aimed to integrate and further develop practices of human rights education with children in various contexts and realities. Compasito, a manual on human rights education with children, was used as a primary tool in doing so.

The aim of this course was to develop the understanding of the approaches and activities of Compasito and how best to use it and adapt it in various formal and non formal contexts and realities. Ideas and experiences of working with and in the field of human rights education and children's rights were shared and discussed.

The participants of this course were taught about Human Rights and human Rights education through practical work by using activities from Compasito. in order to be able to train people involved in Human Rights Education with and for Children. This is applicable whether it is formal, non formal or informal training.



## 9. Legal Issues

*2009 was a particularly quiet year for children's rights in terms of legislative changes and/or introduction.*

Other than an amendment to the minimum age for drinking which was raised from sixteen to seventeen (Code of Police Laws Chapter 10, Laws of Malta), no other legislation was introduced or affected with children in mind.

A number of legal issues remain a cause for concern and are delineated within the list at the end of this report.

The Office of the Commissioner for Children is informally aware that draft legislation to empower the working of the Department for Social Welfare Standards has been finalized, and looks forward to its enactment in 2010.

## 10. Summary

*Overall, the Commissioner for Children accomplished much in terms of increasing awareness of children's rights in 2009, reaching a large number of young children in schools and familiarizing them with the aims and objectives of the Office of the Commissioner for Children.*

The Rights 4U course and Guginu's Tour contributed greatly to this, enabling the Commissioner for Children to have direct contact with children and thus communicate with children on a personal level. This was particularly important in light of the 20<sup>th</sup> anniversary celebrations of the UN Convention on the Rights of the Child.

Accessibility to the Office was increased this year by means of the launch of the official website of the Commissioner for Children, which serves as an important medium enabling children to contact the Office in a child-friendly manner. However it was noted that more facilities must be in place in order for children to be able to approach the Commissioner for Children directly, through further child-friendly mediums.





# Concerns of the Commissioner for Children

*The Commissioner for Children has raised a number of concerns in previous years, and put forward proposals with regards to how the rights of children could be better observed in this respect. Unfortunately, a large number of these concerns have been ongoing since the inception of the Office of the Commissioner for Children in 2003, and it is hoped that they will be addressed before any further time lapses.*

The proposals and recommendations arising from these concerns have been put forward as follows:

Issue	Elaboration	Proposal	Action taken
<b>Incorporation of the Convention on the Rights of the Child into domestic legislation</b>	An important step was taken when Malta ratified the UN Convention on the Rights of the Child on the 26 <sup>th</sup> January 1990. The Convention has not been incorporated into local law and domestic legislation is not yet fully compliant with the Convention.	It is crucial that the Convention on the Rights of the Child, which is a human rights instrument, is incorporated into domestic legislation [as in the case of the European Convention on Human Rights], in keeping with the recommendation of the Committee on the CRC in 2000.	This issue has been a concern since 2003. The Commissioner for Children continues to take every opportunity to urge full compliance with the Convention at the earliest date. The Office of the Commissioner for Children is at present working with the office of the Attorney-General to examine the prospects of such incorporation.
<b>Lack of National Structures and National Policy for Children</b>	There remains a lacuna in our legislation through the conspicuous absence of a co-ordinated National Strategy for Children, and a number of national structures. A National Policy for Children is also lacking.	It is necessary for a National Policy and a National Strategy for Children to be completed at the earliest opportunity, and implemented without delay. The Commissioner for Children also notes that the introduction of national structures to respond to adoption and fostering have been put into place, and looks forward to additional national structures being legislated for and introduced.	Recent action was taken with the launch of the National Strategy for Children in Out-of-Home care in November 2009. Whilst this is welcomed, the Commissioner for Children urges further work to be accomplished in this sector, in order for children's rights to firmly be placed on the national agenda. Some of these issues have been an increasing concern since 2003.

Issue	Elaboration	Proposal	Action taken
<b>Department for Children</b>	There is no central entity which assumes responsibility for the formulation of strategies and policies, and monitoring services specifically with regards to children. The Department for Social Welfare Standards is currently not operational as it does not have the necessary legal structures at present to effectively monitor standards essential for children.	The setting up of a Department of Children entrusted with policy planning would contribute towards a clearer definition of roles and services. It would also enable the Department for Social Welfare Standards to better engage in the task principally entrusted to it, which is overseeing service delivery.	Ongoing concern since 2003
<b>Children Act</b>	There is currently no Children's Act. The Children's Act is intended to be a collection of all legislation pertaining to children. Professionals and service users at present find it difficult to access relevant legislation, and the piecemeal introduction of child legislation causes variations in interpretation and application of the law which is not in the best interest of the child.	The immediate enactment of a Children Act should be given a high priority.	Increasing concern since 2003.
<b>Court Delays</b>	The Office of the Commissioner for Children continuously receives a number of complaints regarding the negative emotional and psychological effects caused by exaggerated court delays.	This could be avoided if a fast track system of cases were established in cases involving children. Another means proposed by the Commissioner for Children is the setting up of a co-ordinating structure within court to support the judiciary in addressing all cases involving children.	The issue of court delays has been an ongoing concern of the Office of the Commissioner for Children since 2003.



Issue	Elaboration	Proposal	Action taken
<b>Child Participation and Access to Court</b>	The wishes and best interests of the child should always be given due consideration in making decisions which affect them. Failure to do so may have negative repercussions which will be felt deeply by the child.	It is vital that children have the right to access justice. Mechanisms and procedures should be put into place in order to enable them to participate in relevant court proceedings, in a manner which is appropriate to their maturity and understanding.	At a recent conference for professionals working in this field, including the Commissioner, the need for improvements to the Family Court was placed on the agenda. The Commissioner for Children hopes to be further consulted on the amendments put forward, in order to ensure that the wishes and best interests of the child remain at the forefront of consideration. This has been an ongoing concern since 2006.
<b>Supervised Access Visits</b>	<p>It was brought to the attention of the Commissioner for Children's Office that there are a number of children who are entitled to see their parents under supervision, and who have been unable to do so for some time. Waiting lists are cited as a reason for such delays. This is a matter of great concern, particularly given that the majority of these situations arose as a result of financial difficulties of parents who were unable to pay for Supervised Access Visits.</p> <p>At present, 122 children are utilizing this service. Agenzija Appogg provides around 1020 hours of Supervised Access Visits per month.</p>	Efforts should be taken for children to retain a relationship with their biological family, and support must be provided in this respect, partly through the provision of this essential service. Children should not be prevented from meeting with their parents, unless it has been established by the courts that it is not in the best interests of the children to have contact with their biological parents. Such a service should not be subject to payment on the part of the non-custodial parents.	The Commissioner for Children was pleased to be informed that these services are no longer being provided against payment. However, the Commissioner highly recommends the provision of child-friendly facilities to be made available for children to meet their parents during supervised access visits. These premises should contribute to the building of a meaningful relationship with the absent parent. Furthermore, Supervised Access Visits should only be ordered as a last resort when it is prejudicial for the child to meet with the parent in an unsupervised environment.

Issue	Elaboration	Proposal	Action taken
<b>Juvenile Justice</b>	<p>The UN CRC and recommendations of the Council of Europe Committee of Ministers on the European Prison Rules establish that children under the age of eighteen years should not be detained in a prison for adults, but in an establishment designed for their purpose.</p> <p>In 2009, a total of 7 (5 boys and 2 girls) children resided at Corradino Correctional Facility, all aged between fifteen and seventeen years old. Four of them were awaiting trial, and the other three were serving their sentence.</p>	<p>The Commissioner for Children has released statements expressing concern over the imprisonment of children, and calling for the provision of alternative methods of detention, such as therapeutic residential set ups for young offenders which are located outside of the Corradino Correctional Facility. The use of alternatives such as Mount Carmel Hospital is also unacceptable and detrimental to children, unless the child is actually diagnosed with a mental health condition. There is a great need of services which are tailored to the specific needs of children and young people who are in conflict with the law.</p>	Increasing concern since 2003.
<b>Sports – Inquiry into Youth Football Nurseries</b>	<p>The Office of the Commissioner for Children initiated an inquiry into Youth Football Nurseries in 2007. The final report was forwarded to the relevant authorities, outlining a number of proposals and recommendations for this field.</p>	<p>Amongst the proposals put forward, the Office of the Commissioner for Children recommended that i) children are registered with football clubs on a yearly basis as opposed to every two years, in order to curb any possible exploitation of the child; (ii) coaches and individuals working with children are fully screened prior to taking up their post; and that (iii) coaches are trained to a greater degree, and on a regular basis, in terms of how to work with children.</p>	Ongoing concern since 2007.



Issue	Elaboration	Proposal	Action taken
<b>Sports – National Child Protection in Sport Policy</b>	In November 2007, a Commission was formed by the Kunsill Malti għall-iSport with the aim of drafting a National Child Protection in Sport Policy. The Manager for Research and Policy within the Office of the Commissioner for Children formed part of this Commission, comprised of numerous experts working in the field. It was eventually decided that the document would initially be launched as a set of guidelines rather than a policy.	The decision to launch the document as a set of guidelines raised a number of concerns which were duly communicated to KMS. Amongst these concerns were the lack of a clear and identifiable person to report cases of abuse and bad practice within each club, as well as the measures to be taken in order for this person to be appointed, and for any possible conflict of interest to be avoided.	<p>The Office of the Commissioner for Children has been assured that the proposals put forward are being analysed, with the intention of incorporating the majority of these comments.</p> <p>The scenario of a possible conflict of interest in the reporting phase is currently being discussed by KMS. KMS have expressed their intention for the document to act as a first step towards an efficient educational strategy on issues of child protection in sport, following which, the proposals will become more concrete once awareness on their importance is raised.</p> <p>Whilst this initiative is to be commended, the Commissioner for Children strongly advocates that this document should be released as a policy document, fully implemented within all institutions involved in the field of sport and physical activity. It should also become incorporated into a legal framework, so that it becomes enforceable.</p>
<b>Sport – Monitoring and regulation of sports facilities</b>	There are currently limited provisions for Kunsill Malti għall-iSport to undertake the monitoring and regulation of existing and proposed sports facilities due to lack of human resources, inasmuch as the building and structure of these facilities is concerned.	Provisions should be in place in order for Kunsill Malti għall-iSport to be able to ensure that child protection measures are observed to the highest possible degree within sports facilities.	The Commissioner for Children was informed by Kunsill Malti għall-iSport that the situation remains practically unchanged.

Issue	Elaboration	Proposal	Action taken
<b>Body piercing</b>	There is no regulation of body piercing on minors.	<p>The Commissioner for Children has requested that the body piercing of minors be banned or made subject to parental consent.</p> <p>The Control of Tatting Act (Chapter 270, Laws of Malta) specifies that: it shall be an offence against this Act to tattoo any person who is under eighteen years of age or to tattoo any other person unless by a person who is in possession of a valid licence (art.3). Such a provision should be extended to cover body piercing, as the issue remains of great concern among parents and to a number of doctors who have pointed out the adverse health repercussions when such piercing is not carried out professionally.</p>	Following a number of referrals received by the Office of the Commissioner for Children, contact was made with the Honourable Ministers for Justice, Health, and Social Policy relating to the issue of body piercing of minors. To date, a legal notice to the Public Health Act (Chapter 465, Laws of Malta) has been issued to regulate body piercing in general, but makes no specific reference to body piercing on minors. The Council for Children proposes that a separate Act be drafted and enacted to control body piercing, including provisions for banning body piercing on minors or making it subject to parental consent. This has been an ongoing concern since 2007.
<b>Consumption and Selling of Alcohol to Minors</b>	The Commissioner for Children was pleased to see amendments to the new sections into the Code of Police Laws in 2009 (Cap. 10 Part XXV B), whereby the sale, serving, or procurement of alcohol to minors under the age of 17 has become unlawful. Similarly there has been the introduction of the prohibition of the consumption of alcohol by such minors in any public place.	Whilst these are very positive steps, the office remains concerned that this law is not being enforced as effectively as it could be. Enforcement must be fully implemented, in a way which takes into account all outlets where children may have access to alcohol, such as supermarkets. The Commissioner also remains committed to the extension of this legislation to cover all children, i.e. those persons under the age of eighteen years of age and not 'minors' as defined under this law, which now means any person under seventeen years of age.	Whilst the increase in age from sixteen to seventeen is an improvement, the Commissioner for Children's Office maintains the recommendation that the minimum age be raised to 18. The issue of the consumption and selling of alcohol to minors has been a concern of the office since 2003.



Issue	Elaboration	Proposal	Action taken
<b>Health – Screening tests at birth</b>	At the birth of a child, two screening tests are currently provided, in order to identify possible illnesses at an early stage in the child's development.	In order for early identification of illness to be more effective, it is suggested that research is undertaken by the competent authorities to introduce additional screening tests. The introduction of these tests would amount to very little expense, and would greatly contribute to the prevention of serious health problems later on in the child's life.	The working Committee (PONNS) on the issue undertook a general review on the current situation, incorporating a consideration of the scientific basis and current genetic situation of Malta. The final report of this review was submitted to the Director-General of Strategy and Sustainability, and is currently being evaluated in detail in order to ensure its effective implementation on a national level. The Strategy and Sustainability Division are in the process of adding more value to this report, through undertaking a health technology assessment. The Commissioner for Children welcomes these developments, and urges the full implementation of these measures at the earliest opportunity.
<b>Children's Right to Play</b>	Children are not always able to enjoy their right to play owing to many factors, including academic pressures, the exam-oriented education system, excessive parental anxiety, and an overloaded school and after-school timetable. A lack of adequate play facilities and safe playing fields also contributes towards this problem.	Further measures should be taken in order to remove such obstacles which are currently inhibiting children's right to play. This concern was raised through the publication of 'Children's Right to Play' by the Office of the Commissioner for Children in 2006. In addition, the Commissioner for Children also proposes the setting up of a regulatory body for playing fields.	The Commissioner for Children has spoken with the Hon. Minister for Resources and Rural Affairs on this issue, and was very pleased to note progress on a national level through recent initiatives in this area, such as the Ta' Qali Fun Park, St. George's Square in Valletta, St. Anne's Square in Sliema, and the extension of Kennedy Grove. The Education Reform should also provide more free time for children, allowing them to engage in play. It is hoped that such initiatives will continue to be taken in providing public open spaces for recreational purposes.

Issue	Elaboration	Proposal	Action taken
<b>Residential care for children under the age of 5</b>	International research has highlighted that residential care is particularly detrimental to children under the age of five, and that fostering is a much better alternative for children at this stage of development. Social work practice currently requires parental consent prior to placement of Looked After Children for fostering. A number of parents still prefer their children to be in residential care rather than foster care.	A threshold should be established below which it is illegal to admit children into institutional care, however some exceptions may be granted in special circumstances, and where this is deemed to be in the best interests of the child. There is also a pressing need in this respect for improved social work practice that supports the waiving of parental rights, in order to respect the rights of the child to a healthy environment. This will ensure that these children have the opportunity to benefit from an alternative family home through foster care.	Increasing concern since 2003.
<b>Institutional Care and Foster Care</b>	The majority of children in out-of-home care in Malta currently reside within institutional care, as opposed to a more family-oriented environment. Whilst the significant work of such institutions is to be recognised, local, European and International qualitative research has shown that children placed in foster care fare better than those placed in institutionalized care. Nonetheless, there are by far more children who are placed in these large institutional and residential homes, as opposed to being placed in foster care, given that the availabilities and support for the latter type of placement are still scarce.	Institutional-type residential care should ultimately be phased out in favour of fostering by professionally trained and adequately paid foster carers. Children placed in residential care should be cared for by professionally trained personnel and should be placed in small groups in child-friendly premises within the community. The provision of institutional care should be limited to cases that would not benefit from fostering.	The Commissioner for Children was very pleased to note the increase in benefits and assistance to foster carers through the 2010 Budget. This is a welcome initiative towards an issue which has been an increasing concern to the Commissioner for Children's office since 2003. Further initiatives in this area are highly encouraged by the Commissioner.



Issue	Elaboration	Proposal	Action taken
<b>Social Exclusion</b>	More efforts are necessary in order to reach out to children on the margins of society, such as children of refugees and irregular immigrants, young people with very challenging behaviour, and those suffering from poverty, and from mental health issues.	Greater support must be given within the community towards children and families living in circumstances which may result in their exclusion.	Increasing concern since 2003.
<b>Child Poverty</b>	Malta has already set numerous initiatives in place in order to address the issue of child poverty and social exclusion, outlined in Malta's National Report on Strategies for Social Protection and Social Inclusion for 2008-2010. However, there is an urgent need for further commitment on these issues in setting quantitative targets for the eradication of poverty and social exclusion at a national level.	It is vital to establish clear and measurable targets in the eradication of child poverty and social exclusion, indicating clear time frames in which these targets can be met. A co-ordinated strategy is needed in this respect, in order for aims and objectives to be achievable.	<p>In October 2008, Malta's National Report on Strategies for Social Protection and Social Inclusion for 2008-2010 passed through a short consultation phase which did not include the Office of the Commissioner for Children.</p> <p>This report continues to build upon the previous 2006-2008 report, with issues such as migration featuring more prominently in this report. The Office of the Commissioner for Children was pleased to note progress from the 2006-2008 report in some areas. Whilst there are many positive measures outlined in the report with the aim of tackling issues of poverty and social exclusion, it is still noted that well defined strategic instruments are needed in order to guarantee the eradication of child poverty and social exclusion within a set time frame in a clear and measurable way.</p> <p>This issue remains an ongoing concern, having been raised by the Commissioner through the Manifesto for Children in 2008.</p>

Issue	Elaboration	Proposal	Action taken
<b>Juvenile Court – Co-accused minors</b>	At present, the prosecution may call for co-accused minors to be tried along with an adult accused of the same offence. This means that children are unable to exercise their right to be tried before the Juvenile Court.	Measures should be taken in order to establish the right for co-accused minors to have their cases heard before the Juvenile Court without exception.	Ongoing concern since 2003.
<b>Age of criminal responsibility</b>	The UN Committee on the Rights of the Child has expressed its concern “at the low age of criminal responsibility (9 years); at the assumption, contained in the State party’s legislation, that a child between 9 and 14 years could act with ‘mischievous intent’” <sup>1</sup>	The age of criminal responsibility should be raised. The Committee on the Rights of the Child have recommended that the age of criminal responsibility be raised to 14.	Ongoing concern since 2003.
<b>Community Support</b>	There is currently little support offered at community level for persons with mental health and other social problems. This impacts negatively on children, should the necessary support be lacking for themselves, or for their parents to undertake their parental responsibilities effectively.	Necessary community-based resources should be assigned in order to ensure the provision of community support where required.	Ongoing concern since 2003.

1 Concluding Observations: Malta, UN Committee on the Rights of the Child, June 2000



Issue	Elaboration	Proposal	Action taken
<b>Absenteeism</b>	<p>Records of absenteeism amongst school children are currently kept within the sole context of the effort to keep track of school attendance patterns. There is currently a lack of distinction between excused absenteeism and habitual unexcused or fraudulently justified absenteeism. This makes it difficult to direct attention towards the latter. Furthermore, it has been shown that a number of medical certificates are issued without adequate grounds, and efforts are not made to identify those which are unjustified.</p>	<p>Research should be conducted in order to identify the main reasons for children and young people being absent from school. The aim of record keeping should include or prioritize the right of the child to an education. Furthermore, a systematic collection of statistics should be undertaken, in order to distinguish recurrent and regular absenteeism from occasional absenteeism.</p> <p>It is essential that medical certificates are followed up and validated on suspicion of being fraudulent. Subsequent action must then be taken against the doctors who are known to have issued such certificates.</p>	<p>The Commissioner for Children was informed that in 2009, the Ministry for Education, Culture, Youth and Sport in conjunction with the Directorate for Educational Services initiated a series of meetings so as to formulate attendance guidelines for primary and secondary schools. The aim of these guidelines is to have a streamlined procedure in place regarding how absenteeism is to be reported. An electronic database was introduced whereby attendance records are inputted on a regular basis, hence attendance reports can be given in a timely manner for eventual necessary follow up. Measures are being taken for this system to also be introduced in Church Schools.</p> <p>In 2009, the Department of Educational Services recruited a number of psycho-social professionals. These included College and career guidance counsellors, trainee counsellors, and trainee psychologists amongst others. The recruitment of a Principal Social Worker and a number of social workers is in its final stages. These professionals will form part of a multi-disciplinary team and will be college based, working with individual students and their families. The Commissioner was informed that the early identification of students will be given priority, so that timely intervention will be made with these students. The Commissioner for Children welcomed these developments and encourages their swift implementation.</p>

Issue	Elaboration	Proposal	Action taken
<b>National Policy and National Strategy for Looked After Children</b>	There exists no National Policy and National Strategy on Looked After Children. Without such measures in place, it is increasingly difficult to ensure that the best interests of the children in the care system are observed. All placements of children in care (including hospital care) should be regulated according to a personalized care plan tailored for the present and future needs of each individual child. This can only be guaranteed through the introduction of a National Policy and a National Strategy on Looked After Children.	A National Policy and a National Strategy on Looked After Children must be formulated at the earliest possible opportunity, and given the necessary resources for its successful implementation.	During 2009, a Strategic Plan on out-of-home care has been drawn up by the Ministry of Social Policy for the next 10 years. The Strategic Plan was done within the framework of the National Standards for Out-of-Home care, the implementation of which has already begun. The Commissioner for Children was very pleased to note that a child-friendly version of the document was launched, and expressed her hope for the Standards to be fully implemented at the earliest opportunity.
<b>Handling of Care Orders</b>	<p>Children who require care and protection from the State are placed under a care order, following an assessment which determines that it is not in the best interests of the child to continue to reside in the family home. The State is duty bound to provide these children with an alternative healthy family environment which was denied to them by their parents.</p> <p>Nonetheless, a total of 23 children (12 girls and 11 boys) resided within the family home in 2008, notwithstanding the issuing of a care order. In 2009, this number rose to 36 (21 girls and 15 boys). This excludes the children who were under a care order and reside at</p>	<p>It is crucial that children receive the care and protection from the State to which they are entitled, and are not left to reside in a home which has been determined an unfit environment for their healthy upbringing.</p> <p>Urgent investment is required in alternative accommodation for children when they are unable to reside within the family environment, in accordance with the UN Convention on the Rights of the Child. Such alternatives must be therapeutic, and meet their individual needs in terms of their healthy social, emotional, physical, and psychological well-being.</p>	Increasing concern since 2003, this situation must be tackled with great urgency, since the number of children in need of a residential placement is on the increase.



Issue	Elaboration	Proposal	Action taken
	<p>Corradino Correctional Facility (7 children), or Mount Carmel Hospital.</p> <p>The reason given for this is the lack of alternative accomodation arrangements for these children.</p>		
<b>Legislation regarding the voluntary placement of children in care</b>	<p>Discrepancies currently exist between the treatment of children who are in care following a care order or court order, and those who are placed in care voluntarily because the biological parents are unable to cope with their parental responsibilities owing to poor mental health, substance abuse or other reasons.</p>	<p>Present and future legislation pertaining to children in out-of-home care should be fully applicable to children who are placed in care voluntarily. Such children should be guaranteed the same rights as children who are placed in care following the issue of a care order or court order. All placements of children in care, whether voluntary or involuntary, should be regulated by law.</p>	<p>Increasing concern since 2003.</p>
<b>Hotline to Fight Child Abuse over the Internet</b>	<p>There is currently a lack of clear official child-friendly avenues for children to report cases of internet abuse. In July 2006, EU funding helped set up a Hotline to fight Child abuse over the internet but in February 2008, funds were not renewed. During 2009, no alternative funds were found in order to maintain a service.</p>	<p>It is vital that such a service is not suspended simply because funds from the European Commission are not forthcoming. This must be viewed as a responsibility to our children which does not depend on occasional EU funds.</p> <p>Authorities should take urgent action to address this problem, by exploring possibilities of how Child Abuse over the Internet may continue to be fought, through the continuation and support of such a reporting service.</p>	<p>At the end of 2009, a new project proposal was submitted to the Safer Internet Plus Programme, under the title 'Be Smart Online! A Safer Internet Centre for Malta'. The proposal, spearheaded by the Malta Communications Authority, aims to set up a Safer Internet Centre in Malta, including an awareness node, hotline and helpline. A response is awaited from the European Commission.</p>

Issue	Elaboration	Proposal	Action taken
<b>Lack of Residential Care Facilities and essential services in Gozo</b>	The Commissioner for Children has expressed her concern over the serious lack of residential care facilities in Gozo, a problem which was exacerbated in 2008 with the closure of Lourdes Home. Gozitan children still have no facilities for out-of-home care where required. Free professional support and essential services such as family therapy and counseling are also severely lacking on the island.	The Commissioner for Children has urged the authorities to take immediate steps to address the existing lacuna of residential care facilities in Gozo. The provision of essential services such as family therapy and counseling to the residents of Gozo was also urged.	The Commissioner was very pleased to note that discussions between the Curia and the Ministry for Gozo were at an advanced stage in order to introduce a crisis intervention centre in Gozo, in order to respond to emergency situations which may arise pertaining to children in care. Whilst welcoming this introduction, the Commissioner reiterates her concern regarding the lack of long-term residential care facilities in Gozo, and the lack of some basic and essential services required for children on the island.
<b>Sex Offenders Register</b>	There are currently limited provisions for ensuring that individuals who are guilty of (or are allegedly guilty of) sexual crimes do not come into contact with children in their work, whether this work is undertaken on a voluntary basis or in a paid capacity. Recent cases of sexual abuse have highlighted the need for such a register to be put in place at the earliest opportunity.	Discussions relating to the need for a sex offenders register should be held without any further delay, remaining mindful of how such a register should function within the socio-cultural climate of Malta. It is vital that consultations are held with all necessary stakeholders, in deciding how such a register should operate in Malta.  The Commissioner for Children has repeatedly offered the authorities concerned relevant support and input in the formulation of a response to this issue.	The Office of the Commissioner for Children has been informed that the Ministry for Justice and Home Affairs has prepared draft legislation which has been passed on to the Attorney-General, for subsequent review on new legislation to provide for a register for sex offenders and serious offenders. The Commissioner for Children's Office was not consulted in the preparation of this draft, but looks forward to the opportunity to peruse it and give feedback at the earliest opportunity.



*In addition to the aforementioned ongoing concerns, the Commissioner for Children wishes to highlight the following additional concerns within the context of this Annual Report, for the year 2009:*

Issue	Elaboration	Proposal
<b>School Transport – Bullying, Regulation, and Pick up times</b>	According to a number of complaints received by the Commissioner for Children’s Office over the years, a number of children are being transported to school very early or late, and there is a lack of safety monitoring on school transport. Bullying may easily occur on school transport in this respect. This issue was also raised by the Commissioner for Children through the Manifesto for Children in 2008. The Commissioner is also concerned about a complaint received by the Office regarding school transportation with tinted windows.	The Commissioner for Children proposed that the school transport system be reformed in order to ensure that children arrive at school in a safe and timely manner, and do not arrive at an exaggeratedly early hour. The Commissioner also proposed that a bus monitoring system be introduced on school transport to ensure that basic safety measures are observed, and bullying on school transport is obliterated. These proposals were also put forward in the Manifesto for Children in 2008. In addition to this, all vehicles used for school transportation purposes should conform to regulations established by Law.
<b>Lack of options for children leaving school early</b>	Children who leave formal education early are equipped with very few opportunities to develop skills and become engaged with positive and productive work in a non academic setting. The reluctance and inability to complete formal education makes attendance at any academic institution a non viable option, thus leaving children with few realistic options once they leave school.	The Youth Employment Scheme at ETC undertakes significant work in attempting to integrate youth within the work market. However, further opportunities should be made available to children to explore other avenues of vocational work, which do not necessarily take place within an academic environment.
<b>Directory of Services for Children</b>	Given that no Department for Children exists, services for children tend to be fragmented, leading to confusion with regards to which entities should be consulted when specific services are needed.	A directory of services for children should be published, clearly outlining the role and responsibilities of each entity. The directory should incorporate all official entities working with and for children.

Issue	Elaboration	Proposal
<b>Regular monitoring of services and inbuilt evaluation systems</b>	Where services and mechanisms have been put into place, it is crucial that these are regularly monitored and evaluated in order to identify strengths and weaknesses, and thus build on the strengths and address the weaknesses as needed. This is crucial in order for existing services to continue to respond to current needs in the most effective manner. This does not always take place at present.	Regular monitoring of services should take place, and the necessary evaluation systems put in motion, both internally as well as externally.
<b>Road Safety and Accidents</b>	The Commissioner for Children expresses her concern over the number of road accidents, some fatal, involving children and young people. According to the National Statistics Office, 89 children were injured in traffic accidents in 2009.	The Commissioner for Children urges further initiatives to be taken by the competent authorities, in order to promote road safety, especially where children and young people are involved.
<b>Age for Medical Counseling and treatment without parental consent</b>	<p>The minimum age for medical counseling and treatment without parental consent is currently 18 years of age. This causes an obstacle to the right of the child to access necessary health care.</p> <p>One such problem which arises from this is that, in cases of suspected abuse, doctors can not examine the child without the intervention of a social worker or guardian. In cases such as suspected abuse, when a conflict exists between the interest of the child and the interest of the parents, the Commissioner for Children holds that the best interest of the child should always take precedence.</p>	<p>The issue of medical counseling was under review at the time of publication of the 2000 report of the Committee of the Rights of the Child. However, a minimum legal age for medical counseling for children has not yet been introduced.</p> <p>The CRC Report states that:</p> <p><i>“The Committee acknowledges that the State Party is reviewing its legislation to include a minimum legal age for medical counseling without parental consent. Nevertheless, concern is expressed that at present the minimum legal age for such counseling is set at 18 years”<sup>2</sup></i></p> <p>In line with this report, the Commissioner put forward the suggestion for legislation to be reviewed at the earliest opportunity so as to entrust the professional with determining competence, and lower the minimum age for medical counseling and access to medical care without parental consent, depending on the maturity of the child.</p>

2 Concluding Observations: Malta, UN Committee on the Rights of the Child, June 2000



Issue	Elaboration	Proposal
<b>Sexual Health Policy</b>	A National Sexual Health Policy was recently drafted after waiting 10 years to be introduced, however the support necessary for its implementation has not been forthcoming. The Policy was withdrawn from the 2010 budget, despite the fact that Malta has one of the highest rates of teenage pregnancy in the EU (5.5 to 6.6% of all pregnancies in females under 20 in the years 1999 to 2008, according to the latest European Perinatal Health Report).	The introduction and implementation of a National Sexual Health Policy and Strategy is a matter of great urgency, and should be addressed without delay.
<b>Failure to issue birth certificates</b>	Concern was raised over the number of children who have not been registered at birth, thus violating the fundamental human right to an official name and identity. The withholding of such a document may have numerous repercussions on the child, including the lack of a possibility for them to grow up within a family environment, and the lack of possibility to access basic services where needed.	The UN Convention on the Rights of the Child should be fully observed, particularly Article 7 which states that “the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, and as far as possible, the right to know and be cared for by his or her parents.”

