



ANNUAL REPORT 2011

OFFICE OF THE COMMISSIONER FOR CHILDREN



ANNUAL REPORT 2011



VOLUNTEERING: BY U AND 4 U



Madesh
Luqa Primary I,2

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.

Copyright 2012, Office of the Commissioner for Children

Published by the Office of the Commissioner for Children
16/18, Tower Promenade Santa Lucija SLC - Malta

Tel: +356 21 485180
Email: cfc@gov.mt
Websites: www.tfal.org.mt
www.zghazagh.org.mt

Design & Printing: Salesian Press

Drawings used for cover: Participants Rights 4 U 2011, Gozo

Drawings used inside
Year 1: St. George Preca College, Paola Primary A
Kinder 1: Luqa Primary,

CONTENTS

Foreword

5

Introduction

- *History and Status of the Role of the Commissioner for Children in Malta* 6
- *Functions of the Office of the Commissioner for Children* 6
- *Structures of the Office of the Commissioner for Children* 7
- *Content and Structure of the Annual Report* 8

3. Children's Right to Play, Leisure and Creativity

- *Education, awareness-raising and consultation* 20
- *Advocacy* 21
- *Intervention* 21
- *Recommendations* 21
- *Research and Investigations* 23
- *Participation in Children's Rights Networks and Fora* 23
- *Considerations and Concerns Regarding the Situation of Children in Malta* 24

1. Children's Rights - General

- *Education, Awareness-raising and Consultation* 9
- *Recommendations* 13
- *Research and Investigations* 14
- *Participation in children's Rights Networks and Fora* 14
- *Considerations and Concerns Regarding the Situation of Children in Malta* 15

4. Children's Right to Child-Friendly Justice

- *Education, Awareness-raising and Consultation* 25
- *Advocacy* 26
- *Intervention* 26
- *Recommendations* 27
- *Participation in Children's Rights Networks and Fora* 27
- *Considerations and Concerns Regarding the Situation of Children in Malta* 28

2. Children's Right to Safe and Beneficial Media

- *Education, Awareness-raising and Consultation* 16
- *Advocacy* 17
- *Intervention* 18
- *Recommendations* 18
- *Considerations and Concerns Regarding the Situation of Children in Malta* 18

5. Children's Right to Health

- *Education, Awareness-raising and Consultation* 30
- *Advocacy* 32
- *Intervention* 32
- *Considerations and Concerns Regarding the Situation of Children in Malta* 33
- *Research and Investigations* 33

6. Children's Right to Education

- *Education, Awareness-raising and Consultation*
- *Advocacy*
- *Intervention*
- *Considerations and Concerns Regarding the Situation of Children in Malta*

9. Children's Right to an Identity

- *Advocacy*
- *Intervention*
- *Participation in Children's Rights Networks and Fora*
- *Considerations and Concerns regarding the Situation of Children in Malta*

7. Children's Right to an Upbringing and alternative care

Education, Awareness-raising and Consultation
Advocacy
Intervention
Recommendations
Research and Investigations
Participation in Children's Rights Networks and Fora
Considerations and Concerns Regarding the Situation of Children in Malta

10. Equal Rights for All Children

- *Intervention*
- *Recommendations*
- *Participation in Children's Rights Networks and Fora*

8. Children's Right to Economic Security

- *Advocacy*
- *Intervention*
- *Participation in Children's Rights Networks and Fora*
- *Considerations and Concerns regarding the Situation of Children in Malta*
- *Participation in Children's Rights Networks and Fora*
- *Considerations and Concerns Regarding the Situation of Children in Malta*

11. Children's Right to Protection from any form of Abuse and Economic Exploitation

- *Education, Awareness-raising and Consultation*
- *Advocacy*
- *Intervention*
- *Participation in Children's Rights Networks and Fora*
- *Considerations and Concerns Regarding the Situation of Children in Malta*

Conclusion

Foreword

The year 2011 has been undoubtedly a busy one for all those who in some way or another are committed to improve the situation of children in Malta. One tends to forget that amongst the many stakeholders involved in the welfare of children are those who have taken it upon themselves to contribute to the well-being of children out of a sense of social conscience and solidarity and often without any financial remuneration or reward.

The fact that the year 2011 marked the European Year of Volunteering should serve to remind us of the myriad individual and organised volunteers thanks to whose selfless service and dedication, children in Malta are so much better off today. From the hundreds of foster parents who are providing a safe and loving environment to children who for some reason or another are not able to live with their biological families, to the Church and other organisations whose residential homes for children are offering a much needed social safety net, to the scores of sports, cultural, social and religious organisations that provide recreational activities to thousands of children, Malta's landscape of voluntary work geared towards the well-being of children is indeed a vast and varied one. The launch in 2011 of a new non-governmental organisation, called 'Celebrities for Kids', is a testimony to the vitality of the voluntary sector vis-à-vis children.

Whilst contemplating this rich indispensable resource that is voluntary work in the domain of child welfare, I also realize how important it is for the organised groups of volunteers to synergize their efforts with one another and with state authorities in order to maximise the benefits of their work to children. To a certain extent, such synergies already exist though there is no doubt that much more can be done to develop them further.

Volunteering is all about stepping forward to do work that is conducive to the well-being of people. In short, volunteering is all about participation. A crucial aspect of



MRS. HELEN D'AMATO

participation that is often overlooked is the voluntary participation of children in the work for their own well-being, whether it is their collective well-being as an age-group or their personal well-being as individuals.

Such participation of children for children has the advantage of not only fostering well-being for children but also, and perhaps more importantly, of empowering children to stand up and strive for their rights as well as respect for the rights of others. This is a necessary component of children's rights advocacy since the respect for the rights of children cannot be produced only from the top down, that is, by Government and civil society, but also from the bottom up, that is by children themselves. The participation of children for children is a guiding principle of the work of my Office, by which it strives to act as a voice and broker for the rights, interests, expectations, perspectives and, ultimately, the well-being of all children in Malta.

Helen D'Amato
Commissioner for Children

introduction

History and Status of the Role of the Commissioner for Children in Malta

The role of the Commissioner for Children has its roots in Malta's ratification of the United Nations Convention on the Rights of the Child (UNCRC). This milestone ratification took place in 1990, some months after the UNCRC was adopted by the General Assembly of the United Nations. The Convention lays down the fundamental and unique rights of children¹ in 42 substantive articles. Malta's accession to the UNCRC gave rise to the need for an independent body to monitor the observance of the Convention's articles, hence the *de facto* respect for the rights of children in Malta.

The legal framework required for this need to be fulfilled was put in place in 2003 through the passage into law of the Commissioner for Children Act. This Act gives the Commissioner the power and the autonomy to act in such a way as to protect and promote the rights and best interests of children who are under the jurisdiction of Malta. This means that the Commissioner for Children is to be invested with the resources and the authority to work to advance the rights of children in Malta while always being free from the control and direction of Government.

Ms Helen D'Amato, the present Commissioner for Children, is the third person to occupy this position since the Office was set up.

Functions of the Office of the Commissioner for Children

Article 10 of the Commissioner for Children Act delineates the thematic remit of the Office, which has enabled the Office to work in a wide range of areas where

the rights of children are at stake, namely health, social protection, education and justice, just to name a few. Article 2 establishes the UNCRC as the document of reference for the Office with regard to the rights of children.

Article 11 of the Act outlines the activities which the Office is called to undertake in order to safeguard and promote the rights of children. The twelve sub-articles in Article 11 can be boiled down to four domains of activity, namely:

- Education, awareness-raising and consultation with children and the general public
- Advocacy
- Research and investigation into the situation of children
- Intervention in cases of alleged breaches of children's rights, and to instigate changes to laws, practices, policies and procedures by making recommendations to decision-makers and service providers, in both the public and private sectors.

In addition to these four domains of activity, the Office is also actively involved in regional and international children's rights-based fora and networks with the aim of contributing to the international and regional discourse on children's rights and of developing the expertise of its staff and of children and young people in Malta on issues of children's rights.

Underlying the Commissioner's various activities is a constant and close attention by her Office to the evolving situation of the rights of children in Malta, as evaluated against the blueprint of the UNCRC.

¹ A child is defined as any person under 18 years of age.

Structures of the Office of the Commissioner for Children

In 2011, the Office was manned by ten members of staff, including the Commissioner. Of these, six carried out work that contributed to the functions of the Office whilst the other four performed mostly administrative duties:

Structure	Function
COMMISSIONER	Overall direction and public role
Task Manager	Education, awareness-raising, consultation, research
Projects Officer	Education, awareness-raising, consultation
Teacher	Education, awareness-raising, consultation
Case Officer (PT)	Intervention /Investigations
Policy Officer	Intervention (recommendations);
Principal Officer	Administration
Clerk	Administration
Accounts Officer (PT)	Administration
Driver	Administration

While one acknowledges that there was an increase in the human resource capacity over the years, the need for further expansion is still felt in order to enable the Commissioner to better fulfil her functions. This need is also reflected in the Draft National Children's Policy which proposes that *'to strengthen the role of the Office of the Commissioner for Children, additional resources are required to ensure its better functioning.'* (Draft National Children's Policy, Chapter 4, pg. 38)

To this end, the Office obtained authorization for the recruitment of a Head of Office and a Case Officer. The former role is expected to bring the necessary legal expertise to the Office in order to enable the Office to deal with the myriad legal issues that arise in the course of the Commissioner's work. The latter will replace the present Case Officer who has been working on a part-time basis and is due to retire. This is vital in view of the ever increasing workload of complaints and requests for assistance that come to the attention of the Office (see Figure 1, pg).

Another important step towards increasing the Office's resources has been the decision to move to larger premises. Such a move is a necessary precondition for the expansion of the Office's structure and for the better fulfilment of its functions. It will also enhance the accessibility of the Office to children and the general public, and should strengthen the identity of the Commissioner's role as an autonomous entity.

An ancillary structure to the Office of the Commissioner for Children is the Council for Children. This is a body set up under Article 12 of the Commissioner for Children Act whose role is to advise the Commissioner on issues pertaining to the Office. The Council is made up of a number of public officers appointed by different Ministries and a representation of Maltese children who are elected by their peers to sit on the Council.

The Council, which is chaired by the Commissioner and is bound by law to meet at least once every three months, held seven meetings in the course of 2011.



Shania
Luqa Primary Year 1,2

Content and Structure of the Annual Report

As set forth in Article 19 of the Commissioner for Children Act, this Annual Report provides a detailed account of the Office's activities during 2011 and gives an overview of the prevailing situation of children in Malta while also providing the Office's suggestions

on how certain outstanding issues can be resolved. Both sections are structured thematically according to the particular right of children which has been the focus of the Office's activity and/or of its analysis and concern in the course of 2011.

1. Children's Rights - General

In all actions concerning children, whether undertaken by public or private social welfare institutions, Courts of Law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

(UN CRC, Article 3)

Account of Activity conducted during the Year

Education, Awareness-raising and Consultation

Rights 4u

The aim of this annual three-day live-in course for children aged 13 to 15 is to instil in children of this age-group a keen knowledge and awareness of their rights as children through numerous fun and educational activities that are organised by a team of qualified and experienced coordinators.

Apart from its educational content and aim, the course is also a social event whereby young people can meet and interact with each other and build new friendships. It is also an opportunity for the Office to become more aware of the



Rights 4u Gozo, Participants with the Commissioner for Children



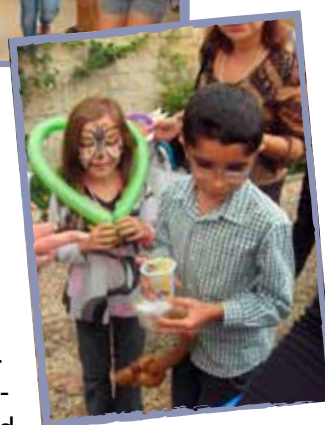
Young Participants during voluntary work activity at 'Residenza Sant' Anna', Gozo

experiences and problems faced by young people, which the Office can then address through intervention and/or further research. The course is open to all children in this age-group at a minimal charge, which is waived for children hailing from socially disadvantaged backgrounds.

Interest and participation in this event has grown steadily since 2007 when it was first organised. This is thanks to the Office's active promotion of the course across schools in Malta and Gozo. The two courses organised this year, one held in Rabat, Malta, and the other in Rabat, Gozo, were attended by 35 and 48 children respectively. The overarching theme for this year's courses was voluntary work, in line with the theme for this year's European Year.

One needs to acknowledge that this activity receives sponsorship mainly through the HSBC Foundation and the Ministry for Gozo.

Participants of Rights 4u course, Malta



Festa Tfal

This was the name given to the event organised by the Office to celebrate this year's World Children's Day, on the 13th November. This colourful and multi-faceted event is targeted to the general public and is aimed at raising more awareness about the rights of children. *Festa Tfal* was hosted by the Prime Minister at Villa Francia in Lija, which was thus open to the public who could admire its picturesque and historic interior and exterior features.

Twenty different activities for children were organised by ten organisations² throughout the day. At least six thousand people are estimated to have attended the event, who for the most part were children accompanied by their parents. The event was organised also thanks to the contribution of Benna, the Ministry of Resources and Rural Affairs and Farsons.



Hon. Dolores Cristina and Ms Helen D'Amato during Festa Tfal



Young Council members presenting the Commissioner's stand to the Hon. Prime Minister, Dr Lawrence Gonzi



² The following entities contributed to the event: MCAST Institute of Community Services; MCAST Institute of Applied Science; MCAST Institute of Art and Design; the Malta Medical Students Association; the Criminology Students' Society; MEUSAC; BeSmartOnline; Agenzija għażaġħ; St. John Ambulance; the Malta Girl Guides as well as individuals who facilitated pottery workshops.

Meetings with children

In the course of the year, the Commissioner visited a number of schools where she spent time talking to the children about their rights and replying to their questions.

The schools visited by the Commissioner included a number of schools in Malta and Gozo as well as Summer Schools organised by the State, NGOs and the Church.



Commissioner for Children during a visit to Lija Primary School



Commissioner for Children during a visit to participants of the Bosco Summer School

Another opportunity for the Commissioner for Children to meet with students was offered by the commemoration of Europe Day in St. George's Square, Valletta where the Commissioner interacted with a number of students who attended the activity through a number of games that were organized to enable students to learn more about their rights.

Educational resources



Il-Kompetizzjoni

For the younger age-group of children, a game of flashcards based on the theme of children's rights was reprinted and distributed amongst children in all Kindergarten II classes in Malta and Gozo.

For the older age-group of children, a children's story that had been commissioned by the Office from the writer Tony C. Cutajar was published this year. The book, which conveys positive messages about the rights

of children, is entitled *il-Kompetizzjoni*³ and will be disseminated in schools and all public libraries.

Another initiative commenced this year was the development of an illustrated booklet that presents the rights of children according to the UN CRC in a format and language that can be easily understood and enjoyed by students in Forms 1/2/3 in



Commissioner for Children with representatives from the schools in Gozo

³ 'The Competition'

secondary school.

Consultation with teachers and students was conducted in the development of the text of the booklet. When published, the booklet will be distributed to all school children in the said age-group. Preliminary talks were also conducted with the Education Department for the booklet to be used as an educational resource by Personal, Social and Health Education teachers within the framework of the National Minimum Curriculum that is currently under consultation.

Book prize

In order to raise awareness about the fact that children's rights are there not only to be enjoyed but also to be respected, the Office of the Commissioner for Children awarded a book prize to children who are identified by the school staff and administration to have stood out for the concern and sensitivity shown by them for the rights of their peers. A total of 22 schools participated in this initiative during scholastic year 2010-2011. The award will also be repeated for scholastic year 2011-2012.



Commissioner for Children giving the book prize to Kayleigh Zammit, Mosta Primary

Advocacy



COMMISSIONER FOR CHILDREN GIVING THE BOOK PRIZE TO ANNIE CARUANA, XEWKIJA PRIMARY

The Commissioner spoke in public about children's rights as a guest on a number of



Commissioner for Children on *Mit-Tfal għat-Tfal*, a radio programme on RTK run by children

programmes on local television and radio stations. The issues dealt with included amongst others internet safety, child-friendly justice, divorce and abuse.

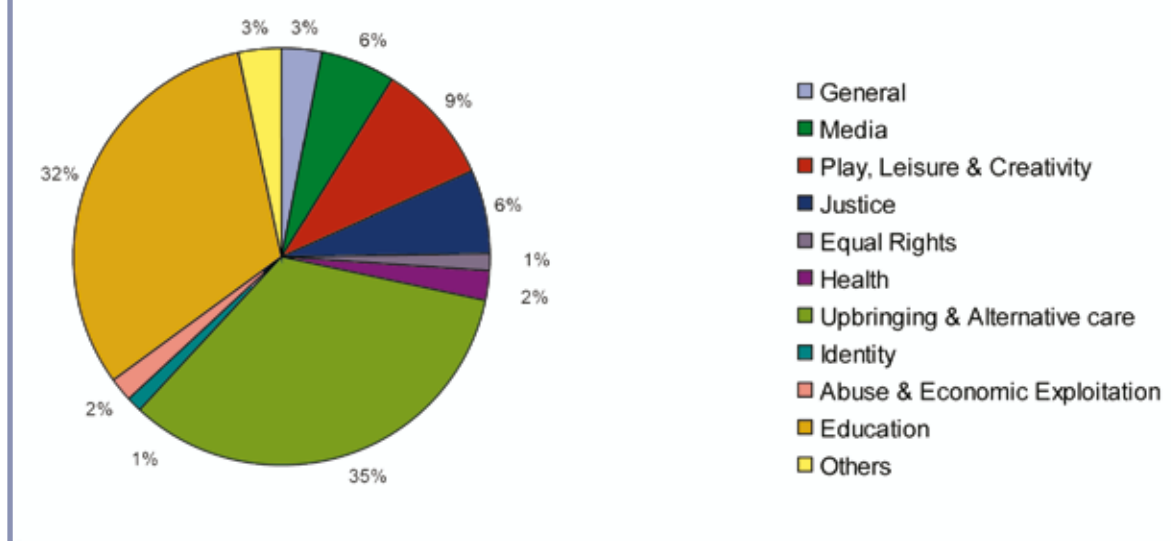
There were several other occasions where the Commissioner was invited to speak on children's rights, during which she gave an overview of the situation of the rights of children in Malta and spoke of her main concerns in this regard.

Intervention

Individual cases

The number of complaints or requests for assistance received and dealt with this year was 261, meaning an increase of 45% over 2010. The majority of cases was almost evenly split between family-related issues and school-related issues. There were also various other issues that were brought to the attention of the Office (see pie-chart above). 21 cases, or 8% of all the cases dealt with came to the attention of the Office through the website of the Commissioner for Children.

Figure 1: Complaints/Requests Received by the Office of the Commissioner for Children



Recommendations

Protection of children's rights in the laws of Malta

The extent to which the rights of children under the jurisdiction of Malta are guaranteed by Maltese laws was a major focus of activity for the Office of the Commissioner for Children during 2011. The reason for this concern is a long-standing one, namely that the UN CRC is not an integral part of Maltese law. While it is noted that judges and magistrates do take note and even mention articles of the UN CRC in their rulings, however they are not obliged to do so and neither can they hear complaints about any alleged violation of the Convention.

While the Office has in the past advocated for the transposition of the UN CRC, already ratified by Malta, in Maltese law, in 2011 it focused its efforts on establishing whether and to what extent the articles of the UN CRC are reflected in Maltese laws. To this end, on behalf of the Commissioner for Children, the Office of the Attorney General started conducting a detailed analysis of Maltese legislation with respect to the UN CRC. This analysis, which is expected to be completed in 2012, will establish what rights children under the jurisdiction of Malta enjoy under the different pieces of local legislation, and

what gaps exist in Malta's laws in terms of children's rights according to the UN CRC.

More concretely, this analysis will allow the Office of the Commissioner for Children to publish a compendium of children's rights in Malta that will be useful especially for practitioners and professionals working with children. It will also inform the Office's advocacy and intervention for changes to the laws aimed at enhancing the protection of children's rights under Maltese legislation. The Office will continue to advocate for the transposition of the UN CRC in Maltese Law.

National children's policy

The process of the drafting of a National Children's Policy was initiated in 2010. The Office of the Commissioner for Children was represented on the working group, responsible for the drafting of the policy, by the Task Manager. The drafting of the policy, was completed in 2011 and it was officially launched towards the end of the year, with a period of public consultation being opened immediately after. The consultation should lead to the formulation of a strategy consisting of concrete measures to realise the aims and principles set by the policy.



Launch of the National Child Policy

Platform for children

The Platform for Children was set up by the Office of the Commissioner for Children in order to pool and thus strengthen the advocacy of voluntary organisations working to advance the interests and rights of children in Malta. Unfortunately, this platform collapsed due to the reluctance shown by a number of organisations to develop this forum into an entity distinct from the Office of the Commissioner for Children, whose institutional status precludes it from being part of the platform.

Research and Investigations

Directory of services for children

As an entity acting as a bridge between Government and civil society, the Office embarked on the development of a directory of public services for children. The work was done in collaboration with the Department of Intelligent Computer Systems within the Faculty of Information and Communication Technology of the University of Malta. The compilation of this compendium was completed in 2011 and is expected to be launched online in the course of 2012. Once disseminated, this directory will facilitate the access for parents, carers and families to public services required by their children.

Participation in Children's Rights Networks and Fora

Council of Europe strategy on the rights of the child 2012-2015

The Office of the Commissioner for Children contributed to the formulation of this strategy by providing written feedback to the Council of Europe on the draft Strategy on the Rights of the Child 2012-2015. The Commissioner and the Task Manager participated during a conference *Building a child-friendly Europe: turning vision into reality* organised by the Council between the 20th and 21st November. The conference tried to take stock of the progress achieved in relation to the previous strategy and to identify and analyse the main elements of the new strategy. The latter is set to focus on the implementation of existing children's rights standards.

2nd meeting of the European Network of Young Advisors (ENYA)

Two young members of the Council for Children, accompanied by the Office's Task Manager, participated in this meeting held in Belfast. The European Network of Young Advisors' (ENYA) was set up by the European Network of Ombudspersons for Children (ENOC) in 2010 to enable young people from all over Europe to discuss and mould recommendations on child-related issues.



Ms Suzanne Gili with the Northern Ireland Commissioner for Children and the internet working group

The aim of the 2nd meeting was to discuss the way forward for ENYA and the recommendations on education, health, internet and violence that were made by a group of young advisors at the ENOC Annual Conference in 2010. As part of the latter discussion, Ms Suzanne Gili, the

Office's Task Manager, chaired the workshop during which the recommendations on the safe use of the internet were discussed. Two young persons from each workshop were chosen to present recommendations during the Annual Conference. Bernice Farrugia was one of the young persons chosen to represent the workshop which had the safe use of the internet as its theme.

Miscellaneous

The Office responded to a call for feedback from the Fundamental Rights Agency (FRA) on the agency's work programme for 2013. In addition, written feedback was also submitted with regard to the proposed amendments to the EU's Anti-Discrimination Directive.

Considerations and Concerns Regarding the Situation of Children in Malta

Child services

The launch of *kellimni.com*, a project that provides a service of online counselling to children and young people, has been a positive development in 2011. It is hoped that this project will not be temporary or a standalone but that it can be developed into a service that is integrated in the system of social welfare services for children.

The legally non-binding nature of the various standards that have been issued over the past years for child welfare services is a serious structural impediment to the assurance of quality care and the respect for children's rights in the various child welfare contexts. It is hoped that the long-awaited legislation that will give legal status to the Department of Social Welfare Standards, which is responsible for developing standards and monitoring their observance by child welfare providers, will be enacted in the very near future so as to enable the Department to fulfil its role as regulator of services and to enforce its standards across the board.

Children's rights laws

There has been much debate about the lack of a Children's Act in our system of laws. This lack has been a concern of the Office for a number of years. However, it is to be noted that Malta has a whole raft of laws that protect the fundamental rights of children. The Office's efforts in partnership with the Office of the Attorney General to establish the precise scope and content of such laws will serve to put the debate as to the need of a Children's Act and as to what needs to be included in such an act into a more informed perspective.

Whether or not the laws that protect the fundamental rights of children should be amalgamated into a single act or spread in different acts and codes of law as they currently are, it is hoped that the necessary consensus can be found, first and foremost, about the need and the possibility to integrate the UN CRC in Maltese law. The analysis being conducted by the Office of the Attorney General on behalf of the Office of the Commissioner for Children will help to shed light on how doable such a desirable integration really is and how quickly and easily it can be realized.

Child policy

The launch of the Draft Children's Policy is another step forward towards enhancing the respect for the rights of children in Malta. While the Ministry for Education, Employment and the Family is to be lauded for spearheading the formulation of this policy, it is hoped that, given the horizontal and holistic nature of the policy, the implementation of the strategy that will emerge from the policy will be steered by an inter-ministerial committee. The Office of the Commissioner for Children is ready to offer its participation in the process of implementation of the strategy just as it contributed to the development of the policy.

2. Children's Right to safe and Beneficial Media

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

(UN CRC, Article 17)

Account of Activity conducted during the Year



create awareness about internet safety. The recommendations made by children and young people are discussed during the meetings of the project's Advisory Board (see following section) and those of the Steering Committee, which is made up of all the partners in the project⁵.

The Youth Panel is composed of members hailing from a wide cross-section of schools and from children and youth organisations. A number of meetings were held in the course of 2011 during which various issues were

Education, Awareness-raising and Consultation

BeSmartOnline!, is a project co-funded by the EU Commission and aims at enhancing the safe use of the internet among children and young people in Malta. Its philosophy is based on the notion that messages are most effectively conveyed when children are involved in shaping the messages that are targeted to them. In line with this notion, the Office, which is a partner in the project⁵, is leading the project's Youth Panel, the aim of which is to empower children and young people to voice their opinions and concerns, and share their ideas on how to



discussed, such as cyber bullying, grooming, phishing and strategies for being safe online. The Office also held outreach education sessions with various organisations, such as the *Mosta Empowerment Centre*, the *Malta Girl Guides* and *Kerygma*. A number of other activities were held in public spaces

and during activities organised by other organisations.

Educational and awareness-raising activities conducted by the Office about internet safety among children are informed by the same notion as described above. The Office forged a close collaboration with the Institute



for Art and Design within the Malta College for Arts Science and Technology (MCAST), whereby students, under the guidance of their tutors and members of staff at the Office, produced resources on how children and young people can make safe use of the internet. Such resources consisted of comic books, video clips and cartoon animations and addressed various issues related to internet safety, such as cyber bullying, grooming, social networking and privacy. Such material is currently being used in the national campaign on internet safety being run as part of the BeSmartOnline! project. As part of celebrations of World Children's Day and in order to reinforce education on the issue of internet safety, the said comics were also distributed among all school children in Years 5 and 6 in Primary Schools as well as in Forms 1 and 2 in Secondary Schools.

Ejja Niltagghu⁶



Hbieb ta' Vera⁷

L-Identità⁸



Ma' Kontx Naf⁹

Advocacy

In order to foster dialogue with and amongst the various stakeholders in the field of internet safety, the Office is responsible for organising and chairing the Advisory Board as part of the BeSmartOnline! Project. Twenty-five organisations are represented on this Board. In its chairing capacity, the Office of the Commissioner for Children organised four meetings of the Advisory Board, during which issues such as preventing and dealing with dangers online; net neutrality and the role of Internet service providers in ensuring child safety online, were discussed.

The Commissioner spoke about the topic of internet safety for children on various programmes on television and radio and also during meetings with parents and children. She particularly highlights the fact that the internet is a very important tool that



children need to have access to, but just like any other tool it needs to be used safely and responsibly if we want to achieve maximum benefit.

6. Come Let's Meet
7. True Friends
8. The Identity
9. I Didn't Know

Intervention

Individual cases

As described in chapter 1, individual cases that were related to the media accounted for 6% of all the cases dealt with by the Office. The majority of these cases concerned claims of inappropriate exposure to and projection of children on the traditional media, i.e. television and radio. However, among the cases concerning new communication technologies was a case of inappropriate portrayal of a minor on Facebook. The Office made a formal request in writing to Facebook for the page to be blocked, a request that was duly and expeditiously met by the social networking company.

Recommendations

Collaboration with the Broadcasting Authority about children in television programmes continued in the early part of the year. The Office submitted its feedback on the authority's report on Children in Television Programmes and also on recommendations for changes to the law (Broadcasting Code for the Protection of Minors).

Participation in Children's Rights Networks and Fora

The Office participated in three regional conferences that dealt with the right of children to safe and beneficial media.

The Commissioner and the Office Teacher attended the VI International Media Conference organised by the Hungarian International Children's Safety Service and the National Communications and Media Authority in Hungary. The negative effects of the new and traditional media on children and possible policy responses to such effects were discussed during this conference.

The reality of internet use and risks faced by children as revealed in the results of a Europe-wide study conducted by EU Kids Online,

funded by the EU Commission, was the theme of a conference held in London in which the Office was represented by the Task Manager. A number of interesting and worrying findings emerged from this study, such as that 38% of respondents who were under 13 years of age have access to social networking sites, despite the formal prohibition of children under this age threshold from using such sites. The forthcoming cycle of the study will encompass Malta, thus adding to the slowly growing local body of knowledge about children and the internet.

The Commissioner participated in a training seminar organised by InS@fe, a European network of awareness centres promoting safe and responsible use of the internet and mobile devices to young people. The purpose of the meeting was to develop closer ties and a deeper working relationship with Facebook, as well as to discuss how outreach to parents and teachers of young children, teens and vulnerable children could be improved.

Considerations and Concerns Regarding the Situation of Children in Malta

Internet safety

A study conducted by the Malta Communications Authority into patterns of internet use among people in Malta has revealed the growing use and availability of portable devices and wifi internet access systems, hence the increase in unsupervised internet use by children. This means that empowerment through education and awareness-raising is bound to become ever more the main and ultimate strategy for ensuring the safety of children against the risks posed by the internet.

The project BeSmartOnline! is certainly an important step in this direction. However, the scale of the action for internet safety needs to be augmented if it is to have a significant impact on the situation of internet safety across the country. This can be done by mainstreaming the project's actions into national policies, notably through the



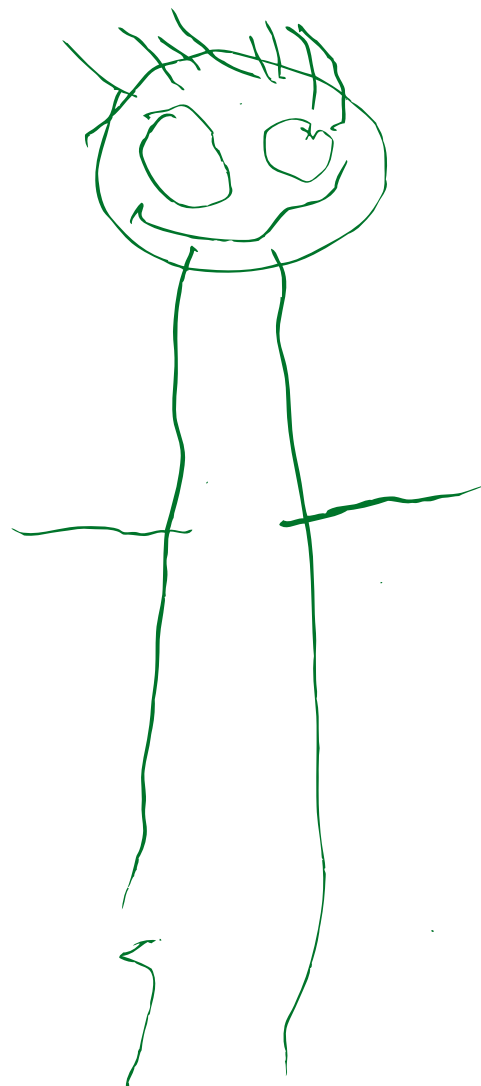
Keiran
Luqa Primary Year 1.2

National Curriculum Framework and in parenting courses so that education on internet safety becomes a staple part of a child's mental and character development. The inclusion of internet safety in the new curriculum framework as part of the learning area *Technology Education* that is being proposed as part of the framework is a positive step in this regard.

Such a mainstreaming process must not lose sight of the fact that the internet is both an integral part of youth culture and an essential element of the way society functions. This means that education on internet safety must not be built on the premise that the internet is fraught with dangers for children but must be designed to teach children and youths how to use this extraordinarily powerful tool to maximise their development and well-being.

Children in TV programmes

Unfortunately, the process that was to lead to enhanced protection of the rights of children from undue TV content and portrayal of children through amendments to the Broadcasting Code for the Protection of Minors stalled. The complaints received during the year by the Office on this issue attest to the need to restart this process.



Francesca
Luqa Primary K 1.2

3. Children's Right to Play, Leisure and Creativity

States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

(UN CRC, Article 31)

Account of Activity conducted during the Year

Education, awareness-raising and consultation

Art contests

The Office sought to stimulate the creative potential of children by acting as a focal point for the 19th Annual World Children's Picture Contest, an international pictorial art competition for children organised by the IE-NO-HIKARI Association in Japan. The Office promoted participation in the competition among children living in Malta and facilitated the submission of art works to the organizing committee. Participants were asked to draw pictures in relation to Agriculture, Farming, Nature and people within the Family Environment. A total of 20 children from



Launch of the President's Award for Creativity

Malta submitted their paintings through the Office. During 2011, Alessia Formosa, received an honourable mention for her work entitled *Wild Deers* with which she had participated during the 18th edition of the contest in 2010.

The Office also contributed to the organisation of *Premju President għall-Kreattività*, a novel national funding initiative by the Office of the President of the Republic that was aimed at helping artistically gifted children hailing particularly from disadvantaged backgrounds develop their talent. The initiative was divided into various categories, including a section for children and another aimed towards communities that support the talent of disadvantaged children



Alessia Formosa with her honourable mention certificate

and youth. The Office gave its feedback to the organising body and was represented by its Task Manager on the evaluation board which assessed applications and selected the most meritorious ones under the community award category.

Advocacy

Summer schools

The Commissioner visited a number of summer schools for children where she expressed her satisfaction to the children attending the school for the fact that they were enjoying their free time during the summer holidays by taking part in activities that combined leisure with an element of education and creativity. She also augured that all school children in Malta would be similarly occupied during the summer months, whether it was within a formal or an informal setup.

Teen parties

The Commissioner and her Office commented several times in public on the phenomenon of so-called teen parties. This popular phrase refers to one-off entertainment events for minors under the age of 17, whose presence at places of entertainment is allowed only under certain conditions, notably that no alcohol is sold or consumed at the venue for the whole duration of the party (Subsidiary Legislation 10/40).

In all her public statements through the media on the issue, the Commissioner expressed her serious concerns about the fact these parties were falling short of their intended purpose, which was to offer a safe and age-appropriate form of entertainment to minors under the age of 17, and were presenting various risks to the well-being of minors other than those posed by alcohol. Such risks comprised the following:

- i. the lack of a time-limit that is appropriate to this age-group;
- ii. the lack of clear age-limits on who can

attend such parties;

- iii. exhibitionistic dancing, sexual posing and other adult behaviours;

- iv. lack of control over the criminal record of who organizes;

- v. indecent attire worn by party attendees;

- vi. availability of alcohol outside the party venue.

Intervention

Individual cases

As shown in chapter 1, individual cases concerning leisure or culture accounted for 9% of all the cases dealt with by the Office during the year. These cases were for the most part a reflection of two of the issues which the Commissioner intervened on by making recommendations to the competent authorities, namely teen parties and football nurseries.

The Office also intervened to address concerns over the safety of a particular playing amenity within the play area of an outlet in Bugibba. These concerns related to the fact that children were not always visible from the outside as they moved within the amenity. Following communications between the Office and the management of the outlet, the necessary action was taken to address the safety concerns.

Recommendations

Teen parties

The Office recommended the setting up of an inter-ministerial working group tasked with presenting an agreed position on how the concerns raised by the Office of the Commissioner for Children could be addressed and with drafting the necessary legislative changes for these concerns to be addressed. The Commissioner for Children was nominated to chair the Working Group which was made up of representatives from

a number of entities from the public service and sectors of Justice (i.e. the Department for Policy Development of the Ministry of Justice and Home Affairs, the Office of the Attorney General, and the Malta Police Force), Tourism/Culture (i.e. the Parliamentary Secretariat for Tourism, Environment and Culture, and the Malta Tourism Authority) and Family (i.e. Aġenzija żgħażaġħ). The group met three times in the space of a month. The following recommendations resulted from these meetings:

- i. teen parties should not be allowed to carry on till past 11pm;
- ii. admittance to teen parties should be limited to the 14 to 17 age-group;
- iii. dancing within a party venue should be confined to the dance floor, and no dancing paraphernalia associated with the adult entertainment scene, such as raised dance floors, dance poles and cages, should be permitted while a teen party is going on;
- iv. the decision of the competent authority (i.e. the Commissioner for Police) as to whether to refuse or grant a permit to stage a teen party should be based on the criminal records of those organising and present at the party amongst other considerations;
- v. there should be police officers stationed both inside and outside the party venue to ensure amongst other things, that no alcohol is sold to or consumed by minors under 17 years of age whether inside or outside the venue.

In formulating the above recommendations, the Working Group consulted with an expert in child psychology.

In order to translate the above recommendations into legally binding regulations, the Working Group, through the Office of the Attorney General, that was represented in the Group, embarked on the drafting of a legal notice called 'Teen

Parties Regulations'. The aim behind the legal notice is to regulate the parties rather than the place where they are held. This would prevent prospective party organisers from bypassing the regulations by staging teen parties in venues that are not licensed places of entertainment thus ensuring that the regulations are applied and respected whenever and wherever a teen party is held.

A number of consultation sessions on the draft legislation were held with key stakeholders in the field, namely GRTU¹⁰, MHRA¹¹, FELTOM¹², and teenagers themselves.

The proposed legal notice will be finalized and presented to the Minister for Justice and Home Affairs early in 2012.

Football nurseries

Following the investigation launched by this Office in 2009 into the reality of football nurseries and the recommendations that were prompted by the investigation, efforts were this year made to foster dialogue with the Malta Football Association (MFA). MFA is ultimately responsible for football nurseries, and such dialogue was important in order to bring them to share the Office's concerns and adopt its recommendations. The key issue of concern to the Office is that the freedom of children to join the football club of their choice is being restricted because their registration with a particular club cannot be undone before the lapse of two years or without the payment of an established amount of money that is considered as a form of compensation for training. The Commissioner made known to the MFA its desire to see such a restriction lifted particularly for children aged 12 years and under. The two sides agreed to set up a Task Force with representation from either side that would come up with a set of mutually agreed proposals on how to address the Commissioner's concerns.

Indoor play areas

Following the publication of the 'Requirements for Public Playgrounds Safety and their Management' by the Malta

Standards Authority in consultation with the Office of the Commissioner for Children and a number of other stakeholders, the Office this year turned its attention to the regulation of indoor play areas for children, which are a relatively new and burgeoning sector of child play services in Malta.

To this end, the Office submitted a formal application to the newly set up Malta Competition and Consumer Affairs Agency (MCCAA) to initiate a process and a structure for formulating standards to ensure the safety of indoor play areas for children. The first step that was taken by the technical committee, coordinated by MCCAA and made up of the Office of the Commissioner for Children and other relevant entities, was to establish the scope of the future standards, i.e. the kinds of play areas to which the standards would apply. It was thus agreed that attention would be focused on setting standards for permanent indoor play areas that are accessible to the general public.

Age-appropriateness of books in school libraries

The Commissioner for Children formed part of a working group that was set up to decide on the appropriateness of having the literary work *Vampir* by Mario Azzopardi on the shelves of a secondary school library in view of its content and imagery. The Working Group concluded that the work should be accessible to Forms 4 and 5 students. The group also proposed the setting up of a multi-sectoral board for the age-classification of books to be included in school libraries.

Research and Investigations

Research on leisure

Originally proposed by the young members of the Council for Children, the Office of the Commissioner for Children embarked on a project to conduct scientific research into young people's perception of leisure and the forms of leisure activity available in Malta. This research project, being conducted in collaboration with the National Youth Agency, will target 500 young people

selected at random between the ages of 13 and 30. While the preparatory work, including the design of a questionnaire, has been completed, the actual research work is expected to start early in 2012 and is meant to focus first on 125 randomly selected individuals per age-group, including the 13-17 age-group. The findings of this initial phase of the research project will provide a framework for gaining a better and more holistic understanding of some of the leisure issues which the Office has intervened on, notably teen parties.

Participation in Children's Rights Networks and Fora

Self-regulation of theatre productions

The views and perspective of the Commissioner for Children were solicited by the Parliamentary Secretariat for Tourism, Environment and Culture in connection with the plans by Government to reform the system for assigning age-ratings to theatre productions, as part of the implementation of the Culture Policy launched in 2010. The gist of these plans is to move away from a top-down approach, where the judgment as to the age-group for which a given theatre production is appropriate is made by a select group of people, to a bottom-up system where the age-ratings for a play are established by that play's producer or director on the basis of a set of guidelines drawn up and endorsed by a guidance board, and which are then subject to the complaints lodged by the theatre-going public with the board.

The Commissioner, while understanding the rationale behind this planned change of practice and philosophy, augured that self-regulation should not be allowed to lead to laxity in the way age-ratings are assigned. She also recommended the appointment of a child psychologist to the guidance board in order to help draw up guidelines and criteria for determining age-appropriateness of theatre productions and to decide on individual cases of allegedly misclassified productions on the basis of such guidelines.

Considerations and Concerns Regarding the Situation of Children in Malta

Child protection in sports

The Office welcomes the publication of the 'Child Protection Sports Guidelines' by the Malta Sports Council. The content of the guidelines is comprehensive and detailed enough. Furthermore, the Office is informed that the Council has been holding information meetings with registered sports organisations on these guidelines.

Notwithstanding these positive elements, the Office feels that the guidelines are not sufficiently binding to ensure that all sports organisations will take the necessary steps to bring their internal policies and procedures in line with them, thus helping prevent cases of abuse of children taking part in organised sports activities. The Office recommends that adherence with the guidelines, by a sports organisation, should be set as a necessary condition for registration and confirmation of registration of the organisation with the Malta Sports Council. More so, the necessary capacity must be developed by the Council to be able to carry out regular audits of sports organisations' internal policies and procedures in order to verify adherence to the guidelines.

Public outdoor playgrounds for young children

The Office notes with pleasure and satisfaction that the process of ensuring that public outdoor playgrounds are as safe as possible for young children has continued with the rollout of periodic inspections conducted on the basis of the standards that were finalised in 2010. Numerous such inspections have been commissioned and conducted by Local Councils and the MCCA respectively, with a number of playgrounds being declared unsafe for children and thus closed down until the necessary changes to bring the playgrounds in line with the safety standards, were made by the responsible

Local Councils.

The Office notes with displeasure that these playgrounds are also being used on a regular basis as spaces where groups of teenagers indulge in unruly and, in certain instances, indecent behaviour at late hours of the day. The Office is concerned that such phenomena could damage the physical integrity of the playgrounds, to the detriment of young children who play in these areas during the day, as well as tarnish the image of these playgrounds as safe and happy places for the very young. It is hoped that the necessary measures are adopted so that playgrounds for young children are not misused at any time of the day.

Dance shows

The boom in this sector, as evidenced by the growth in the number of children taking dance lessons and in the number of dance schools that are offering their services, is a positive development in terms of the right of children to be creative. However, the Office is concerned that some dance shows organized by these schools may not always be suitable and appropriate in terms of their choreography and type of attire for the age of the children who take part in such shows.



Yashain Portelli
Luqa Primary Year 1,2

4 Children's Right to Child-Friendly Justice

States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law 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.

(UN CRC, Article 40)

Account of Activity conducted during the Year

Education, Awareness-raising and Consultation

Lecture to police cadets

For the first time since the inception of the Office of the Commissioner for Children, the Commissioner was asked to contribute to the formation and education of the police force by being invited to deliver a lecture on child-friendly justice to police cadets. In her lecture, the Commissioner focused on the rights of children with respect to justice as enunciated in the UN CRC, namely Articles 37 and 40 and their various respective sub-articles.

The aim of the Commissioner's lecture to the police cadets was thus to make them more aware of the content of the UN CRC insofar as it relates to justice and of the Convention's importance in the context of Maltese law. It is hoped that this awareness instils in the policemen and policewomen of tomorrow a particular sensitivity towards the vulnerability and special needs of children when these find

themselves at the receiving end of the law enforcement and judicial systems, be it as suspects, witnesses, or as children in conflict with the law. The Commissioner's remarks generated strong interest among the police cadets.



Commissioner for Children with Police cadets

Advocacy

Youth delinquency

The Commissioner was the special guest for an edition of a radio programme that was dedicated to the topic of youth delinquency. The programme attempted to reflect on the situation of youth delinquency in Malta, its causes and roots, and the actual and possible responses to it. The Commissioner harped on the familial background of youth delinquents which may contribute to their inner malaise and outward delinquent behaviour. She stressed the fact that the State's response to the phenomenon of youth delinquency should focus more on rehabilitation as opposed to the punitive approach of incarcerating youth delinquents, which as the UN CRC provides, should be the measure of last resort with respect to minors who commit a crime. The Commissioner advocated for Government to invest more heavily in residential therapeutic structures that are capable of addressing the social and psychological vulnerability of delinquent youths.

Children, criminality and justice

The Commissioner was invited to address a seminar on the subject of children, criminality and justice, organised by the Fondazzjoni Mid-Dlam għad-Dawl¹³, a local non-governmental organisation which works and advocates for the rights of prisoners and their families. In her address, the Commissioner gave her take on the strengths and weaknesses of Malta's judicial system with respect to minors who enter the system as persons found guilty of crime, as children of (an) incarcerated parent/s, as victims of crime and as witnesses to crime.

Among the points made by the Commissioner was the importance of the Juvenile Court, which provided a somewhat more child-friendly setting where cases of minors in conflict with the law were tackled, and, conversely, the need to consider amendments to the Juvenile Court Act in order to be more effective in the best

interest of the child. Another point raised was the poor consideration of the inherent immaturity of children that is enshrined in our laws in the form of an age threshold of criminal responsibility of just nine years, which is amongst the lowest worldwide. The Commissioner also touched on the Offenders' Register, which once enacted and implemented would stop individuals who had served sentences for crimes against children from working with children, as a development that would help prevent children from falling victim to crimes.

Children heard in civil court cases

On the subject of children involved in cases of civil justice, most notably the legal proceedings for their parents' separation, the Commissioner publicly endorsed the proposal made by the Minister for Education, Employment and Family, the Hon. Dolores Cristina, to create a legal mechanism whereby children would be automatically heard in divorce or separation cases rather than leaving this to the discretion of the presiding judge, mediator or a request by the parents. In her statement to the press, the Commissioner said that this would bring our legislation and practice further in line with the principles of the UNCRC on the right of the child to '*be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child...*' (Article 12). Whilst welcoming the proposal, the Commissioner called for a more age-appropriate and child-friendly manner by which children are heard in court.

Intervention

Individual cases

As set out in chapter 1, individual cases related to justice that came to the attention of the Office constituted 6% of all the cases dealt with by the Office. The big bulk of these cases were about issues related to the impact of parents' separation on their children.

Recommendations

Follow-up to the recommendations by the board of inquiry

Very early in the year, the Commissioner formally presented the recommendations by the Board of Inquiry with regard to Minors in Conflict with the Law to the Prime Minister, who, in response to the recommendations, immediately set up a Task Force to translate the Board's recommendations into concrete policy proposals. The Task Force, chaired by the Commissioner for Children and made up of representatives of the relevant Ministries and an independent professional in the field of child protection, presented five interim proposals to the Ministers concerned, namely:

1. Proposal to the Minister for Justice and Home Affairs for the setting up of an alternative therapeutic structure for young offenders who have been found guilty of a crime and who have repeatedly broken probation orders.
2. Proposal to the Minister for Education, Employment and Family to set up an alternative therapeutic structure for young females with challenging behaviour.
3. Proposal to the Minister for Health, Elderly and Community Care to set up an alternative therapeutic structure for young people, aged between 12 and 17 years of age, with mental health problems.
4. Proposal to the Minister for Education, Employment and Family for the extension of legal entitlements under the Children and Young Persons (Care Orders) Regulations to minors placed in care by court order and to minors placed in voluntary care.
5. Proposal to the Minister for Justice and Home Affairs to set up special arrangements for minors involved in police and/or judicial proceedings.

Feedback from the respective Ministers to whom the proposals were addressed was obtained in writing and/or during meetings set up for the purpose of discussing the relevant proposal/s. The Task Force also met

with the Prime Minister for his direction on the five interim proposals.

Child-friendly courts

The Commissioner liaised with high officials within Courts of Justice with a view to making the facilities within the courts more child-friendly. Specifically, the Commissioner sought and obtained the consent by the administration of the courts for the following infrastructural changes:

- The installation of one-way mirrors in a number of court halls to protect the safety of minors especially when as witnesses to crime they are called to identify persons who are being accused of a crime before the courts;
- The allotment and refurbishment of a room within the Court buildings for exclusive use as a children's room, where children involved in a court case, be it civil or criminal, can be interviewed and heard in private by a member of the judiciary, mediator or a child's advocate in a child-friendly environment;
- The soundproofing of the rooms within the Family Court where meetings between mediators and their clients are held in order to prevent highly personal and confidential information from being overheard from outside the rooms.

Works have been commenced on the implementation of the last proposal above. Implementation of the other two proposals is expected to be started in 2012.

Participation in Children's Rights Networks and Fora

The Commissioner for Children and the Office's Task Manager participated in the 6th Forum of the Rights of the Child, which was organised by the European Commission and dealt with issues related to the collection of data aimed at enhancing child-friendly justice across the EU. During the forum, the research work undertaken by the EU's Fundamental Rights Agency (FRA) in the area of child-friendly justice was touched upon.

The Office contributed to the FRA's project by submitting its responses to a questionnaire from the agency on the topic. The questions that were answered by the Office concerned inter alia the issue of children in detention. This issue was also the subject of another submission by the Office, this time in response to a question on alternative measures of detention for children that was part of a Green Paper on *Strengthening Mutual Trust in the European Judicial Area*. In its reply, the Office shared the gist of the proposals formulated by the Task Force regarding the need for a more social and therapeutic approach to children who are in conflict with the law (see *Follow-up to the Recommendations by the Board of Inquiry*, pg.).

Considerations and Concerns Regarding the Situation of Children in Malta

Changes to the criminal code

Among the proposed amendments to the Criminal Code put forward by the Ministry for Justice and Home Affairs in the form of *Justice Bill 97* are a number of positive changes which address some of the Office's past concerns and are in line with the recommendations made by the Board of Inquiry (see *Follow-up to the Recommendations by the Board of Inquiry*, pg.). These changes include upward revisions to some crucial legal age-thresholds in Malta's criminal law, namely the:

- age of mischievous discretion up from between 9 and 14 years to 16 years;
- age of criminal responsibility up from 9 to 14 years;
- age of minority according to the Criminal Code up from 16 to 18 years.

The latter proposed amendment will require, if implemented, a corresponding amendment to the Juvenile Court Act.

Another positive proposed legislative change included in the aforementioned bill is the decriminalisation of first-time offenders related to the use of narcotic drugs, whereby such offences would be dealt with outside court, specifically by the Attorney General. Such a measure would complement the Drugs Court that is soon to be set up to deal specifically with drug offences.

Child advocates

The Office notes with pleasure the appointment of two child advocates, which has increased the complement of child advocates in the Family Court to three. It is hoped that the appointment of a fourth child advocate, which is in the pipeline, will not be delayed much longer. This will further enhance the participation of children in court proceedings, thus ensuring that their rights and views are respected and listened to when a decision affecting their lives is to be taken on their behalf. The further expansion of the Office of the Child Advocate is especially important if the aforesaid proposal by the Minister for Education, Employment and Family, and endorsed by the Commissioner for Children, is to be implemented.

Delays in court procedures

The Office of the Commissioner for Children receives a number of complaints regarding the negative emotional and psychological effects on children due to delays in court procedures. It is acknowledged that some of the delays are caused by the numerous applications to Court by the parents themselves. It is felt that the Court should address the situation where it sees that these applications are being used as delaying tactics. It is also recommended that the Court adopt a fast track system of cases particularly where maintenance and visitation rights are concerned.

Police interrogation of children

The Office was informed by the Commissioner for Police that the police had set the age-limit below which witnesses or suspects need to be interrogated in the presence of a parent or other legal guardian at 18 years, up from 16 years as established by Schedule IV of the Code of Police Laws. This is a positive development in that it brings police interrogation of children in Malta in line with the universally accepted age of childhood, as enunciated in Article 1 of the UNCRC: 'a child means every human being below the age of eighteen years'.

It is hoped that this change of practice will soon be backed by a corresponding change to the law. The Office augurs also that further revised practices and procedures related to police interrogation of children will be adopted, in line with the Recommendations by the Board of Inquiry regarding Minors who come in Conflict with the Law, as published on the Office's website.

Protection of minors' act

The enactment of the Protection of Minors (Registration) Bill, by virtue of which there will be an offenders register to prevent individuals who have been convicted of a crime against children from being in a position, in the context of paid or voluntary work, to inflict further harm on children, addresses a concern that the Office had been raising since its inception in 2003.

In view of the non-retroactivity of the law, further structures, such as child-friendly reporting avenues, need to be put in place in order for children to be able to come forward where necessary so that individuals who are not on the register but who nevertheless

pose a potential risk to children are also not in a position to cause harm to minors.

Juvenile justice

The Office is pleased to note that plans have been initiated for a revamp of YOURS, the correctional facility that caters for young inmates, which plans include the relocation of the facility to a site which is situated outside the precincts of the mainstream correctional facility, and the design of the new premises that will enable YOURS to cater also for female inmates. This change means that children detained in prison will no longer be vulnerable to the stigma and the negative influences associated with Corradino Correctional Facility. It is also positive to note that the educational and therapeutic components of the section's programme will be bolstered within the new structure.

The Office believes that the new YOURS structure should not accommodate adult first-time offenders, as the risk of exposing minors to the influence of adults, who while not being hardened criminals may potentially be chronic offenders, should be avoided.

Juvenile court - co-accused minors

Accused minors do not have the right to have their cases heard before the Juvenile Court when they are charged as co-accused with a person who is over 16 years of age. Measures should be taken in order to establish the right for minors not to be considered as co-accused and to have their cases heard before the Juvenile Court.



Kristina
Luqa Primary Year 1,2

5. Children's Right to Health

States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

(UN CRC, Article 24)

Account of Activity conducted during the Year

Education, Awareness-raising and Consultation

Healthy eating and exercise

In view of the growing concern about the very high rates of obesity and overweight among Maltese children, the Office embarked on a project to raise greater awareness among Maltese children about the importance of healthy eating and exercise as the best way to avoid putting on and to shed excess weight, thus staying healthy for as long as possible.

The project consists in the development of an activity book that conveys the message just described in a way that captures the interest and imagination of children. The design and presentation of the material has been entrusted to a group of teenage students from the Institute for Art & Design (MCAST), whilst the content of the same material in terms of the health-promoting messages contained in the material is being managed by the Department of Health Promotion and Disease Prevention within the Ministry for Health, Elderly and Community Care. The Office, which is coordinating the project, aims to complete the production of the material and to disseminate it amongst children in 2012.

Also on the subject of healthy eating, the

Commissioner took part in the launch of an educational project accomplished by the students of the Marsaskala Primary School. The students presented the Commissioner and other special guests with the well-researched and visually attractive results of their work about how children could eat healthily and how important it was for their present and future well-being to do so.



Commissioner for Children during visit to Marsaskala Primary School

Children with down syndrome

As part of the Down syndrome Awareness Week 2011, a group of workers from INSPIRE, parents and children following its programme PACES visited the Commissioner for Children in order to brief the Commissioner on the content and purpose of the week of activities

they were organising. They also sought the Commissioner's support for their efforts to sensitise the general public about the potential and abilities of persons with Down syndrome to contribute positively to society. The Commissioner congratulated her guests on their initiatives and pledged she would strive to ensure that the rights of children with Down syndrome living in Malta were always respected.



Christmas and carnival at Mater Dei 2011

In order to allow children hospitalized at Mater Dei not to miss out on the mirthful spirit of Carnival, the Commissioner, accompanied by the Office's mascot, *Ġuġinu l-iljuncinu*, and by 50 students from the Institute of Community Care (MCAST), who were all dressed up in Carnival costumes, visited the children in hospital during the Carnival period. Throughout the visit, the students engaged with the children in a variety of fun and colourful activities whilst the Commissioner described Carnival as a traditional feast in Malta which all children should have the opportunity to celebrate.

Another activity was organised at Christmas time for children in paediatric wards at

Mater Dei Hospital (MDH) where a group of secondary school students from the Convent of the Sacred Heart School Foundation helped the Commissioner to entertain and to give out Christmas presents to all children at the wards. The Commissioner also visited children at the Young People's Unit (YPU) at Mount Carmel Hospital during Christmas time.



Advocacy

Mental health in children

The Commissioner publicly aired her views on the subject of children and mental health during various occasions and particularly during a seminar on the same subject organised by the Mental Health Association of Gozo. In her address, the Commissioner welcomed the progress that had been recently accomplished towards the introduction of a revised and rethought Mental Health Act, which among other things provides for special arrangements for children who suffer from mental ill-health. Ms D'Amato expressed her hope that such legal safeguards would soon be accompanied by the provision of therapeutic structures for underage mental health sufferers to complement the role of Mount Carmel Hospital as an acute psychiatric care facility. On the prevention front, the Commissioner stressed the need to enable children to acquire the necessary resilience and coping skills for them to overcome hardships and life stressors which, in a significant number of cases, could precipitate a loss of mental health in children, who, she underlined, were inherently vulnerable to the onset and effects of mental ill-health.



Indicators of child health and well-being

In a detailed comment to a weekly newspaper, the Office gave its reaction to the disconcertingly low score registered by Malta with regard to child health and well-being. The Office analysed the ten indicators that made up the global score, pointing out that

the poor rating given to Malta was down to six of the ten indicators, such as obesity and physical activity, being among the worst in Europe. In its comment, the Office advocated for the release and implementation in the earliest timeframe possible of a national strategy on healthy weight in order to coordinate and intensify efforts to control and reverse the high incidence of overweight and obesity particularly among children.

Intervention

Individual cases

As shown in chapter 1, individual cases dealt with by the Office that were related to issues of health were very small in number, representing 2% of the all the complaints and requests for assistance processed by the Office in 2011.

Age-appropriate mental health structures for children

As a follow-up to the proposal by the Task Force to 'set up an alternative therapeutic structure for young people, aged between 12 and 17 years of age, with mental health problems', the Commissioner teamed up with the Commissioner Designate for Mental Health, Dr John Cachia, and with the Clinical Chairman for Mental Health, Dr Anton Grech, in an informal working group to discuss and find practical solutions to the problem of the lack of age-appropriate mental health structures for children. The first target the group is aiming to reach is to identify a space on the outskirts of MCH where teenage children with very challenging behaviour requiring psychiatric treatment and monitoring, who are currently kept in adult wards, can be accommodated and provided a care programme that is specific to their needs and ages. The group will continue meeting regularly in 2012 to finalize the work initiated this year and to broaden its discussion and action to encompass the proposal of the Task Force and the issue of the early identification of children at risk of mental ill-health.

Road safety

In response to a complaint received by the Office about the safety risks to pedestrians posed by the poor planning of zebra crossing markings on a number of primary roads, the Commissioner held a number of meetings with Transport Malta in order to verify the true nature and scale of the deficiencies reported, and to rectify them, where necessary, in the shortest time possible. As a result of these meetings, the necessary changes were made to the points along the road where zebra crossings were marked, thereby eliminating the earlier risks to pedestrian safety, including child pedestrians.

Research and Investigations

Child-friendly health care

The Office participated in a Europe-wide research project conducted by the Council of Europe that aims to throw light on how child-friendly healthcare services are across Europe. Three employees of the Office obtained permission from the administrative and clinical authorities of Mater Dei Hospital to visit a number of children's wards in order to ask questions about the experience of health care to some of the children present in the out-patients and dental clinics on the basis of the questionnaire provided by the Council of Europe. The children's responses were recorded by the three Office employees and sent to the Council for processing. Nevertheless, the general impression was that there was a high level of satisfaction among the children interviewed with the health care services received at MDH.

Participation in Children's Rights Networks and Fora

The Office endorsed the Government's decision to sign the Council of Europe's draft declaration 'Child-friendly healthcare: building a health future for and with children'. In its response to the Government's request for endorsement, the Office noted the highly positive content of the declaration which could thus serve as a benchmark against

which to measure how child-friendly health care services actually are.

Considerations and Concerns Regarding the Situation of Children in Malta

Mental health

After a period of apparent stasis in the drive to revise the country's Mental Health Act, the process was kick-started with the appointment of a designate Commissioner for Mental Health and the entry of the revised act upon the path of Parliamentary consideration and approval. The main merit of the revised act lies in its strong patients' rights perspective and, within such a perspective, in the tailoring of its provisions to the special needs of children who are directly or indirectly concerned by issues of mental health. It is hoped that this process will result in the enactment of the bill in the shortest time possible given the importance and urgency of the subject matter.

As described above, the Commissioner for Children was actively engaged in this process, not least through meetings she had with the designate Commissioner for Mental Health. This engagement is expected to continue in order to ensure that the necessary age-appropriate structures for the provision of mental health services to children are in place by the time the act comes into force. Of particular urgency and concern is the lack of ad hoc acute and residential therapeutic structures for minors with a clinical profile of mental health illness and challenging behaviour.

Prevention should always be seen as ultimately the best approach to addressing mental ill-health in children. In this respect, the finding emerging from a research study by Cefai and Camilleri published last year that about 10% of Maltese young children are experiencing significant difficulties in their social and emotional development and are at significant risk of experiencing mental health problems is cause for concern. The Commissioner's collaboration with

the designate Commissioner for Mental Health is geared also to exploring ways and means how primary prevention and intervention of mental illness in children can be strengthened.

Sexual health

The Office welcomes the launch of the National Sexual Health Strategy, which provides a roadmap of measures to be implemented in order to realize the aims set out in the National Sexual Health Policy launched previously. The stage is now set for the Government to act to address a number of issues that are critical to the sexual health of people and children in Malta, including the dearth of research on prevalent sexual practices and viewpoints amongst the young, and the provision of an open and holistic programme of sexual education to all children in Malta.

Screening at birth

Work initiated last year on the drafting of a policy for addressing rare diseases, which should also incorporate neo-natal screening in it, is ongoing. The Office urges the Government to step up action on the policy so that more children who are predisposed to suffering from conditions that result in ill-health can be identified and treated at an early stage in their development in order to prevent serious health problems later on in the child's life. At present, only two neo-natal screening tests are provided through the National Health Service.

Consumption and selling of alcohol to minors

Binge drinking by underage revelers is a sad reality of the local youth party scene. This reality must be addressed by raising the minimum drinking age to 18 years, and by increasing enforcement of laws related to the sale and consumption of alcohol in a way which takes into account all outlets where children may have access to alcohol. The Office urges Government to revive efforts to launch a holistic and comprehensive alcohol policy and strategy which can address its concerns.

Dependency from drugs

The Office is concerned that there is as yet no specific structure and programme to deal with children who have problems of drug dependency. Children with such dependencies are receiving the same care and attention as adults with similar dependencies are receiving. One needs to actively consider whether the structures and the programmes provided are age-appropriate and whether these can be detrimental to children when they mingle with adults in the context of drug rehabilitation programmes. The Office urges the authorities to develop age-appropriate residential and non-residential drug rehabilitation programmes for children with drug dependencies.

Age of medical counselling and treatment

International guidelines and practice suggest that the age of consent to medical counselling and treatment is to be set not, a priori, by chronological age (18 being majority age) but by age of maturity and understanding of the individual, as determined through scientific tools such as the Gillick Competency and the Fraser Guidelines. Unfortunately, there are gaps in local legislation which leave the choice of criterion for judging a minor patients' ability to give informed consent at the discretion of the medical professional. This means that children who would be capable of deciding for themselves could not gain access to the medical counseling and treatment which would be beneficial to their health as they may be reluctant to obtain such access through their parents or legal guardians, especially where issues of sexual health are at stake.

The Office notes with satisfaction that the newly published Sexual Health Strategy proposes the issuing of guidelines to health care professionals for them to be able to safely offer sexual health services to minors without parental consent. Notwithstanding such guidelines, the Office is still of the opinion that legislation should be amended to emphasize the age of understanding and the doctor's discretion in assessing such age as the golden rule of consent to medical counseling and treatment.

6. Children's Right to Education

States Parties recognize the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity...

(UN CRC, Article 28)

Account of Activity conducted during the Year

Education, Awareness-raising and Consultation

Student councils

The Commissioner for Children held meetings with a number of Student Councils. The purpose of these meetings was to provide support through education about children's rights and about the role of the Commissioner in children's rights advocacy on a national level in order to help the councils fulfil their role of voicing the concerns of students to the school administration and advocating for the rights of the students they represent.



Commissioner for Children
with members of a Student Council

MCAST marathon

This charity fund-raising event organised by the MCAST Institute of Community Services showcased the multifarious skills acquired by the students of the Institute in the course of their studies. Present at the event to admire the products of the students' learning were a number of school children together with the Commissioner for Children, who praised the students and the Institute for their efforts and abilities.



Commissioner for Children with a young
student during activities organised by MCAST

Advocacy

National curriculum framework

The Commissioner participated extensively in the process of consultation steered by the Education Division on the draft framework for a revised National Minimum Curriculum.

In her address to an assembly of school children who were present to express their views on the draft framework, Ms D'Amato endorsed the core principles of the framework. She emphasised the need to extend the content of learning beyond the narrow boundaries of the core academic competencies in order to embrace learning areas that were just as important to the moral and intellectual development of children; and the framework's mission to put children, with all their differences of learning styles and potential, at the heart of the learning process, thus allowing them to be active rather than passive learners.

The Commissioner expounded her thoughts on the latter principle during a panel discussion, addressed to professionals and practitioners in the education sector, which focused on the question of whether the draft framework was able to help all children develop their maximum learning potential. Ms D'Amato emphasized that, for this to happen, the education system had, amongst other things, to focus less on telling children what to learn than on teaching them how to learn.



meeting with the highest officials within the Education Division, the Commissioner advocated for the inclusion of Children's

Rights as a study area in its own right within the learning area of Citizenship Education. Her suggestion was positively received. It is hoped that the framework's vision of placing the student at the centre rather than at the end of the educational process can be realised in the long term through a well timed and paced strategy of reforms in the education sector.

Intervention

Individual cases

Complaints and requests for assistance received by the Office that were related to education accounted for 32% of all the individual cases tackled by the Office. The issues behind these complaints and requests for assistance included absenteeism, Learning Support Assistants and others.

Considerations and Concerns Regarding the Situation of Children in Malta

Children leaving school after compulsory education

Continuing formal education beyond the last stage of compulsory schooling is nowadays vital for a person's economic, occupational and overall well-being. Unfortunately, one-fourth of students who reach the end of their mandatory educational pathway, i.e. who complete secondary schooling, choose not to move forward along this pathway by enrolling in a tertiary educational institution, such as Junior College, Higher Secondary and MCAST. Such a trend is detrimental to the future prospects of children and to the country as a whole.

There can be a number of reasons why children do not move on to tertiary education. One can mention that some might not have acquired the necessary academic competence to progress to a higher level. It can also be the case that some are reluctant as the prospect of paid employment is more attractive to them. Considering that the reasons may be varied,

the initiatives that are to be taken should be just as varied in order to address the issue.

The Office notes that various initiatives and programmes are being organized in order to enable young persons who finish compulsory schooling to attain success in higher education, most notably by the Employment Training Corporation (ETC) which runs different Youth Schemes and training programmes, and the Foundation for Educational Services, whose scheme, *Youth.inc*, which was rolled out this year, is working towards this end. It is, however, recommended that within this group one needs to be very much aware of those children with specific learning difficulties, such as dyslexia. These need to be identified and supported through individually tailored programmes to address their difficulties.

Efforts are also being made to motivate school-leaving youths to continue their education. In this respect, vocational courses introduced at foundation level at MCAST and spread over two years to make up for the lack of academic qualifications are offering these youths a wider range of options with respect to tertiary education. However, the Office believes that further opportunities should be made available to children to explore other avenues of vocational training which do not necessarily take place within an academic environment.

The Office applauds the initiative spearheaded by the University Rector to support academically gifted youths hailing from areas in Malta that produce significantly

fewer University graduands and graduates to make the step to enter University.

It is extremely important that these and other such measures taken to enable and/or motivate students to embark on tertiary education are sustained by a well-oiled synergy amongst the various players involved, namely the Education Division, ETC, the tertiary education institutions themselves, such as MCAST and University, and the industry.

Private lessons

Lessons offered outside the school system to students who require additional support in a specific academic discipline in preparation for an exam, have long been an informal mainstay in Malta's educational landscape. This situation raises various concerns.

One can say that this is due to lack of teaching in schools or that undue pressure is being put on children by parents as well as by the teachers themselves. Whatever the reasons why so many children attend private lessons, those involved in the organization of the education system would do well to reflect on the situation.

Irrespective of the causes and reasons, this practice needs to be regulated against any abuses that may be perpetrated to the detriment of children. The office welcomes the process initiated to this end, by the Education Division. It augurs that a regulatory framework which protects children from abuse, without stifling the sector, is set up as early as possible.



Victor
Luqa Primary Year 1,2



7. Children's Right to an Upbringing and Alternative Care

States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

(UN CRC, Article 18)

A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

(UN CRC, Article 20)

Account of Activity conducted during the Year

Education, Awareness-raising and Consultation

Consultation with children at Fejda and Jeanne Antide

The Commissioner for Children visited the young girls at Fejda and St Jeanne Antide a number of times during the year. On one occasion it was the girls themselves who asked the Commissioner to meet them as they wished to communicate to her a number of recommendations. Such recommendations were communicated to the relative authorities.

Advocacy

The effects of parents' divorce on children

Throughout the heated debate that characterized the campaign for the referendum on the introduction of divorce, the Commissioner for Children maintained her stance that children suffered, both in the short term and in the long term, from the breakdown of their parents' marriage irrespective of whether such breakdown resulted in a separation, annulment or in a divorce. Ms D'Amato also insisted that the perspective of children and their right to live in a harmonious family environment was as important as any other factor in the consideration of whether or not Malta should adopt divorce legislation.

Parenting towards resilience

The role of parenting in the development of resilience in children was the theme of a one-day conference organised by *Aġenzija Sedqa* within the Foundation for Social Welfare Services in collaboration with the Office of the Commissioner for Children. The conference, which was targeted to parents, featured a message by the Commissioner for Children, in which she harped on the importance of development of resilience in children in the light of the particularly complex challenges faced by children in today's world. Ms D'Amato stressed that parenting was a key factor in this development and that neither an over-protective style of parenting nor an overly permissive one were conducive to nurturing resilience in children.



Out-of-home care

The Commissioner spoke in public on a number of occasions about the importance of foster care as an alternative to the biological family where this cannot provide the desired care for children. She said that while one must take stock of the good work of the institutions run by the Church, one also acknowledges that a family environment is best provided within a family unit rather than an institution.

The Commissioner also emphasized that any alternative living arrangement to the child's family, be it foster or residential, had to conform to the quality standards that had been set as the benchmark in this field,

namely the National Standards for Out-of-Home Child Care as well as the Model Policies and Procedures for Out-of-Home Child Care.

There were also several instances when the Commissioner also dwelt on the issue of child-day care in her public statements. When doing so, she noted that there was an expansion of the child day care sector in Malta and highlighted the importance of ensuring that all child care centres are in line with the National Standards for Child Day Care Facilities in order to protect the well-being of children using such facilities.

On such occasions, the Commissioner reiterated her call for the Department of Social Welfare Standards to be endowed with the necessary legal personality to enable it to enforce these and other standards related to the care of children wherever any alternative care is being provided. (also see chapter 2, Considerations and Concerns regarding the Situation of Children in Malta, Child Services).

Intervention

Individual cases

Issues related to the upbringing or alternative care of children were behind the majority of individual cases followed by the Office in the course of the year, i.e. 35%, or over one-third of all the individual cases.

Recommendations

Parenting skills

Discussions were held by the Commissioner with the social welfare agency *Sedqa* towards setting up parenting skills courses focused on the particular needs and circumstances of single parents. This need was felt in view of the lack of a specific parenting skills course for single parents and in the light of the growing number of single parent families in Malta.

Research and Investigations

Research on looked-after children

Further progress was made in the course of the year towards the completion of the three-pronged research project concerning children in out-of-home care which the Office of the Commissioner for Children commissioned from a team of established researchers in the field in 2007. The purpose of the project was to provide the scientific basis on which a comprehensive national policy and strategy for out-of-home care in Malta could be built.

The three phases of the research project were the following:

- i. The Effect of Institutional Placement for Children under five years of age
- ii. Mental Health needs of Children in Care
- iii. Exploring the long term outcomes of youth leaving care

The first phase of the project, which consisted of a literature review of international research, was concluded and presented to the Office in 2009. The main finding which emerged from this review was that children under five years of age suffer long-term consequences from not having a personal carer who can take on the role of a parent, hence foster care is the out-of-home care arrangement of choice for this age-group.

The second phase of the project, which was a quantitative study on the psychological and behavioural needs of all Maltese children in out-of-home care, was concluded and presented during a consultation seminar organised for this purpose to a select group of stakeholders who had formed part of the focus group that was set up at the beginning of the research project. The study highlighted the complex mental health needs of children in out-of-home care.

Findings for the third phase of the project, which consisted of a qualitative study, were also presented to the select stakeholders, whose feedback was taken on board.

The writing of the synopsis for the three study areas is expected to be finalized in 2012 and published as a book, whilst the

entire research work will be published in the form of an e-book.



Research Team presenting the findings of the research to the focus group

Participation in Children's Rights Networks and Fora

The rights of children in care were the theme of two regional conferences which the Office participated in.

The first, in chronological order, was a workshop organised by the Council of Europe in Tallinn, Estonia, where the Office was represented by the Policy Officer who gave a presentation on the strengths and weaknesses of Malta's system of after care services for children in out-of-home care. A point made in the presentation was that the success of the after care phase depended as much on the quality of the care provided throughout the care phase as it did on the quality of the after care services.

Furthermore, whilst a number of worthy initiatives had been taken to help children leaving care thrive outside their care setting, such as a rent subsidy scheme for children exiting residential care, Malta's out-of-home care services were still not designed to ease the passage from care to independent living or reunification with the family as a matter of course. The workshop also dealt with the other phases of out-of-home care, namely the phase before care and the phase during care, and provided a constant juxtaposition of institutional care and foster care.

The Office also took part in the ENOC Annual Conference which focused on

the respect and the rights of children in institutional care. In this conference, the Office was represented by the Commissioner and Task Manager, who gave a presentation of the activities and good practices carried out by the Office. The purpose of the conference was to present the findings of a survey carried out by ENOC in twenty-one European countries on children and young people in institutional care.

The picture that emerges from these findings is that there are certain gaps in the respect for the rights of children in institutional care, most notably insufficient procedures for complaints by and consultation with children in care.



Ms Helen D'Amato participating in the ENOC Annual Conference

Considerations and Concerns Regarding the Situation of Children in Malta

Divorce

The debate and referendum on divorce have led to an increased and shared understanding of the need to strengthen families in Malta in the face of the sad reality of marriage breakdowns and the adverse effects of such breakdowns on children. This understanding was evident in Parliament in the discussion of the legislative amendments for the introduction of divorce, and in the decision to set up a committee that would concentrate on family affairs.

With regard to the former, the Office applauds the introduction in the Civil Code of additional safeguards for children

facing the breakdown of their parents' marriage, namely the extension of the right to maintenance to children of divorced parents and to children who are in full-time education till the age of 23. With regard to the latter, the Office augurs that the Family Affairs Committee will prove itself to be an effective backbone to Parliament on all issues related to the family.

Family-based out-of-home care

The Office notes with pleasure that the drive to shift out-of-home care from residential care to foster care has acquired further momentum through the rollout of new services and the consolidation of existing ones. The newly set up services of 'specialised home-based care' and 'freeing for adoption' run by Appogg within the agency's out-of-home care programme should go a long way towards offering all children who are separated from their biological families the chance to be nurtured individually rather than as part of a group. The extension of the foster care allowance to until when the fostered child turns 21 is also conducive to this desired shift. On the other hand, the concerns of foster carers, as publicly voiced by the National Foster Care Association, must be heeded and addressed in order to encourage more families and individuals to take up child fostering.

Residential out-of-home care

The main overall objective in the area of residential out-of-home care is to bring the residential homes for children, run by the Church, in line with modern-day standards and methods of care provision. While such standards and methods have been established for a number of years, their practical enforcement and application are still in gestation. It is hoped that all the necessary intermediate steps leading to the concrete standardization of residential homes for children in Malta, most notably the process of rendering the standards legally binding and mandatory, will be completed in the near future.

The co-management of residential homes, a recently developed concept and service as part of the out-of-home

care programme whereby the homes will be managed jointly between the Church provider and the Government social welfare agencies, is another important step towards the modernization of residential homes for children. It is hoped that the necessary synergy can be found for such co-management to work to the benefit of children in residential homes. Such an operational structure at the level of the day-to-day management of the individual homes needs to be supported by a clear vision of the role of each residential home for children within the overall setup and plan for out-of-home care in Malta.

In this respect, it is unfortunate to note that implementation of a 10-year strategic plan for the reconfiguration of residential homes for children, which was drawn up a couple of years ago by the then Ministry for Social Policy, seems to have ground to a halt. The Office calls for this plan to be rethought and reformulated into a broader and more holistic strategy that incorporates and defines the respective roles of all forms of child out-of-home care in Malta.

As far as the availability and accessibility of residential out-of-home care is concerned, the Office reiterates its concern over the absence of residential care facilities in Gozo following the closure of Lourdes Home in 2008. No progress seems to have been registered towards the creation of such facilities in Gozo.

Voluntary placement of children in care

Children in care are psychologically vulnerable. The Children and Young Persons (Care Orders) Regulations consider the needs of children who are in care on the basis of a care order. A special fund, administered by the Advisory Board sees to the various needs of children as they arise. On the other hand children who are placed in voluntary care, often against a background of mental ill-health, substance abuse and other social problems, and who are thus as vulnerable as children under a care order are not catered for in the same way.

As described above, the Office intensified the call it has been making since 2003 for such a situation to end by presenting a recommendation through the Task Force for an amendment to the aforementioned regulations, the extension of the necessary financial provisions for psychological

support services to all minors in care, and the expansion of the current organisational setup which manages the care order system, including the allocation of services and resources to minors in care, so as to encompass all cases of looked-after children.

Care orders

So critical is the home environment to a child's development and well-being that, under Maltese legislation, the child can be lifted from his natural family environment by means of a care order and placed in alternative care if it is determined that the child's family is not able to provide a safe and nurturing environment to the child. Early identification of needs is of paramount importance.

Despite such a solid legal framework, the law does not always guarantee the necessary protection to children at risk as alternative placements are not always being found for all children who need protection and who are thus denied the right to a positive care environment.

This situation thus calls for an increased investment aimed at enhancing the availability of alternative accommodation for children. This investment must also factor in the need to provide children with a therapeutic environment in terms of their social, emotional, physical, and psychological well-being where the children can thrive and grow. In this respect, a review of present facilities, especially for children in their teens, is highly recommended.

After care for children in institutions

One of the major lacunae in the residential out-of-home care system is that children are not adequately supported to make the transition to independent living as adults at age 18. It is positive to note that some homes are addressing this lacuna, such as for example Dar San Ġużepp whose newly set up Independent Living Project is providing a transitional structure and programme for children from the age of sixteen. It is hoped that a well-designed and tailored after care plan will soon become an integral part of the care programme in all residential homes for children in Malta.

8 Children's Right to ECONOMIC SECURITY

States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

(UN CRC, Article 27)

Account of Activity conducted during the Year

Advocacy

Child poverty

The Office was asked by the editor of a weekly newspaper in Maltese to publicly comment on a statistical report released by the National Statistics Office which gave an alarming picture of the economic situation of children in Malta.

In its comment, the Office remarked that children were the age-group that were at the highest risk of poverty and that this risk had risen when compared to a year before. In its interpretation of the report, the Office further remarked that this deterioration of the economic situation of children had occurred despite the increasing wealth of the Maltese population, as evidenced in the same report. Bearing this out was the fact that the poverty risk among children was mostly concentrated in the region south of the Grand Harbour, which is often referred to as a depressed area of Malta.

The Office also highlighted the fact emerging from the report that children in single-parent households were among the sub-groups that were most exposed to the risk of poverty. The growing number of single-parent households was thus likely another factor contributing to the increase

in the poverty risk rate of children.

In the light of this situation, the Office's comment called for a sturdier effort on the part of the authorities to address the social malaise that was causing families with children to be on the brink of poverty. The Office stressed that children were hapless victims to their families' economic difficulties and that a situation of poverty or near poverty denied them their right to have sufficient economic means available for their sustenance and development.

The child poverty situation in Malta was discussed in a number of TV programmes, to which the Commissioner was invited to air her views on the subject. The Commissioner's statements during these programmes focused inter alia on the plight of particularly vulnerable children, such as children in conflict with the law, and children suffering from mental health problems, whose situation placed them at a greater long-term risk of experiencing poverty.

Intervention

Individual cases

Despite the negative situation of children with respect to economic security on the macro level, the number of individual cases

where the primary problem was of poor economic security was nil.

Participation in Children's Rights Networks and Fora

The Office participated, through its Project Officer, in a conference on child poverty organised by Eurochild, a Europe-based network of organisations and individuals working to improve the quality of life of children and young people. The conference, which was held in Wales, explored how child poverty can be alleviated by working with and helping families and demonstrated the Welsh government's holistic strategy in this regard.

Considerations and Concerns regarding the Situation of Children in Malta

Addressing the issue of child poverty in Malta requires a holistic strategy designed to break the intergenerational cycle of poverty by reaching out to marginalized families through services coordinated and delivered from family centers situated in the community. More so, such a strategy must be supported by clear and measurable targets, time-frames for reaching set targets and the commitment of the required resources over the long term.

Whilst much has been done to reach out to families in need, efforts should be integrated within a national strategy as described above. A positive development this year was the introduction of a separate and more favourable tax band for adults who are raising children.

Luke
Luqa Primary K 1,2





Children's Right to an Identity

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.

(UN CRC, Article 7)

Account of Activity conducted during the Year

Advocacy

Public transport

In a comment to a newspaper, the Commissioner condemned the policy adopted by the public transport operator, *Arriva*, to make children under 14 years of age show their birth certificates when boarding a bus as proof of their age and residency status in order to determine which fare scheme they were entitled to. Ms D'Amato described the practice as needless (since 11-13 year-olds can safely be assumed to be residents since children of this age-group who are not, do not usually travel to and within Malta unaccompanied by adults), ineffective (as birth certificates do not carry proof of residency), and unethical (since birth certificates may carry information which is intimately personal and confidential in nature).

Intervention

Individual cases

The number of cases concerning children's right to an identity that were tackled by the Office was very small, accounting for just 1%

of all cases. However, it is worth noting that the Office was alerted to the policy adopted by the public transport operator through a complaint it had received.

Recommendations

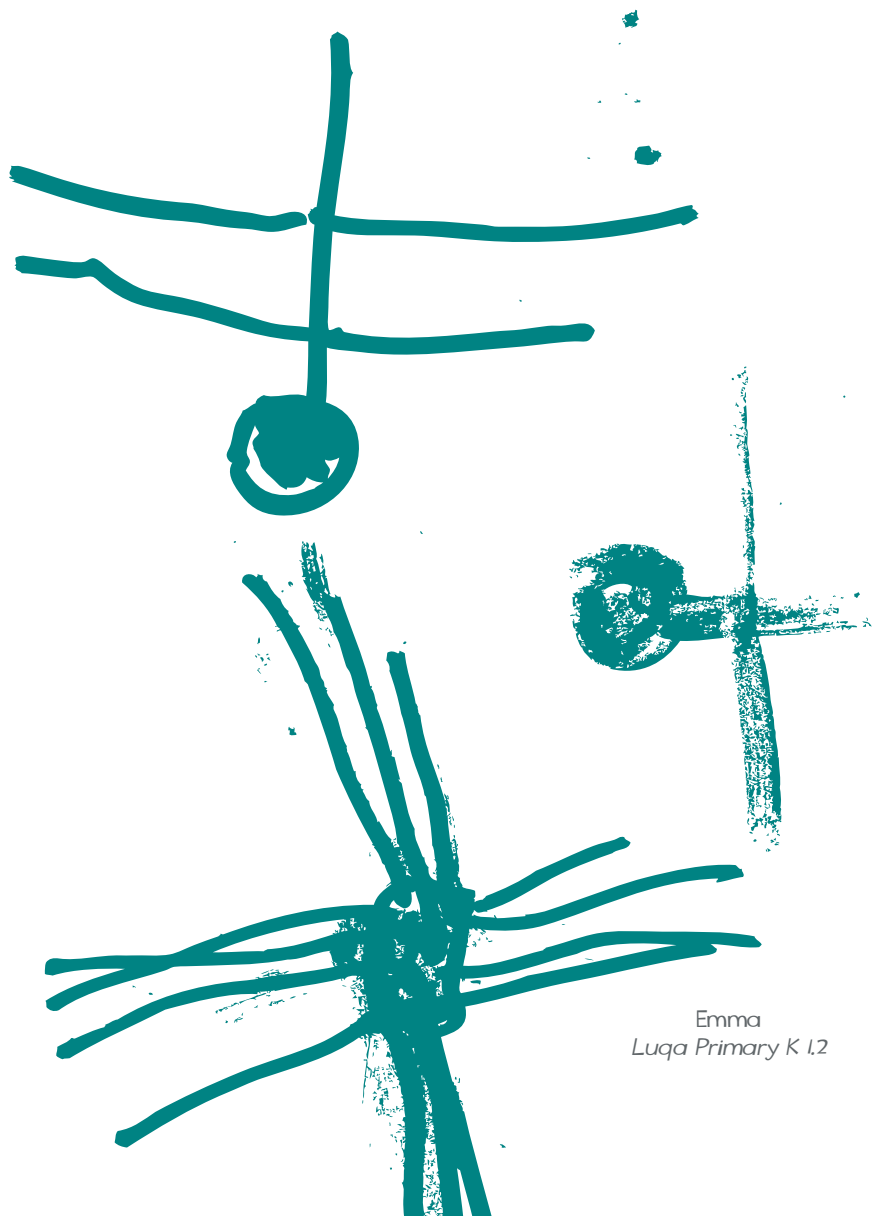
Registration of children

The Office got wind of a few cases of children who, upon being followed by child social welfare services, had been found to be not registered with the Office of the Public Registry. Non-registration of children inevitably results in children losing out on a number of crucial rights, notably economic rights (i.e. children's allowance) and health rights (i.e. immunisations). On account of the serious implications of non-registration, the Commissioner set up an informal working group composed of officials from the Office of the Public Registry and the Department of Health Information and Research, in order to establish the scale of the situation of unregistered children, to identify the shortcomings in the system that were allowing unregistered children to go unnoticed, and to propose measures for enhancing the efficiency of the system for

children to be registered soon after they are born, as is laid down in Article 238 of the Civil Code.

Public transport

The Commissioner lobbied with the Ministry for Infrastructure, Technology and Communications and with Transport Malta to ask the public transport operator to discontinue the practice it had adopted in connection with birth certificates, as described above. In due course, the Office was informed that Arriva had revoked its controversial policy.



Emma
Luqa Primary K 12

10.

EQUAL RIGHTS FOR ALL CHILDREN

States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

(UN CRC, Article 2)

States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

(UN CRC, Article 22)

States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

(UN CRC, Article 23)

Intervention

Individual cases

The Office tackled just one individual case concerning migrant children. This was about a child whose parents were irregular migrants who was denied free access to state kindergarten under the 'Exemption from School Fees Regulations'. It emerged that the access was denied due to the application having been made at a time when the board that reviews cases of requested exemption from school fees was temporarily not functioning. The denied access was thus resolved.

Recommendations

Issues of concern connected to the situation of migrant children

A number of concerns about the situation of unaccompanied minors in Malta were flagged to the Commissioner for Children by the United Nations High Commissioner for Refugees (UNHCR). These comprised the unclear entitlements and unfair conditions of entitlement that were imposed on the parents of migrant children, and various shortcomings in the living conditions prevalent within a number of open centres where migrant children were living. The Commissioner for

Children explored the concerns raised by UNHCR with the responsible authorities, namely the Department of Social Security and the Agency for the Welfare of Asylum Seekers (AWAS). A number of facts transpired in relation to these concerns.

The first was that migrants with subsidiary protection status were not receiving unemployment benefits, despite being entitled to this core social welfare benefit under the Qualifications Directive, because entitlement to these benefits was linked to registration as job-seeker with the Employment and Training Corporation, which migrants with this status were not eligible for. The Commissioner made a formal appeal to policy-makers for this issue to be resolved so that migrants with subsidiary protection, many of whom had children to maintain, would receive the benefits to which they were entitled. The Commissioner also urged the responsible authorities to increase the weekly allowance granted to unaccompanied minors.

The second fact that emerged from the Commissioner's visits to a number of Open Centres and from her meetings with the competent authorities was that due to various reasons basic amenities like cookers and heaters were not repaired immediately when broken. The Commissioner made it clear that migrants could not be denied access to basic amenities of daily living for any reason least of which bureaucracy.

Participation in Children's Rights Networks and Fora

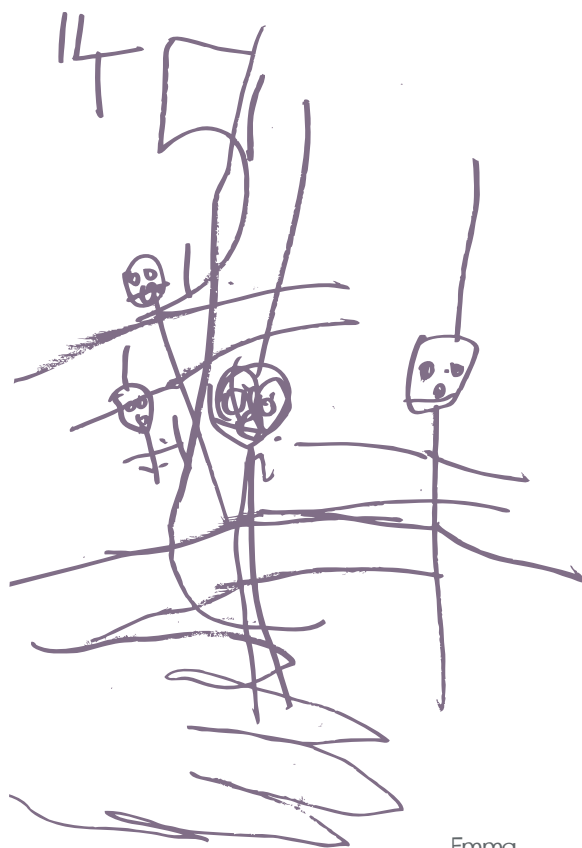
The Office was consulted in connection with a number of human rights initiatives dealing inter alia with minority children.

On the issue of the rights of migrant children, the Office provided feedback on two recasts proposed by the European Commission, namely to the Qualifications Directive, aimed at improving minimum standards across the EU with respect to the conditions of international protection to third-country nationals (i.e. requisites and

benefits of protection), and to the Procedures Directive, aimed at strengthening the procedures in place to ensure fair processing of applications for protection. In both cases, the Office commented favourably on the recast Directives as offering more guarantees vis-à-vis the rights of migrant children than did the Directives in their original form.

The Office contributed its perspective on the subject of racial discrimination against children, in connection with the reporting obligations resulting from Malta's ratification of the Convention on the Elimination of Racial Discrimination (CERD).

A similar input was provided in relation to two articles from a UN Draft Resolution on the Rights of the Child which focused on the reproductive rights of children with disabilities.



Emma
Luqa Primary K 12

11

CHILDREN'S RIGHT TO PROTECTION FROM ANY FORM OF ABUSE AND ECONOMIC EXPLOITATION

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

(UN CRC, Article 19)

States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

(UNCRC, Article 32)

Account of Activity conducted during the Year

Education, Awareness-raising and Consultation

Bullying

Material about bullying in the form of videos and cartoons is in the process of being co-produced by a group of youths following a course at the Institute for Art and Design within MCAST, a public tertiary education institution. The students are responsible for the artistic design and technical aspects of the productions while Agenzija Appogg, a national social welfare agency and the Anti-bullying section within the Department for Student Services, are monitoring the content of these productions.

Advocacy

Abuse

The Commissioner had several opportunities to underline in public the multi-faceted phenomenon of abuse of minors. In doing so, she quoted official statistics which showed that in the vast majority of cases, abuse was perpetrated by a relative to the child, and that abuse committed against children was mostly of a physical nature. The Commissioner stressed that the effort to protect children against all forms of abuse should be relentless.

Intervention

Individual cases

Individual cases related to abuse or economic exploitation of minors constituted just 2% of all the cases processed by the Office in the course of the year.

One such case involved the expression of concerns to the Office with regard to job exposure schemes that have been designed by a number of public school colleges to give secondary school children an opportunity to briefly but actively experience a work environment. The concerns raised regarded the safety of the work environments for children, the possible economic exploitation posed by the fact that children were not remunerated, and the children's absences from school as a result of their participation in such schemes. The Commissioner flagged these concerns with the education authorities and received reasoned reassurances that the appropriate measures were being taken to ensure that the safety and education of children were not being compromised by their exposure to a work environment, and that the non-remuneration of students was not a matter of exploitation since such schemes were essentially educational in their purpose and philosophy.

In this respect, the Commissioner for Children met the Director General for Educational Services and College Principals to discuss a number of issues that were raised. It was agreed that guidelines had to be set in order to address various issues.

Participation in Children's Rights Networks and Fora

The Commissioner and the Task Manager attended a conference in Poland entitled 'I love. I do not hit' The Whole Europe against Abuse' that was organised by the Polish National Competence Centre Foundation in collaboration with the Polish Ombudsman for Children. The aim of the conference was to raise awareness about the negative practice of corporal punishment of children and more generally about violence against children.

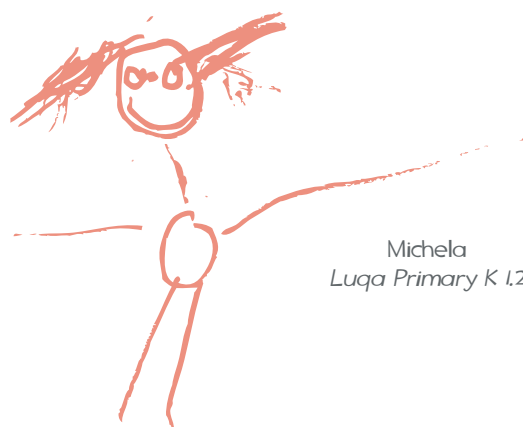
The Office contributed to the formulation of Malta's responses to a survey on a follow-up to the UN Study on Violence against Children. Specifically, the Office submitted answers to questions under the study's Recommendation 7, that is, on 'Ensuring participation of children'.

Considerations and Concerns Regarding the Situation of Children in Malta

Child labour

Following a recommendation that had been forwarded by this office, we are pleased to be informed that progress was registered towards harmonizing the two pieces of legislation under which charges of illegal child labour can be invoked, namely Subsidiary Legislation 452.92, Young Persons (Employment) Regulations under the Employment and the Industrial Relations Act, and Subsidiary Legislation 343.23, Man Power Records (Commencement or Termination of Employment) Regulation under the Employment and Training Services Act. Such harmonisation will lead to a stronger legal framework to curb illegal practices in the employment of persons who are below the age of sixteen.

More so, the Office is also pleased to note that the various procedural requirements for employment of a person under the age of sixteen have been harmonized into a single application form and process. This will make it easier for the authorities to better enforce regulation in this domain thus helping reduce abuse with regard to employment for children.



Michela
Luqa Primary K 1.2

CONCLUSION

As the preceding chapters bear out, a large number and variety of children's rights issues were addressed by the Office in the course of 2011. On each of these issues, the Office has attempted to bring about positive change, both in the long term, through children's rights education, awareness-raising, consultation and advocacy, and in the short and medium term, through research and intervention on the micro and macro levels.

However, such change often takes time to mature despite all the efforts that are made to bring it about. Creating a culture of respect for children's rights through education and awareness-raising is an ongoing process which sometimes meets a certain resistance from a general attitude of scepticism towards the very concept of children's rights. Bringing about change in policies and procedures can also be a slow process in that it requires the political will to implement the recommendations made by

the Office and other stakeholders. Further to this, it must be admitted that the breadth and complexity of pending and emerging children's rights issues makes it impossible for the Office to address all issues at the same time.

Notwithstanding these limitations, the Office of the Commissioner for Children is, eight years from its inception, slowly but surely consolidating its role as a catalyst for change towards a fuller respect for the rights of children in Malta. In a democratic society like ours, positive change is brought about by the combined and integrated forces of all the stakeholders who are actively working to promote the well-being of children. The Office will continue striving to act as the lynchpin that can bring all the stakeholders around the same table and help foster a constructive dialogue and shared understanding of how the rights of children in Malta can be advanced.



Angelo Abela
Luqa Primary Year 1.2

Nathan
Luqa Primary Year 12

