



Kummissarju għat-Tfal  
Commissioner for Children

# Annual Report 2013

Office of the Commissioner for Children



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

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# Message from the Commissioner for Children



Ms Helen D'Amato.

Every year, our Office tries to take inspiration from the theme of the European Year and to imbue as far as possible its activities for children with such theme. Symbolically, this is an important effort in that it highlights two important aspects of our Office's work, namely the fact that the rights of children supersede national boundaries, and that as a nation Malta is working to realise the rights of children within the context of its membership of the European Union, which is a strong advocate for the rights of children on the international stage.

In 2013, the European Year was dedicated to citizenship. Etymologically, this word is connected to the concept of city. Cities came about historically when people realised the benefits of living together in a common environment by sharing resources.

*The true measure of a nation's standing is how well it attends to its children...*<sup>1</sup> As citizens, we take great pains through our laws, policies and structures to protect children from all sorts of danger and to promote their wholesome development.

However, much as we care for children, we tend to forget that children are not just citizens of tomorrow but are, above all, also citizens of today! This means that they have a right to participate in decisions and discussions that concern them directly or indirectly in line with their developing mental abilities.

The recent extension of voting rights to sixteen-year olds has been an important step in acknowledging that children are fully fledged citizens and in reminding us that responsibility and decision-making do not start at eighteen but are developed gradually since infancy and through the whole period of childhood.

As one will clearly see while reading this report, the right of children to participate as full citizens is a core belief which informs the activity of our Office. Our wish is that all those who care for children in one way or another, adopt this belief and give the children under their care the right opportunities to express their views and put these into practice without fearing or assuming that they will necessarily get it wrong.





# Background

## ***Why do we need a Commissioner for Children?***

All children in Malta have fundamental rights which all public or private entities are bound to respect. Children have these rights by virtue of the United Nations Convention on the Rights of the Child, which Malta has been a state party to since 1990.

The Commissioner for Children acts as an advocate or guarantor for the rights of all children in Malta, meaning that s/he has the legal autonomy and powers, which are conferred on her by the Commissioner for Children Act, to influence all entities to respect the rights of children fully and unconditionally.

## ***Who is the Commissioner for Children?***

Ms Helen D'Amato was the Commissioner for Children during 2013.

## ***What exactly does the Commissioner for Children do?***

Since the rights of children cover all aspects of their well-being, such as their health and their education, the Commissioner's remit is a broad one that cuts across a number of sectors.

The Commissioner can act to protect and promote the rights of children in a number of ways, namely by:

- Advocating publicly for the rights of children;
- Consulting with children about their rights;
- Educating children and the public at large about the rights of children;
- Investigating cases and issues that impinge on the rights of children;
- Recommending to the powers how to act in a way that is more respectful of the rights of children;
- Researching in a scientific way how far children are enjoying their rights.

## ***How does the Commissioner for Children do her job?***

The Commissioner for Children is not a one-man band but is supported by an Office that is equipped with the necessary human, material and financial resources to enable the Commissioner to fulfil her role in the best possible way.

The Office of the Commissioner for Children has a staff complement of 9 full-time workers (see diagram 1) and a part-time worker who does administrative work for the Office under the Me2 Coop scheme. As of the latter half of 2013, the full-time post of Case Officer has been vacant.

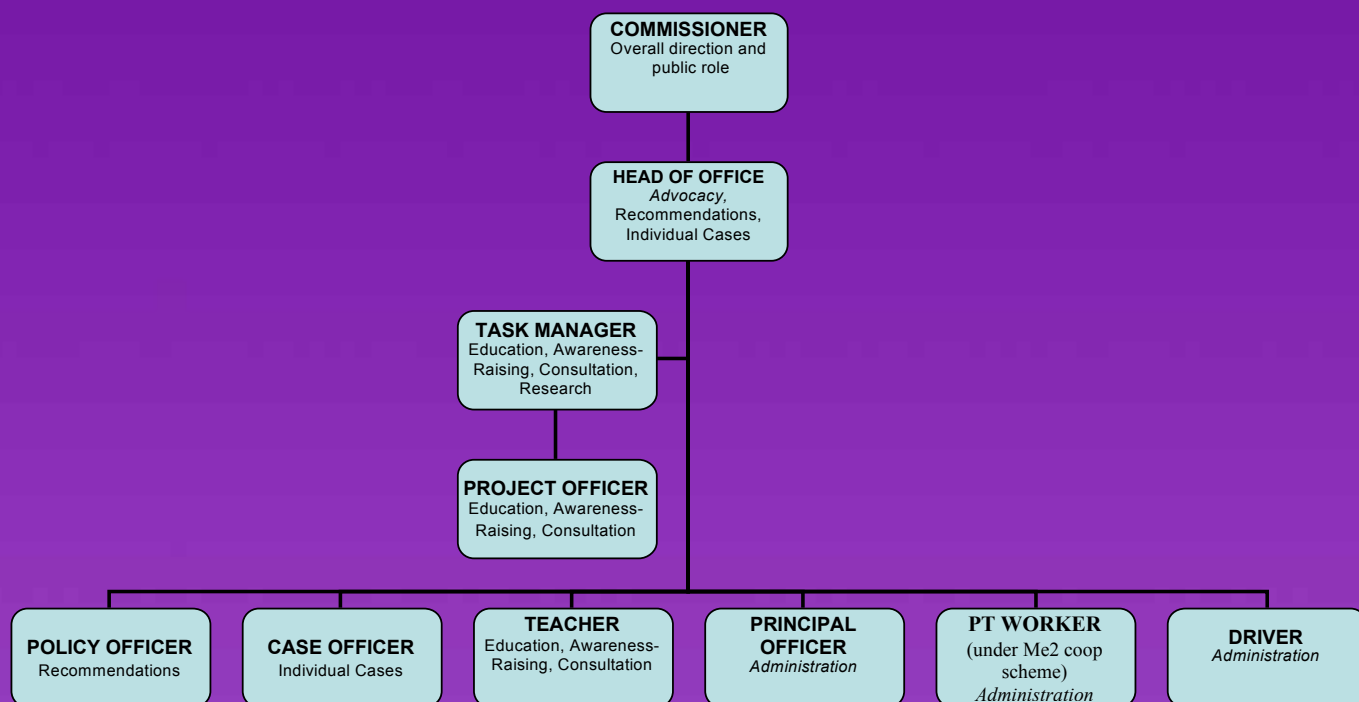
The Commissioner is also advised by a Council for Children which is made up of a number of individuals representing key Ministries and a number of children who are elected by their peers to sit on the Council.

The Office works from independent premises that are located in Sta Luċija. These premises are equipped with a children's room where younger children can be heard in an environment where they can feel comfortable to talk even about sensitive issues. The Office also has other facilities where older children can communicate their thoughts and feelings on such sensitive issues.

The Commissioner for Children works on an annual budget of €180,000 that is supplied by the central Government, to cover some of the wages and to finance activities and initiatives that benefit children. The Ministry for Health, the Ministry for Education and the Ministry for the Family and Social Solidarity also finance part of the wages for employees at this Office.



Diagram 1





# Introduction

The Commissioner for Children is required by law to prepare a detailed account of her work in the course of the calendar year, her concerns and her recommendations with regards to the rights of children in Malta and the reactions to such recommendations by the interested parties (Commissioner for Children Act, Article 19). The law also requires such report to be presented to Government and Parliament. In addition, it is also standard practice for the Commissioner to disseminate the report to the general public. Hence, the Office's Annual Report is a means not only of subjecting the Commissioner's work to institutional

and public scrutiny but also of raising awareness amongst the country's institutions and citizens alike about what more needs to be done to advance the rights and interests of children in Malta.

The report that follows fulfils this dual need in respect of the year 2013. The report is structured thematically around the particular rights of children which the Office's activities, concerns and recommendations are geared to protect and promote.





# 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)*

## Education and Consultation

### *Festa Tfal*

This annual event, held to celebrate World Children's Day, put children on centre-stage more than ever when 200 children from Form 1 and Form 2 classes, hailing from Government (including the Resource Centre), Church and Independent secondary schools from Malta and Gozo were split up into small groups and engaged, by experts in various fields, in a discussion about a particular right of children. Children were given the freedom to express their thoughts about the right discussed in a creative and colourful way. A number of other activities were also organised during this event. A session on internet safety was also carried out, by representatives from BeSmartOnline!, for the adults accompanying the children who participated in the event.

The event was held over two consecutive days at Verdala Palace and saw the distinguished presence of the President of the Republic, H.E. Dr George Abela, as well as the chairperson of the Parliamentary Social Affairs Committee, the Hon. Dr Deborah Schembri, both of whom addressed the children present. The Office of the Commissioner for Children was supported by a number of experts in various fields who facilitated the workshops, students of the Institute of Community Service (MCAST) as well as by members of the Malta Medical Students Association and St John's Ambulance in the organisation of this event.



H.E. Dr George Abela, President of Malta, addressing teachers during Internet Safety session.



H.E. Dr George Abela, President of Malta, speaking to the children during World Children's Day activity.

### *Rights4U*

This triannual live-in course was held over the summer months in Malta and Gozo. As many as 140 teenage children had the unique opportunity to speak and learn about their rights while also making new friends and acquaintances against the thematic backdrop of the European Year dedicated to Citizenship. During the course, the young participants put what they had learned about their rights and citizenship to practical use by getting the chance to vote in and contest the election of the Council for Children. During the course the participants also engaged in activities, relating to EU citizenship, which were organised for them by MEUSAC and the European Parliament Information Office in Malta.

# Children's Rights - General



Mrs. Catherine Gonzi, Mrs. Sarah Watkinson, Chairperson and Deputy Chairperson of the HSBC Foundation as well as Mrs. Helen D'Amato, Commissioner for Children with the Rights 4U participants.

The course held in Gozo saw the presence of a group of Tunisian youngsters whose participation was the fruit of the bilateral agreement between Malta and Tunisia signed in 2012 and enabled a healthy social and cultural exchange between young people from the two countries.

The youngsters were addressed by the Commissioner for Children, who was present for the entire duration of the courses, by Ms Catherine Gonzi, Chairperson of the HSBC Malta Foundation as well as Ms Sarah Watkinson, Deputy Chairperson of the said Foundation, which partly sponsors this activity.



## Meetings with Children

On several occasions, the Commissioner met with children in their schools to talk and listen to them with regards to their rights.

## Rights of Other Children

22 primary and secondary school children received a book prize awarded by the Office. The students were chosen by the teachers/senior management team of schools who accept to acknowledge the efforts made by children who show a strong consideration for the rights of other children.

## Resources

### My Rights

This was the name given to a publication that explains briefly and simply in words and pictures the rights of children to children of 10 to 12 years of age. The booklet will be distributed, through schools to every child in Malta in this age-group during the first quarter of 2014. Prior to its publication, the content and presentation of



Rights 4U participants with the Mayor of Victoria, Gozo, Dr Samuel Azzopardi, during a visit to the Local Council.



# Children's Rights - General



the booklet were discussed with a cross-section of children whose feedback was, in many cases, taken on board.

## *Eleo and the Bubble Planet*

The translation to Maltese of this publication (issued in 2011 by the Malta UNESCO Youth Association) which the Office had commissioned in 2013, was completed and distributed to all primary schools in Malta and Gozo. The availability of this translation is enabling more children in Malta to enjoy and learn from this childlike allegory of human rights.



Mrs. Helen D'Amato, Commissioner for Children, together with students from Safi Primary School, during the launch of 'Eleo u l-Pjaneta Babil'.

## Advocacy

On a number of occasions the Commissioner had the opportunity to disseminate the key message about the importance of a rights-based approach to the improvement of the overall well-being of children, and the role of her Office in achieving this in practice.

In a statement published in a local daily, the Office opined that ten years on from the passage into law of the Commissioner for Children Act the time was ripe to carry out a formal and thorough evaluation of the role and function of the Office and put in place any changes that such evaluation may reveal to be necessary in order to ensure better safeguards for the rights of children.

Any changes that are contemplated to strengthen the Office should aim at enhancing the autonomy, powers and resources of the Office thus enabling it to act more effectively as a watchdog for the rights of children. Above all, it is the independence of this Office that distinguishes it from any other entity working in the same field. This means that the Office should be completely free from the control or influence of any political or corporate power while being able to develop and maintain a close synergy with all stakeholders in the field, especially with the prime stakeholders, namely children.

At the same time, the Office publicly endorsed the setting up by Government of the National Commission on Child Policy and Strategy which as an entity will enable child policy and strategy to be continuously revised, improved and updated so that they are always responsive to the changing needs and realities of children in Malta. The appointment of the Commissioner as a member of the newly formed Commission provided the Office with a good avenue to make its recommendations heard and possibly adopted by Government.

## *Introductory Meeting with the new Minister for Family and Social Solidarity*

The Commissioner voiced her concerns and recommendations during an introductory meeting she had with the newly appointed Minister for the Family and Social Solidarity, Hon. Marie-Louise Coleiro Preca. During her presentation to the Minister, the Commissioner

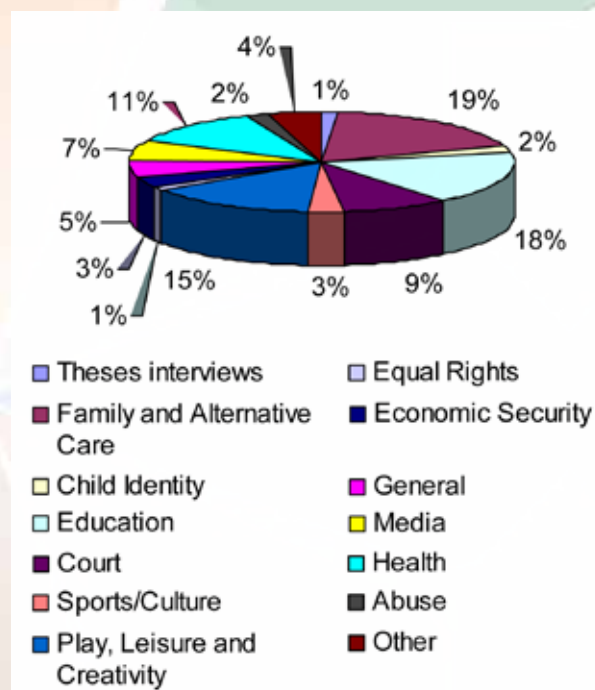


# Children's Rights - General

highlighted the convergence between her Office's recommendations and the new Government's electoral proposals and augured that such convergence would lead to the implementation of the Office's recommendations.

## Individual Cases

The Office followed up a total of 214 cases that were filed by individuals, mostly parents, who sought the Office's help for concerns and issues related to children. The following chart shows how these cases were distributed thematically across the various rights that are explored in this report.



## Recommendations

### Manifesto for Children 2013

In view of the General Election held in March 2013, the Office sought to ensure that children's rights and well-being were at the forefront of the agenda of the political parties contesting the election by submitting to the attention of each party a compendium of the Office's recommendations. The name given to this compendium, first compiled in 2008, highlights the Office's desire to see its recommendations included in the electoral programmes of our country's political parties in the hope that they will be implemented by the party that would be

in Government after the election. The Manifesto for Children 2013 can be accessed online through the website [www.tfal.org.mt](http://www.tfal.org.mt). In the following chapters we refer to various recommendations that we find in this document according to the various themes being discussed.

### Concerns and Proposals of the Office of the Commissioner for Children

Another avenue through which the Office pushed forward a wide range of its recommendations was the Commission on Justice Reform which the newly elected Government set up to chart the way forward for the justice sector in Malta. The Office presented its proposals for various changes to a number of codes and acts in Malta's system of laws during a meeting with a member of the Commission. These proposals were included in the second of the three reports published by the Commission by the end of the year.

The Office strengthened its drive to push forward these recommendations by presenting the same proposals to Government during a meeting with the Parliamentary Secretary for Justice, Hon. Dr Owen Bonnici. This document can be accessed online on [www.tfal.org.mt](http://www.tfal.org.mt). Even in this case we will be visiting various recommendations in the chapters that follow according to the theme being discussed.

### Unitary Legal Framework for the Protection of Children's Rights

The Office called for the incorporation of UN CRC into domestic legislation and for the drafting and enactment of a comprehensive Children's Act. The need was also stressed for a clear statement in national law of the principles that underpin the child's best interest, which principles would guide all judicial decisions that are taken to protect the child.

### Unitary Policy Framework for the Protection of Children's Rights

A strong call was made for the National Children's Policy to be finalised and for its implementation to start according to a well-structured plan in the earliest possible timeframe. To underpin the policy, the Office called for a more structured, holistic and coordinated effort to assemble

# Children's Rights - General

factual information about trends concerning children, namely through the setting up of a national observatory of children's well-being in Malta, and to keep tabs on how public expenditure is impacting the various strands of children's well-being.

## *Structures and Mechanisms for Addressing Children's Rights-related Complaints*

In order to provide children and those entrusted with their care an effective and straightforward independent avenue for reporting and receiving remedial action about complaints related to children's rights, the Office called upon Government to ratify the Third Optional Protocol of the United Nations Convention on the Rights of the Child regarding a Communications Procedure (with the Committee on the Rights of the Child). The Office is calling for the setting up of the necessary structures to facilitate the actual implementation of the Protocol. In a similar vein, the Office recommended a review of the Commissioner for Children Act in order to make it more relevant to the needs of children.

## **Sharing of Knowledge and Expertise with Other Entities**

### *National Budget 2014*

The Office shared its vision and plans for 2014 with Government as part of the latter's preparatory process in view of the budget for the said year. The mainstreaming of the projects and initiatives earmarked by the Office for the following year puts the Office in a better position to obtain funding for such projects and initiatives and enables better coordination and integration of the Office's work with the work conducted by Government entities working in the same sector.

### *Draft National Children's Policy*

The Office contributed to Government's evaluation of the feedback submitted by stakeholders on the Draft National Children's Policy by sharing its viewpoint with Government on select points within the said feedback.

## **Participation in Children's Rights-Related Networks and Fora**

### *Informal Expert Group on the Rights of the Child*

The Head of Office participated in the 3rd meeting of the Informal Expert Group on the Rights of the Child which was held in Brussels and in which as many as eighteen EU member states were represented. The meeting tackled a number of issues related to children's rights, such as education and child trafficking.

### *Promoting and Valuing Children's Participation*

The Office facilitated the participation of four young people in a conference that brought together children from six countries to discuss why and how the viewpoints of children and young people can be better conveyed to and understood by adults. The four Maltese youngsters were accompanied by a community worker from Aġenzija Appoġġ and the Office's Task Manager. At the end of the conference, the deliberations and conclusions agreed



Young participants at the Eurochild Annual Conference.



# Children's Rights - General

.by the young people were presented to the adult participants of the Eurochild Annual Conference. Eurochild committed to inform the children of the outcomes that result from their recommendations.

## Considerations and Concerns

### UNCRC

Twenty five years have passed since the Convention was drafted. During these two decades, it has been signed and ratified by about 200 countries and has been a positive force for the well-being of children around the globe. Although the rights of children are universal and timeless, a collective effort should be made by all international partners working in the field of children's rights to examine the Convention and amend it where necessary to iron out any lacunae and update it to reflect the new realities of the twenty-first century. Among the changes that the Office believes should be made to the Convention should include a stronger emphasis on the right of children to adequate housing, the right of children to be portrayed in the media in an ethical and sensitive manner as well as better safeguards while using the new technologies. However, these and other changes should be discussed in the context of a holistic review of the Convention.

### *A Fragmented Approach to Children's Well-being*

Much as children are a distinct group, the approach to ensure that their needs are met is riddled with fragmentation and poor coordination. Although there is increased recognition of the importance of uniting all the strands into one focused fabric of action, as a country we still have a long way to go before we achieve this in practice. Such disunity in the manner in which we strive to meet the diverse needs of children can be seen at all levels of action.

Insofar as the law is concerned, we have a morass of laws that protect different aspects of children's well-being. While in most cases these laws are good in themselves, having fewer laws, possibly one law, that consolidates all existing laws, would be of greater benefit to children and to those who work and act for their well-being. The incorporation of the UN CRC into domestic law can also provide a unitary and holistic framework for all the laws that are currently in place. As this and previous Annual Reports attest, the Office has long been striving in this direction and the ball has long been on the Government's side of the court for this to materialise. Another way, than that just described, involves exporting all laws related to children from their various legal collocations and importing them into a single legal text.

The Office welcomes the resolve shown by the new Government to draft a Children's Act and augurs that all the legal hurdles that have so far impeded progress in the realisation of such an act will be overcome. Given the enormity of this task and the considerable length of time required to accomplish it, Government ought to consider incorporating the UNCRC into national law as an interim measure. Notwithstanding this, upon completion of the Children's Act, the Office is of the opinion that the UN CRC and the Children's Act should not be alternative but complementary to one another inasmuch as the Act would give substance to the principles enshrined in the Convention.

At the level of policy, there still is too much fragmentation as a result of sectoral boundaries that are not always permeable to collaboration across sectors. The Draft National Children's Policy that was launched in 2011 was the first major step towards fostering an intersectoral approach to child policy formulation. The Office calls on Government to expedite the finalisation of the National Children's Policy and to put in place the necessary structures for its effective and timely implementation and evaluation.





# 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)*

## Education and Consultation

### *Seminar on the Portrayal of Children in the Media*

This seminar, organised by the Office in collaboration with UNICEF, was aimed at raising awareness among professionals working in the media about ethical issues in the portrayal of children in the media. To this end, Mr Ricardo Pires, an expert on the subject from UNICEF, gave a presentation to a sizeable group of local media professionals. This presentation was supplemented with three workshops each of which focused on one of three media, namely television, print media, and social and online media. The participants in each workshop were presented with a fictitious case of a child caught up in a challenging and newsworthy situation. They were invited to discuss, decide and report back to the plenary group what would be the most ethical way of portraying the child in the media. This seminar was a unique opportunity for media professionals in Malta to reflect on this very important ethical dimension of their work. Mr Daniel Mercieca and Rev. Dr Joe Borg also addressed the participants.



Mrs. Helen D'Amato, Mr. Daniel Mercieca & Mr. Ricardo Pires during the Seminar on the Portrayal of Children in the Media.

Addressing the seminar, the Commissioner harped on the importance of the subject of the portrayal of children in the media, which subject

tended to be overshadowed by the issue of what content children are exposed to through the media. The lack of attention given to this aspect of the relationship between children and the media, the Commissioner said, was reflected in the UN CRC, which was short of provisions about it, as well as in the national legislation, notably the Press Act, which fails to protect minors as a vulnerable group. The Commissioner called for these lacunae to be addressed.

### *BeSmartOnline!*

This Office is a partner in the BeSmartOnline! project, which aims to make the internet safer for children by sensitising them to the perils of the web. Its contribution to the project, amongst others, consisted in six consultation meetings with youths which were held within the framework of the Youth Panel.



Youth Panel Meeting – BeSmartOnline!

# Children's Right to Safe and Beneficial Media



Youth Consultation Meeting on Internet Safety.

For the first time since the launch of BeSmartOnline!, in 2010, a parent and carer forum was set up and held its first meeting under the

direction of the Office. This forum, in conjunction with other fora, such as the industry forum, brings together stakeholders in the field of internet use to discuss how internet safety for children can be enhanced. As part of the effort to give a stronger



Parent and Carer Forum Meeting.

facebook

Information note

be SMART  
ONLINE!

? **Do you actually know all your Facebook friends?**

Be careful who you add and accept as 'friends' on Facebook. Make sure that your friends on Facebook are really who they say they are.

? **Do you make use of the privacy settings on Facebook?**

You should check your privacy settings regularly as these are often changed or updated by Facebook. Ensure that your profile is always up to date with the latest settings. For help with privacy settings you can visit [www.besmartonline.org.mt](http://www.besmartonline.org.mt) or call Helpline 179.

? **Are you in control of what you post on Facebook?**

Remember that anything posted online can be copied, edited and shared. So think before you post!

? **Do you know how the new search facility on Facebook works?**

The new graph search allows people who are **not** your friends on Facebook to search for your photos and posts. This will show all photos you are tagged in and which are public, as well as, posts which are also public. The control is with the person who posted all this information. Your privacy settings determine what your friends or other people will find out about you when using this search facility. Keep your timeline private. For more information send an email to [179.appogg@gov.mt](mailto:179.appogg@gov.mt) or call Helpline 179.

? **What should you do if someone's actions and posts on Facebook bother you?**

Do not communicate with the person and press the BLOCK button.  
You can speak to your parents, a teacher, a counsellor or call Helpline 179 for support.

@ You should never give out personal information – you never know who is viewing your profile!

@ If you come across inappropriate material, which is insulting or makes you or your friends feel uncomfortable – report it!  
You can call the Helpline 179, send an email to [179.appogg@gov.mt](mailto:179.appogg@gov.mt) or visit [www.besmartonline.org.mt](http://www.besmartonline.org.mt).



The project is co-funded by the European Union through the Safer Internet Programme and is part of the joint Insafe-INHOPE networks.





# Children's Right to Safe and Beneficial Media

**ask.fm**

## Information note

be SMART  
**ONLINE!**

ask.fm is a social networking site based in Latvia.  
Users of ask.fm ask each other questions, usually in an anonymous way.

- ? Have you ever used ask.fm?
- Whether the answer is yes or no... Please read on!
- ? Have you ever been asked a question that you do not like or feel uncomfortable with?
- If so, **do not reply** to the question. If you **do not reply** it will not show up on your profile, even though it remains in your inbox.
- ? Would you like to stop receiving anonymous questions?
- There is a setting which does not allow people to ask you questions anonymously. If you need help with this setting visit [www.besmartonline.org.mt](http://www.besmartonline.org.mt), send an email to [179.appogg@gov.mt](mailto:179.appogg@gov.mt) or call **Helpline 179**.
- ? Did you know that cyber-bullying is a crime?
- Cyber-bullying is a crime. The Police can identify the person sending the anonymous questions, even though ask.fm seems to be anonymous.
- ? Did you know that it is possible to report inappropriate content?
- If you feel insulted or you feel uncomfortable with questions or answers appearing on ask.fm or on your ask.fm profile, you may report it directly to ask.fm or you can visit [www.besmartonline.org.mt](http://www.besmartonline.org.mt) or call **Helpline 179**.
- ? Did you know that all content on ask.fm is public and can be viewed by everyone?
- It is public and people do not even need to have an account in order to view your profile and ask you questions.

- @ It is important to note that you can always delete a question you have replied to if you are not comfortable with it. It is **NOT POSSIBLE to delete** someone's reply to a question you have asked. You never know what someone's reply may be, so be careful what you ask.
- @ Everyone has a right to **Respect**. We should not insult people because we think we can remain anonymous. If you see inappropriate material on your friends' profiles please report it.
- @ If you need to talk to someone about online safety you can call the Helpline 179, send an email to [179.appogg@gov.mt](mailto:179.appogg@gov.mt) or visit [www.besmartonline.org.mt](http://www.besmartonline.org.mt).



The project is co-funded by the European Union through the Safer Internet Programme and is part of the joint Insafe-INHOPE networks.



voice to the perspective of parents and carers, the Office also organised various sessions in the community.

## Educational Resources

In a bid to sensitise young people to the correct and safe use of social networking sites, the Office produced two tip sheets, in Maltese and English, explaining in very concrete terms how specifically two social networking sites, namely facebook and ask.fm, should be used so that young people would not be harmed through such use. The tip sheets were distributed to all secondary school children in Forms 3 and 4.

## Competitions

### Online Positive Content Competition

As part of the latest cycle of the BeSmartOnline! project, which is trying to convey a more positive and enabling image of the internet to young people, the Office coordinated a competition for the best positive online content for kids produced in Malta. The winners of the national competition, which was articulated in four categories of participants (i.e. adult professionals, adult non-professionals, individual young people, and school classes/groups of young people) were nominated for the pan-European award for best online content for children.

# Children's Right to Safe and Beneficial Media

## Recommendations

### *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*

Recommendations on how the right of children in Malta to safe and beneficial media can be advanced were a strong focus of the Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children. The following is a consolidated account of the Office's recommendations in respect of this right.

#### Portrayal of Children in the Press

The Office lamented the lack of legal provisions protecting minors in the Press Act and called for such provisions to be included on the model of the Broadcasting Act in its Broadcasting Code for the Protection of Minors (SL 350.05).

#### Use of Children for Political Propaganda

The Office called for the formulation and enforcement of standards regulating the portrayal and participation of children in political literature and activities.

#### Age-appropriateness of Television Content

The Office underlined the need for more stringent measures to ensure that children are not exposed to age-inappropriate content during family viewing times, including through a more systematic display of symbols to guide viewers as to whether a particular TV programme should be watched by children alone, with an adult or not at all.

#### Online Child Abuse

In order to better protect children from online abuse, the Office recommended the mainstreaming of the safe and smart use of the internet in the national educational curriculum, and a stronger effort to educate adults about online dangers for children. The Office called upon Government to commit to the BeSmartOnline! project even in the absence of EU funds.

## *Children in Television Programmes*

The Office submitted its feedback on a consultation document drafted by the Broadcasting Authority entitled 'Children in Television Programmes and Recommendations for Changes to the Law'. The Office remarked favourably on the document for its thorough and comprehensive treatment of a complex subject-matter, and recommended (amongst others) that there be a stronger emphasis on such themes as relationships, healthy lifestyles, internet safety, and sexual exploitation and abuse in the design and/or choice of TV programmes targeting children.

In another submission made in response to a call for feedback by the Broadcasting Authority on TV Family Viewing Rules, the Office opined that there should be a stricter enforcement of the 9:00p.m watershed, whereby it is not permissible for adult-only television content to be shown before 9:00p.m, including through the continuous display of the appropriate classification symbol during the screening of such content. The Office conceded that such content could be advertised outside the said watershed as long as the content of the trailer was appropriate for viewing by children. With regard to the participation of children in TV programmes, the Office recommended that such participation should be encouraged as long as there was active participation and that recordings did not take place during school time or in the evening after 9:00p.m on school days.

## **Participation in Children's Rights-Related Networks and Fora**

### *Online Safety for Children*

The Office's Task Manager, Ms Suzanne Gili, was accompanied by a member of the Youth Panel of the BeSmartOnline! project at the Pan-EU Youth Panel and Safer Internet Forum. Ms Gili was nominated by Insafe to coordinate and moderate the Pan-EU Youth Panel in order to engage young people from all over Europe in discussions related to the creation of a better internet. The young member got the chance to meet several of her fellow European counterparts and to discuss with them various issues related to online safety for children, such as online rights and



# Children's Right to Safe and Beneficial Media

responsibilities and the kind of support young people need if they are in difficulty.

The young member of the Youth Panel was also able to participate in the Safer Internet Forum, a key annual international conference in Europe where policy-makers, researchers, law enforcement bodies, youth, parents and carers, teachers, NGOs, industry representatives, experts and other relevant actors come together to discuss the latest trends, risks and solutions related to child online safety. The theme of the conference in 2013 was 'Better Internet with You(th)'.



Ms Ruth Vella, speaking at the Safer Internet Forum.

## *Active Participation of Children in Promoting Online Safety*

In her capacity as coordinator of the Youth Panel, the Office's Task Manager also met with her fellow European counterparts during a meeting held under the aegis of Insafe. The aim of this meeting was to provide youth panel coordinators with necessary tools to involve, inspire, include and influence young people in and through the initiatives carried out by the respective Safer Internet Centre of each participating country. During the meeting, Ms Gili delivered a presentation about the activities carried out by the Youth Panel in Malta.

## *Digital Competence*

The Office's Task Manager attended a Training Seminar organised by Insafe. The seminar explored the importance of digital competence in enabling children to draw maximum benefit from their use of the internet and to avoid the dangers associated with such use. From this

importance stems the need for a solid strategy to ensure that children acquire this important competence.

## **Considerations and Concerns**

### *Protection of Children in the Media*

One hopes that the aforementioned seminar serves as a catalyst for other initiatives that aim to address the issue of the ethical portrayal of children in the media. Hence, training journalists and all media professionals in how children ought to be portrayed in the media should become an integral part of all formative and continuous professional development courses to do with media and journalism.

Another structural initiative related to this topic should be the enactment of a revised Press Act that contains adequate provisions for the protection of children who are the subject of journalistic content. As was hinted in Chapter 1 of this report, the very Convention on the Rights of the Child should be amended to include articles or sub-articles that guarantee the right of children to be portrayed in the media in a way that is respectful of their intrinsic vulnerability.

The Office notes with satisfaction the drive made by the Broadcasting Authority to strengthen the legal framework in relation to the portrayal and exposure of children through the media. The Office hopes that the Government will respond to this drive so that the required changes to this framework can be presented to and enacted by Parliament within the shortest possible timeframe.

### *Internet Safety*

The Office has long advocated for a more long-term strategy to the challenge of internet safety for children. The BeSmartOnline! project should act as a strong base, which is especially important if and when EU funds for the project are no longer available. To this end the Office contacted all Maltese Members of the European Parliament in order to stress the importance of the Safer Internet Programme which will be absorbed as part of the Connecting Europe Facility (CEF). This was carried out in a number of countries, as advised by Insafe, in order to ensure that the

## Children's Right to Safe and Beneficial Media

work carried out by the Safer Internet Centres is listed as a core service.

One aspect of internet safety that deserves to be highlighted is the digital divide between children and their parents and carers as a result of which

children are not being adequately monitored and educated on the safe and intelligent use of the internet. More needs to be done to close this divide and enable parents and carers to be on a par with the children under their responsibility as far as the use of digital technologies is concerned.





# 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)*

## Education and Consultation

### World Children's Picture Contest

The Office was pleased to present Alessia Formosa (for her painting 'Nature's Wonder') and Kathleen Bulteel (for her painting 'Maltese Landscape') with their certificates for winning respectively a Bronze Prize and an Honourable Mention in the 2012 edition of the international pictorial art competition for children organised by the IE-NO-HIKARI Association in Japan. The Office also set the ball rolling for the participation of children in Malta in the 2013 edition of the competition.



Kathleen Bulteel, with her Honourable Mention certificate.

## Presidents' Award for Creativity

For the third year running, the Office contributed to the President's Award for Creativity initiative. The aim of this award is to help develop new talents and to promote arts-driven projects in order to engage children and young people within the community. This initiative is divided into three different strands: Children, Young People and the Community. The Task Manager within the Office was asked to sit on the Evaluation Board for projects submitted under the Community category which aims at promoting inclusion amongst children and young people.



Alessia Formosa, with her Bronze certificate.



Launch of the Safety Requirements for Indoor Play Facilities and their Management.



# Children's Right to Play, Leisure and Creativity

## Advocacy

### *Health and Safety of Indoor Play Areas*

Addressing journalists during a press conference called by the Minister for Dialogue and Civil Liberties, the Hon. Dr Helena Dalli, to launch the draft standard entitled 'Indoor Play Facilities - Safety Requirements for Indoor Play Facilities and their Management', for public consultation, the Commissioner said that while children had a right to play they also had an equal right to be safe and avoid getting hurt when indulging in play. The Commissioner praised the work coordinated by the Malta Competition and Consumers' Affairs Authority in drafting the said Standard in that it provided a tool to ensure that these two rights would be reconciled and never traded off against one other. The Commissioner also showed her appreciation to all stakeholders who participated in the discussion and the drafting of this Standard.

The Commissioner expressed similar thoughts in a short write-up published in the newsletter of the General Retail Trade Union (GRTU). In this instance, the Commissioner also praised the support given by the GRTU of a process which would set a benchmark for this service against a safety standard that would safeguard the interests of play area users and providers alike.

## Research and Investigations

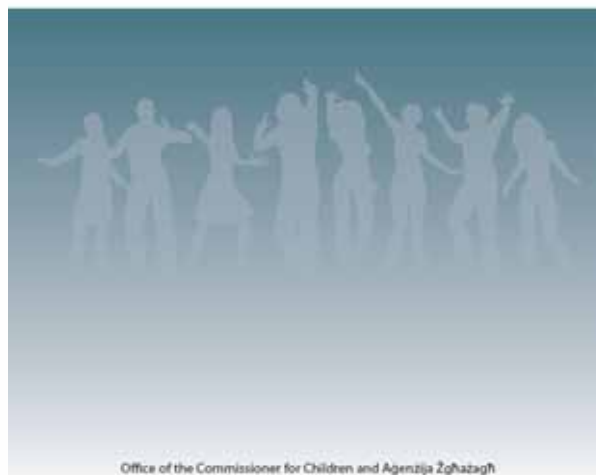
### *Leisure Trends and Perceptions among Young People*

The Office concluded the research project it had conceived and embarked upon in tandem with the Youth Agency. This research set out to explore current trends and perceptions about leisure among young people in Malta and Gozo. The findings of the study confirm that leisure is indeed an important dimension in the lives of young people and that the forms of leisure indulged in vary by such variables as age, gender and geographical region.

A seminar that was well-attended by representatives of various stakeholders was organised to present and discuss the findings of the research.

In order to facilitate the use of the research findings as a basis for policy-making, two members of

## LEISURE TRENDS AMONG YOUNG PEOPLE IN MALTA



the Cabinet, namely the Minister responsible for Social Policy, Hon. Marie-Louise Coleiro Preca, and the Parliamentary Secretary responsible for Youth, Hon. Stefan Buontempo, were invited to address the seminar. The seminar was also articulated in a number of workshops that explored different aspects of the relationship between leisure and young people.

In her opening remarks, the Commissioner harped on the importance of leisure as a factor that greatly enriches the lives of young people. She said there was the need to ensure that young people were engaged in positive forms of leisure and to put in place the necessary physical and cultural infrastructure for children and young people to have the opportunity to indulge in their preferred pastimes. It was for this reason, concluded the Commissioner, that the Council for Children had embarked on the research project that was being launched.



# Children's Right to Play, Leisure and Creativity

## Recommendations

### *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*

Recommendations on how the right of children in Malta to play, leisure and creativity can be advanced are also found in the Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children. The following is a consolidated account of the Office's recommendations in respect of the child's right to play, leisure and creativity.

#### Toys in the Shape of Fire Arms

The Office called for an amendment in the Arms Act (Cap. 480), so as to ban the sale of toys in the shape of fire arms.

#### Entertainment for Adolescents

To ensure that teenage children are provided with opportunities for age-appropriate entertainment, the Office recommended the extension and further rollout of youth cafes. It also called for the draft regulations concerning Teen Parties, which it had coordinated the formulation of, to be brought into force.

#### Play Structures for Children

The Office pledged that it would continue to work in order to finalise the national standard concerning the safety of indoor play areas and recommended that mechanisms, possibly of a legal kind, to be put in place, that would ensure that the standard is adhered to by all operators of such areas. A recommendation was also made for a more robust system governing the assessment of outdoor playgrounds in order to guarantee their constant and timely upkeep in accordance with the standards that were established in this domain. The Office also highlighted the need to regulate the safety of temporary play structures.

#### Participation of Children and Youths in Cultural Activities

In order to bring children and youths closer to culture and vice-versa, the Office recommended the extension of the Culture Card to all children, especially to those who are more socially excluded from culture than others, and the inclusion of children and youths as an integral part of V18 project.

## Combat Sports

This Office was asked by the Office of the Parliamentary Secretary for Youth, Innovation and Sport to pronounce itself on the safety of the practise of boxing by children. The Office engaged in a series of meetings and communications with the stakeholders in the field, notably the Malta Boxing Council and the Malta Boxing Federation, in order to explore a field which the Office had never dealt with before. From these consultations, the Office ascertained that the safeguards that were in place to protect children from the potential harmful effects of such sports were inadequate, on the basis of which it made the following recommendations to the Parliamentary Secretary:

- The minimum age for participating in boxing competitions should be 15 years of age. Such participation by children should take place in accordance with the Competition Rules of the International Boxing Association (AIBA).
- Children between the ages of 11 and 15 should be allowed to develop their boxing skills with qualified instructors who are positive role models and through the use of such training techniques as punching bags and sparring.
- Children between the ages of 5 and 11 should only be allowed to undergo generic physical training that prepares their body for training in boxing.
- The same age-thresholds ought to apply to other combat sports (i.e. contact sports with one-on-one combat).

The Office also recommended the creation of a regulatory framework capable of ensuring the observance of the above restrictions. Specifically, the Office called for the formulation of a national standard concerning the safety of combat sports as practised by children and the setting up of a licensing body and an assessment body to ensure that all requirements established by the standard are met by all operators in the field of combat sports.

The Office decided to start the ball rolling by submitting a formal application to the Malta Competition and Consumer Affairs Authority (MCCAA) for the authority to initiate a process of standardisation in respect of the centres where combat sports are practised by children. The application received a preliminary endorsement by the Standards and Metrology Institute within

# Children's Right to Play, Leisure and Creativity

MCCAA. The Office and the Authority agreed that an exploratory meeting with the various stakeholders in the field of combat sports should be held before starting the standardisation process.

## *Water Fun Parks*

The Office made a formal request to the MCCAA for the initiation of a standardisation process, in respect of the safety for children, of water fun parks, that is places of amusement offering water-based activities. The application received a preliminary endorsement by the Standards and Metrology Institute within MCCAA. Even in this case the Office and the Authority agreed that, a preliminary meeting with the various stakeholders and service providers in this field, should be held before starting the standardisation process.

## **Considerations and Concerns**

### *Health and Safety of Indoor Play Areas*

The creation of a national standard on the health and safety of indoor play areas has been a very important step forward in that it has provided a tool which owners and operators of indoor play areas can use to gauge the level of health and safety of their establishments and to bring them to an adequate level that will significantly reduce the risks of harm to children.

The Office is confident that there is a good number of conscientious and broad-minded proprietors of such establishments who will make a genuine effort to ensure that their establishments are in line with the national standard. This could be seen from the positive interest shown by the sector in the standardisation process, as evidenced by the very supportive participation in the same process by the GRTU, which represents a number of indoor play area establishments.

Notwithstanding this, the Office believes that the standard can be a tool that truly protects children from injuring themselves while playing in these establishments only if a robust system is put in place that encourages owners of indoor play area facilities to apply the standard. Such system can take the form of a quality certificate or flag that is granted only to those establishments which adhere to the standard. Of course the best option will always be a legally binding instrument for compliance with the standard.

The Office welcomes the thoughts expressed by the Minister for Dialogue and Civil Liberties, the Hon. Dr Helena Dalli, in the course of the launch of the draft standard for public consultation, that adherence to the standard should be mandatory not optional. It is hoped that this view is shared across Government and that the necessary procedures for the standard to be legally binding upon all indoor play area establishments will be activated.

## *Regulation of Sports Activities and Facilities for Children*

The Office notes with satisfaction that there is an abundant supply of opportunities for children of all ages to participate in sport activities of various kinds. Such activities are allowing scores of children to enjoy their right to play, leisure, education and socialisation.

The Malta Sports Council, set up barely a decade ago, has without doubt been a major force behind the proliferation of sport activities and facilities for children. At the same time, the Office feels that it is now time for the Council to concentrate more on its regulatory function in respect of sport facilities, many of which are registered with the Council and benefit from its financial support. The Office thus calls on central Government to equip the Malta Sports Council with the necessary resources so that the Council can really keep tabs on all sports activities and facilities taking place and operating in Malta. Ultimately this will ensure that children will incur no harm from practising sports and this will be done in a structured way.

## *Football Nurseries*

The Office welcomes the fact that the minimum age for the registration of players with football club nurseries has been raised from 10 to 12. This issue had been a long-standing concern for this Office, as documented in several of the Office's Annual Reports. This concern had led the Office to collaborate with the Malta Football Association (MFA) in a bid to strike a balance between the interests of children and parents and the interests of football nurseries. It is highly encouraging that the compromise proposed jointly by the Office and the MFA was accepted by the majority of affiliated Clubs during the Association's general meeting in 2013.



# 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)*

## Advocacy

### *Criminal Responsibility of Children*

In comments published in a local news site, the Office reiterated its position against the minimum age of criminal responsibility of nine years as provided in the Criminal Code. The Office repeated its call for this legal age to be raised to fourteen years. The arguments put forward in support of these positions were that children younger than fourteen years of age could not be expected to have the required psychological and moral maturity to be fully aware of the meaning and implications of a criminal act. Raising the legal age of criminal responsibility, argued the Office in its comments, needed to be coupled with a stronger emphasis on parental responsibility in our Civil Code. Children younger than fourteen years who committed a crime would lack not just the aforementioned maturity but might also lack strong guidance from their parents or carers.

## Recommendations

### *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*

Recommendations on how Malta's justice system can become more child-friendly were a strong focus of the Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children that were presented to the Political Parties contesting the general election and to the Justice Reform Commission respectively. The following is a consolidated account of the Office's recommendations in respect of child-friendly justice.

#### Right of Children to be Heard in Court

The Office called for children to be given an automatic right to be heard in court, be it directly

or indirectly through a child advocate. They can also be given discretion as to whether they want to voice their thoughts and opinions on court matters that affect them personally, notably but not only, in divorce or separation proceedings involving their parents. As things stand, the ability of children to be heard in court is tied to their age, the discretion of the presiding judge or magistrate and to a request by the mediator and/or one of the parents. The paternalistic substance of the law falls foul of the right of the child to 'be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child...' (Article 12, UN CRC).

The Office also recommended the setting up of a child-friendly space within the Courts of Justice where children would be heard. Such environment would make children feel at ease and enable them to speak their minds even on sensitive personal matters.

#### Criminal Responsibility of Children

Malta's low minimum age of criminal responsibility, which stands at nine years as mentioned earlier, was at the centre of the Office's recommendations, which called for the age threshold to be raised to fourteen years. The arguments supporting the recommendation have already been highlighted above in this chapter.

#### Child Suspects of Criminal Offences

Even before they step into a court of justice, children who are suspected of a criminal offence go through numerous legal and administrative law enforcement procedures that are not always sensitive to the vulnerability related to their age. The Office's recommendations dealt comprehensively with this pre-court phase of a child's experience within the justice system.

Thus, the Office recommended that the Police



# Children's Right to Child-Friendly Justice

should have no discretion whatsoever as to whether a child suspected to have committed a crime should be accompanied by an adult entrusted with its care, notably a parent or a social worker, during interrogation procedures. The Office also called for a reliable system to be set up that would ensure the presence of a social worker during interrogation when it is not possible for an adult who is legally responsible for the care and custody of the child to accompany the child during the interrogation.

With regard to legal aid, the Office's proposals advocated for changes to the law that would make it necessary for children to speak with their lawyer face to face not by telephone or any other long-distance communication. Another recommendation was that two or more children suspected of collusion in the same crime should be assisted by different lawyers so that each child would be able to give an independent version of events to his or her lawyer.

Finally, the Office called for the fact that a suspect of a criminal offence awaiting the start of judicial proceedings would be of minor age to be set in law as a factor favouring the granting of bail.

## Juvenile Court

While we acknowledge the role of the Juvenile Court, where children charged with criminal offences could be tried, the Office made recommendations for the removal of apparent exceptions to the use of this court. Reference is made namely to the age-limit of sixteen years of age for defendants to be tried in the Juvenile Court, which the Office recommended be raised to seventeen years to include all defendants of minor age. Another exception is when the Juvenile Court does not see children who are co-accused with another person who is over 16 years of age. In this case the Office recommended that minors involved in such cases should never stand as co-accused and should be tried separately in the Juvenile Court.

## Sharing of Knowledge and Expertise with Other Entities

### Crimes Against Children

The Office was presented with a document from the Council of the European Union bearing the subject of '*Proposal for a Regulation of the European Parliament and of the Council establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management*'. The Office was asked to comment on the proposed amendments that made specific reference to crimes against children, notably child sexual exploitation and distribution of child abuse images. The document included draft regulations dealing generically with police cooperation, preventing and combating crime, and crisis management.

### Office Vision for 2014

In the expression of its vision for 2014 (see chapter 1), the Office stressed its intent to work towards the enactment of legal amendments that would give children a stronger voice within the justice system.

## Considerations and Concerns

### Child-friendly Courts

The environment within a Court of Justice is inherently not child-friendly. As reported in the Annual Reports of the past two years, this Office has on more than one occasion tried to impress upon the political and administrative authorities responsible for the Courts of Justice the need for a child-friendly space within the precincts of the Courts of Justice, 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 child advocate in an environment where they can feel comfortable. Although the authorities were verbally supportive of the Office's recommendations, no tangible developments in the direction proposed by the Office have been registered so far. Having child-friendly courts is of paramount importance both in terms of the fair dispensation of justice and in terms of the protection of the rights of the child.





# Children's Right to Child-Friendly Justice

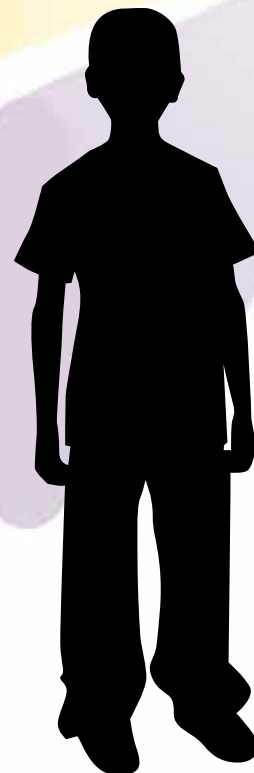
## *Children's Right to be Heard in Court*

Since rights are by their very nature unconditional, the right of children to be heard in court cases should not depend on the discretion of the presiding judge. According to our laws, it is the judge who decides whether a children's advocate is assigned. This can be requested by a mediator or parent, but never by the child himself or herself.

The role of a child advocate is crucial for the protection of the rights and interests of children. More so, children must always be encouraged and empowered to stand up for their rights in any situation since, unfortunately, adults are not

always sensitive and aware of what children want, think and feel. This means that all children should be given the right at law to decide independently whether to be represented by a child advocate. At the same time, they should be provided with the necessary practical and psychological support, according to their level of maturity, to make the best possible decision for themselves.

Those who hear children in relation to court cases should have the necessary training in interviewing children. As argued above, the environment in which such hearing takes place needs to be child-friendly in that it should help children feel comfortable to say what they really think and feel.





# Children's Right to Health

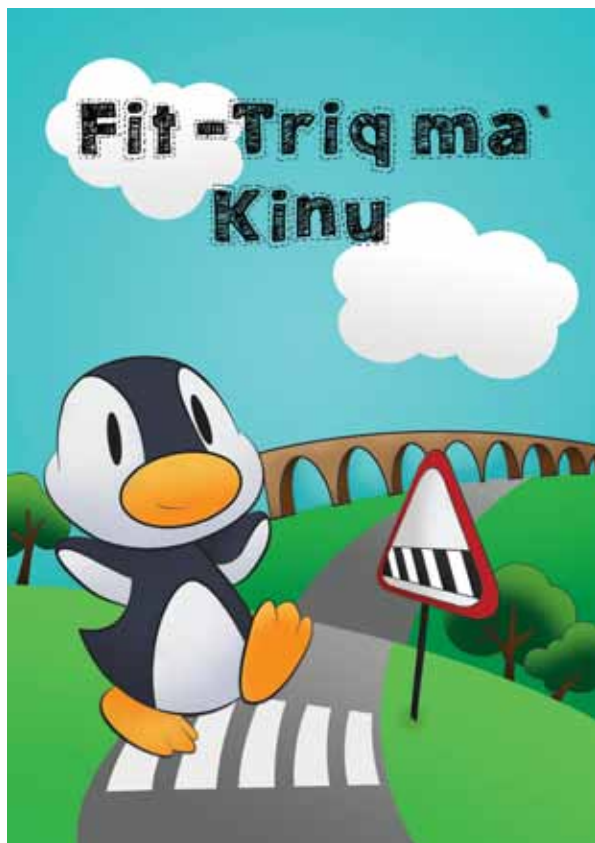
*States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care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

*(UN CRC, Article 24)*

## Education and Consultation

### Road Safety

In order to raise awareness among children about what they should do to be safe as pedestrians, the Office networked with a group of students at the Institute of Art and Design at MCAST to produce a number of animations on the subject of road safety for children. Also in collaboration with MCAST students, the Office produced an activity book on the same subject with the title *Fit-Triq ma' Kinu* (On the Road with Kinu). The Office worked also in collaboration with officials from Transport Malta in order to make sure that the information is correct. The activity book was distributed among children in the first three years of primary schools. The resources produced will also be used by Transport Malta during their educational visits in schools.



## Advocacy

### Visiting Vulnerable Children During the Christmas period

As a small but significant token of solidarity with children experiencing ill-health, the Commissioner and the Task Manager visited children receiving treatment at Mater Dei Hospital and the Young People's Unit of Mount Carmel Hospital during the festive season and offered them Christmas presents. The Commissioner also visited the girls at Fejda and Jeanne Antide homes as well as the children at Dar tal-Providenza.



Mrs. Helen D'Amato, Commissioner for Children, giving presents to the Children at Mater Dei Hospital.

### Breastfeeding

The Head of Office, on behalf of the Office, gave an introductory speech to a seminar organised by Mater Dei Hospital and the Health Promotion and Disease Prevention Department to promote the health benefits of breastfeeding. In the address, the Office championed breastfeeding as a practice that enhances the health of both the mother and the child and called for a holistic approach that addresses the cultural, social and economic factors that are hindering the uptake of this practice.



# Children's Right to Health

## *Female Genital Mutilation*

The Office was vocal in its condemnation of Female Genital Mutilation (FGM) and in its support of a Private Members Bill which the Hon. Dr Chris Fearne tabled in Parliament.

In comments to the press, the Office condemned FGM as an act that breaches multiple fundamental rights of the child, including the right to health, the right to be heard on matters relating to the child's well-being, and the right to the fullest enjoyment of rights irrespective of gender. In its statement, the Office opined that there can be no anthropological justification of FGM on the basis of culture.

In a seminar that was organised by the Malta Union of Midwives and Nurses to discuss the aforementioned bill, the Task Manager delivered an address on behalf of the Commissioner in which, in addition to the points raised in the statement to the press, the Office also expressed the view that the targeted approach to FGM represented by the Bill needed to be supplemented with a more holistic approach that includes the incorporation of the UN CRC in national legislation, the shift of emphasis in our Civil Code from parental authority to parental responsibility, and a more open and nonjudgmental engagement with migrant communities.

## *Health Rights in Young People*

In an article that was published in the Journal of the Malta College of Family Doctors, the Commissioner argued that the law should allow young people, nearing maturity, discretion on matters relating to their health as it did on other matters. This is already happening on financial issues where a minor can open a bank account and in judicial issues in terms of responsibility for crimes. In practice, such allowance should be based on a scientific assessment of the degree of maturity of the young person seeking medical treatment or advice without the parents' consent.

In the article, the Commissioner argued that allowing children discretion on health matters would spur them to take greater responsibility for their own health and seek medical advice and treatment when required. This was especially

relevant in view of the reluctance of children to communicate their experiences and concerns relating to sexuality and sexual health to their parents, and the concomitant risks associated with the failure to seek medical advice and treatment as a result of such reluctance. The Commissioner thus called for the right of children to seek medical advice and treatment independently to be enshrined in law, and for parents to foster a more open and nonjudgmental dialogue with their offspring with regards to sexuality and sexual health.

## *Alcohol Consumption*

The press asked the Office to comment on its proposal for the legal age-threshold for alcohol consumption to be raised to eighteen years of age. The Office justified its proposal on the grounds that alcohol was detrimental to the developing health of children and that children were especially susceptible to pressures and influences that induced alcohol consumption. The Office called for this amendment to the law to be coupled with a strong effort to educate children about the safe and responsible use of alcohol and the dangers of its misuse.

## **Recommendations**

### *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*

Recommendations on how the right to health of children in Malta can be advanced were a strong focus of the Manifesto for Children and the Concerns and Proposals of the Office of the Commissioner for Children. The following is a consolidated account of the Office's recommendations in respect of the child's right to health.

### **Health of the Unborn Child**

The Office called for stronger efforts to be made to educate and raise awareness among pregnant women about environmental risk factors to the health of their unborn child, notably use of drugs and alcohol and noxious exposures at the workplace.





# Children's Right to Health

## Breastfeeding

On the importance of breastfeeding to the health of children, the Office called for a stronger drive to encourage more women to breastfeed their infants for a longer period of time after birth through better programmes and structures and a legislative move that would make it mandatory for all places of work to provide suitable spaces where women can breastfeed and/or extract breast milk.

## Asthma in Children

Reacting to the alarmingly high incidence of asthma among children in Malta, the Office recommended a specific focus on this phenomenon within the National Action Plan on Health and Environment 2012-2017.

## Child Obesity

The Office cast the spotlight also on the problem of child obesity and overweight and their very high rates amongst children in Malta. The Office called for a sustained drive to implement the Healthy Weight for Life strategy, which the Government had recently adopted.

## Substance Abuse by Children

The Office reiterated its recommendation for the legal age threshold for alcohol consumption to be homologated with the legal age of maturity that is, eighteen years. Another legislative move advocated by the Office in its recommendations was the banning of the sale of butane gas to children, which substance is commonly abused of as an inhalant/recreational drug by them. At the same time there should also be a drive to raise awareness among children about the dangers of butane gas to their health. On the broader issue of drugs, the Office stressed the need for a specialised therapeutic rehabilitation programme for child drug addicts and for a more robust system for the protection of children hailing from families with a problem of drug addiction.

### *Health Care Services for Children*

Whilst applauding the improvements that have been made in this sector, the Office called for a clearer policy direction with respect to children afflicted with rare diseases, which direction would

lead to the earliest possible screening hence medical intervention for such diseases. The Office also repeated its call for a sound legal and policy framework in respect of minors who, according to their maturity, can seek medical treatment and advice without their parents' consent.

With regard to mental health, the Office emphasized the need for children in need of acute mental health care to be segregated from adult patients into a specialised therapeutic structure based in the community; the need for children who suffer mental health crises to receive emergency outreach care from the Emergency Department at Mater Dei; and the need for children at risk of hospitalization due to mental illness to be supported preventatively in the community by specialised multidisciplinary teams.

### *Joint Proposal to Amend the Law Concerning Street Vendors in the Vicinity of School Premises*

The Office of the Commissioner for Children teamed up with the Directorate for Health Promotion and Disease Prevention within the Ministry for Health and the Directorate for Educational Services within the Ministry for Education and Employment to present a joint proposal to amend the law concerning street vendors in the vicinity of school premises to the Directorate General of Commerce within the Ministry for Finance. This proposal stemmed from a shared concern about the presence of mobile food vendors who would station themselves in the vicinity of schools and sell unhealthy food items to school children. The three entities argued that this phenomenon compromised the right to health of children, fuelled the obesity trend among the younger age-groups and went against all the efforts made in schools with regards to healthy eating.

The proposal thus called for the existing ambiguities in the law (Subsidiary Legislation 441.07 Trading Licences Regulations) to be clarified in favour of a stricter protection of the right to health of children. The proposed amendments comprised the quantification of how close to a school a food vendor could be positioned, which the three entities proposed be set at 'not less than fifty metres of walking distance from any school and any child care centre'; and the definition of the phrase 'catering units' in such a way as to exclude the sale of unhealthy food items as listed in the

# Children's Right to Health

Healthy Eating Lifestyle Plan 2007 issued by the Education Division.

The Directorate General of Commerce will be holding a meeting with other entities prior to presenting the recommendations to the Minister responsible for Commerce.

## Research and Investigations

### Weightlifting

This Office received a concern about the safety of weightlifting when practised by minors. The Office, after seeking the expert opinion of the Malta Paediatrics Association which in turn sought advice from the Department of Orthopaedics, concluded that weightlifting, if practised safely and responsibly, presented no inherent dangers related to its safety for children.

## Considerations and Concerns

### Child Immunisation

Although the immunisation of children against a range of infectious diseases is backed by a solid legal and public policy framework, it is also important that public confidence in the healthfulness of vaccines is high especially among parents and all those responsible for the care of children.

This calls for a sturdy and sustained effort to disseminate the scientific message about how important it is for the health and well-being of children that they are immunised against particular diseases. Getting across this positive message as clearly and convincingly as possible does much to dispel false notions and myths about vaccinations which tend to deter parents from getting their children immunised.

### Children with Chronic Health Conditions Outside the Clinical Setting

The health of children cannot be narrowly seen as something that can be nurtured and catered for only within the clinical setting of a hospital or a health centre. This is especially true for children who suffer from health conditions such as diabetes or epilepsy. Hence, it is vital that all persons and entities that play a role in the daily life of a child with a chronic health condition are involved in the management of such condition. This calls for very good networking amongst the clinical settings, educational settings and the child's carers that is geared towards the proper day-to-day management of the child's health condition. It is in the realm of good networking with educational settings, notably schools, that more work needs to be accomplished in this regard.



# 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)*

## Education and Consultation

### *Right to Education*

As part of its fortnightly participation in a radio programme aimed at raising awareness among the general public about children's rights, the Commissioner and a member of the Office spoke about education as a fundamental right of all children and replied to questions made by listeners on the same subject.

### *Self-advocacy by School Children*

The Office held a meeting with the school student council of the state school of the village where its premises are located, namely Santa Lučija. The meeting, which was called at the request of the members of the school council, consisted of a frank and open discussion concerning the rights of children related to their education and schooling. The students highlighted the importance that all children attending the same school should work together and for each other, in the framework of a student council, so that the fundamental right to a sound education could be enjoyed by all.



The St. Lučija Secondary School Council with the Commissioner for Children.

## Summer Schools

The Office took the opportunity offered by the lighter curricular commitment of children attending summer schools by visiting a number of state-sponsored summer schools under the umbrella of Skola Sajf to engage with the children on a variety of child rights-related issues.



### *Environmental Awareness Among School Children*

The Commissioner took part in a tree-planting ceremony with a group of school children in Gozo that was part of a celebration of Arbor Day, an international day dedicated to raising awareness about the importance of taking care of trees and the general vegetal environment.



The Commissioner for Children during Arbor Day.



# Children's Right to Education

## Healthy Eating

The Commissioner had the chance to meet and talk to a group of students attending the primary state school of Safi about why and how they



The Commissioner for Children with students of Safi Primary School.

should eat healthily. The discussion was followed by a practical session whereby the children, together with the Commissioner, were able to prepare some healthful food of their own.

## Science Education

The Commissioner accepted an invitation by the National Students Travel Foundation (NSTF) to attend the Awards Night of the NSTF Science Programmes, which was the culmination of the NSTF Science Expo 2013, an annual science popularisation event stretching over a whole week. During the event, the Commissioner engaged in informal conversations with the students about their scientific endeavours and the importance of a solid education in the sciences for a well-rounded education.

## Educational Achievement

The Commissioner attended several prize-giving ceremonies organised by various schools and colleges. The Commissioner's presence and actions in presenting students with their prizes served to highlight the fact that children do not simply have a right to an education but also have a duty to make a success out of the educational opportunities that are offered to them.



The Commissioner for Children with students at the Science Expo.



# Children's Right to Education

## Advocacy

### *Early School Leaving*

The Commissioner addressed a seminar organised by the Ministry of Education and Employment to launch Government's Early School Leaving Strategy. In her address she said that the phenomenon of early school leaving militates against the full enjoyment by children of their right to an education. In order to combat this phenomenon, the Commissioner stressed the importance of an approach to the problem of early school leaving that is holistic, in that it synergizes the input of stakeholders from the education, social and health sectors. She also stressed that we need to be proactive and have the necessary tools to intervene as early as necessary in the life of the child in order to address factors that may lead to early school leaving.

## Recommendations

### *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*

Recommendations on how the right to education of children in Malta can be advanced featured in the *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*. The following is a consolidated account of the Office's recommendations in respect of the child's right to education.

#### Educational Infrastructure

The Office called for continued investment in the upgrading of the physical, human resource and technological infrastructure underpinning all compulsory education.

#### School Absenteeism

A strong emphasis was made on the worrying phenomenon of school absenteeism in Malta and on the need for further action to fight it. To this end, the Office recommended that the neglect of a child's education be added as a ground of ill-treatment of minors, as provided in Article 247 (2) of the Criminal Code. Further to this, the Office called for the age threshold for this legal provision to apply to be raised from 12 to 16 years of age, to mirror

the compulsory school age. Legal action against parents who neglect their child's education should be pursued by the competent authorities even if such parents fail to appear before the tribunal or to pay the fine.

#### Early Education

On education before the start of compulsory education, the Office called for further action to ensure the highest possible rate of children attending kindergarten. With regard to child care centres, the Office reiterated its call for the enactment of a law that would make it mandatory for all centres to be registered and licensed by the competent authorities in accordance with the set quality standards.

#### Educational Underachievement

The Office's recommendations underlined the need for more robust action to address the problem of children who finish their compulsory schooling without having acquired the necessary skills and accreditation to further their education. The Office called for more efforts to create alternative educational pathways, notably vocational education; to encourage children who can opt to further their education to do so; to identify and help as early as possible those children who are at risk of educational underachievement; and to make schooling as attractive and stimulating as possible for children.

#### Child Rights Education

The need for child rights to be mainstreamed into compulsory education was stressed in the Office's recommendations. The Office also highlighted the role it could play, as the national focal point of children's rights, in the implementation of such mainstreaming.

#### Sex Education

In order to instil in all children the necessary knowledge, values and skills for them to discover and live their sexuality in as positive and healthful a way as possible, the Office called for more and better training for educators and better liaison between educators and parents with regards to sexual education for children.

Considering the significant importance of sexual

# Children's Right to Education

education, the Office, in collaboration with the Institute of Art and Design (MCAST) and the Department of Curriculum Management, will be producing a set of resources to be used as part of the PSHD lessons in schools. The MCAST students will be producing: an activity book for students in years 3 and 4 in order to promote discussion about growth and development; a work book for students in year 6 in order to promote discussion about changes that children experience as part of growing up; as well as a set of video clips to encourage parents/carers to discuss sexuality and relationships with their children. This material will be finalised in the first quarter of 2014.

## Considerations and Concerns

### *Mixed Ability Teaching*

The Office agrees in principle with the concept of mixed ability teaching, or differentiated teaching, whereby students of different levels of academic ability are taught jointly rather than separately. This enables each individual child to learn according to his or her individual pace and ability in a heterogeneous classroom environment. Much as it is a good concept, mixed ability teaching is also a challenging system of pedagogy for those who are called to implement it successfully, namely the teachers. The Office thus calls for teachers to be given more and better support, in the form of continuous training and auxiliary human and

material resources in the classroom, so that mixed ability teaching can work not just in principle but also in practice for the benefit of all children.

### *Early Education*

Although formal compulsory education starts at age five, the informal process of learning starts much earlier. It is widely accepted that early education has a strong bearing on success and achievement further down the educational pathway. For this reason, the educational value and importance of child care centres and kindergartens cannot be underestimated. The Office thus calls upon Government to put in place solid quality assurance mechanisms for the preschool educational sector that will enable the sector to make a quality leap in terms of its educational content and value.



# 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)*

*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)*

## Education and Consultation

### Positive Parenting

The Office developed educational resources on the subject of positive parenting in the form of 8 video clips that were produced by students following various courses offered by the Institute of Art and Design within the Malta College for Arts, Sciences and Technology (MCAST). The clips, whose content was designed under the guidance of Aġenzija Appoġġ, were used in a number of contexts related to the promotion of positive parenting, namely within the Blue Ribbon Campaign organised by Aġenzija Appoġġ, within parenting skills classes offered by Aġenzija Sedqa and in talks delivered to parents by the Commissioner.

### Advocacy

### Positive Parenting

The Office's Task Manager participated in a number of radio programmes during which, amongst other topics, she promoted the concept and practice of positive parenting as a parenting style that facilitates the harmonious moral and psychological development of children. The Task Manager urged all parents to embrace positive parenting and to seek guidance through the competent state agencies in order to overcome the difficulties and challenges inherent in positive parenting.

## Homeless Children

Explaining its position on the role of shelters for homeless children to the press, the Office contended that for children who find themselves in a situation of homelessness, these shelters should not provide merely a roof over the heads of children but, more importantly, personal and social care immediately upon a child's admission to a shelter. This first-aid intervention should be followed by the formulation and implementation of a care plan that is tailored to the individual needs of the child. This requires that shelters for homeless children are well integrated with the rest of the social care system. The Office also advocated that shelters that cater for homeless children should not also cater for homeless adults. This would enable them to develop their expertise in dealing with children and would prevent exposure of children to the complex social realities of adults facing homelessness.

## Research and Investigations

### Children Leaving Care

As a follow-up to the study on the outcomes of out-of-home care, which was published in 2012, the Office decided to explore some findings emerging from the study in greater depth by commissioning another study on the employability of children who leave care. This study, which shall be conducted by a team of experts in the field, shall take a qualitative look at how successful children formerly in care have been in finding and retaining employment.





# Children's Right to an Upbringing and Alternative Care

## Recommendations

*Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*

Recommendations on how the right of children to an adequate upbringing and alternative care can be advanced, were integrated within the *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*. The following is a consolidated account of the Office's recommendations as found in these two documents.

### Positive Parenting

As a legal foundation for the practice of positive parenting, the Office called for the introduction of the concept of parental responsibility to the Civil Code as a counterbalance to the notion of parental authority found in the same code. The Office argued that enshrining the concept of parental responsibility in our laws would bring national legislation in greater harmony with the UN CRC, Article 18 which provides that "The basic interest of the child shall be their (*the parents or legal guardians*) primary concern."

The Office also recommended the setting up and rollout of practical courses on positive parenting designed for and targeting single parenthood, very young parents and for adults who look after their grandchildren and nephews or nieces on a regular basis.

### Family-friendly Measures

The Office's recommendations were also geared towards ensuring that the work commitments of parents of young children do not impinge negatively on the parents' ability to provide a good upbringing to their children. In this sense, the Office called upon the private sector to introduce more family-friendly measures for the benefit of its employees who are rearing young children. Another recommendation suggested that parents of young children should be entitled to special leave from work if and when their children fall sick and are unable to go to school. The Office harped on the need for all male parents to take a more active role in their children's upbringing and called for a national effort to raise awareness to this effect.

When the care of children has to be entrusted to third parties while parents work, notably to child care centres, it is important that the quality of such care is guaranteed, hence the legal framework for all child care centres to be licensed needs to be set up without further delay.

### Families Facing Difficulties

In its recommendations, the Office defended the principle that any separation, divorce or breakdown of relationship between a child's parents should not impinge at all on the parents' shared duties vis-à-vis the child's upbringing. The Office thus called for more professional support to be provided to such parents to enable them to discuss together and take decisions regarding their children's upbringing in a calm and collaborative manner that is untainted by their interpersonal issues.

### Children in Care

In its recommendations, the Office paid much attention to the delicate situation of children, who for various reasons cannot be brought up and nurtured by their parents and who thus require alternative care. Efforts should be strengthened, argued the Office, so that as many of these situations as possible are averted. Thus the Office called for more and better early intervention structures for parents experiencing serious difficulties in the care of their children.

When alternative care is required, this should take the form of foster care, especially in the case of very young children. Hence, one recommendation called for a legal requirement for all children under five years of age who require alternative care to be put into foster care. Such a requirement should be backed by the necessary continued investment in foster care so that more adults would be encouraged and supported to foster children in need of alternative care.

When foster care is not available or advisable, institutional care should be provided only against the appropriate quality guarantees, hence the Office recommended that all residential homes for children should be licensed in accordance with the quality standards as established and agreed upon for this sector. Furthermore, non-family-based care should be provided within a small-scale community-based setting that feels





# Children's Right to an Upbringing and Alternative Care

like a home environment to the children who live in such a setting.

The Office stressed the need for all children in care to be supported by the state irrespective of whether their situation was the result of a care order or not. To this end, the Office recommended the revision of the Children and Young Persons (Care Orders) Act so that all the benefits provided to children who are placed under a care order are extended to those children who are voluntarily placed in care by their parents.

## Considerations and Concerns

### *A Holistic and Long-term Approach to Children in Care*

When approaching the subject of children in care, it is important to remember that such children should be seen and treated no differently from children who are not in care. There is a sense in which all children are in care since care of the tender and loving kind is one of their most fundamental needs and rights. Hence, the only difference between children who are in care and those who are not should be in the source of the care, not in the type, depth and quality of the care they receive.

It is this holistic mindset that should guide all attempts to provide children who cannot be brought up by their biological or adoptive parents with the same kind of care which they would have received from their parents if only circumstances had been different. Conversely, a mindset that pigeon-holes children in care into a separate mental or even legal category risks leading to an acceptance of a lower level of care for these children and to their stigmatisation and marginalisation from society.

A lot of progress has been accomplished in recent years through the increased share of children in foster care, though attention must be paid that the increased availability of foster care does not result in a decreased quality thereof. There needs to be a long-term plan for this sector that will lead the country to have a modern and diversified infrastructure for alternative care that is run along professional lines and is responsive to the individual needs of children. There needs to be consensus about such a plan amongst all the stakeholders so that the inevitable changes of people at the helm do not lead to changes of course that can only further delay progress.





## Children's Right to the Promotion and Protection of their Dignity

*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)*

*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)*

*No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.*

*(UN CRC, Article 16)*

### Advocacy

#### Children in Poverty

Delivering an address at a seminar organised by the Anti-Poverty Forum dealing with the theme of Children in Poverty, the Office's Policy Officer said that the theme of children in poverty was the essence of the more generic theme of poverty. Poverty denies children the opportunities they need in order to grow holistically thereby condemning them to live close to or below the poverty line not only as children but also later on as adults with families of their own.

In the address, the Policy Officer expressed the Office's grave concern about the high rate of poverty risk among children, which in 2012 stood at 23%. The point was made that poverty in children should not be defined simply as deprivation from the basic and traditional necessities of living, namely nutrition, housing, health and education, but also in terms of the lack of other amenities, such as leisure and the social and electronic media, which were equally crucial to the child's harmonious development. The Policy Officer thus called for a broad-based effort to address the causes and effects of poverty, auguring that the Government's

national strategy against poverty should aim to be just that.

#### Child Maintenance

In a written reaction to the press, the Office expressed its satisfaction with the decision by the European Parliament to bring into force the 'Hague Convention on the Recovery of Child Support and other Forms of Family Maintenance', thereby ensuring that children who have a non-custodial parent residing in a third country receive any maintenance that is due to them by such parent. The Office explained that this action by the European Parliament served to realize the child's right to receive maintenance from a non-custodial parent wherever he or she may happen to live as detailed in Article 27 (4) of the UN CRC.

#### Corporal Punishment

The Office was asked to comment on the criticism levelled at Malta by the Committee on the Rights of the Child about the non-conformity of the legal permissibility of a reasonable form and degree of chastisement of children in national legislation with the provisions of the UN CRC which promote an approach of zero tolerance to corporal punishment.



# Children's Right to the Promotion and Protection of their Dignity

In its reply, the Office reiterated its stance that the legal notion of reasonable chastisement creates a potential loophole through which cases of physical abuse on children could go unpunished. Moreover, argued the Office, the use of physical force to discipline children should be discouraged in favour of a positive parenting approach, which the Office was actively promoting in tandem with Aġenzija Appoġġ, even through the production of audio-visual material on the subject (see Chapter 7).

## Child Labour

In order to commemorate the World Day against Child Labour, the Office published an article in which it articulated the reasons why child labour is fundamentally wrong, Malta's legal framework against child labour, and the best strategies for combating the illegal practice. The best preventive strategy, wrote the Office, is one that ensures that all children successfully complete their secondary education before seeking employment and that strongly encourages them to continue their education past the secondary level.

## Preventing Child Abuse

In written comments to the print media, the Office contended that the Child Offenders Register defends children from repeat offences by former convicted perpetrators of child abuse without stigmatizing the offenders since the Register was not accessible to the public. At the same time, the Office called for three changes to be made to the law in order to make it more effective in preventing child abuse from repeat offenders, namely making the register retroactive so that child offenders who were convicted before the coming into force of the register would also be included in the register; making it possible to transfer names of convicted child offenders from foreign registers to the Maltese register when the individuals concerned migrate to Malta; and requiring clearance of names of people who seek to work with children not only for employees but also for employers.

## Recommendations

### *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*

Recommendations on how the right of all children in Malta to be protected in their fundamental dignity can be advanced are also incorporated within the *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*. The following is a consolidated account of the Office's recommendations in respect of the right of all children to the protection of their dignity.

### Registration of Newborn Children

The Office called for the legal provision in Maltese law that guarantees the child's right to an identity very soon following the child's birth to be enforced more rigorously by legally tying the failure of parents to register a child as stipulated by the law to the imposition of fines. Moreover, the Office called for a more streamlined system of data collection in respect of the registration of children so that information about newborn children is accurate and comprehensive.

### Corporal Punishment

In its recommendations, the Office called for the concept of reasonable chastisement to be defined in such a way as to exclude any form or degree of corporal punishment or any other act referred to in the Domestic Violence Act.

### Scope of Child Neglect

The Office made a recommendation for the definition of ill-treatment of children to be widened to include neglect of a child's education for as long as the child is of compulsory school age, that is sixteen years old.

### Legal Redress for Child Abuse

In cases of sexual abuse or defilement of children, the Office recommended that it should be possible for criminal proceedings against the alleged offender to start whether or not charges are pressed by the child. Furthermore, it was recommended that the law should require all





## Children's Right to the Promotion and Protection of their Dignity

professionals whose work brings them in contact with children, whom they suspect to have suffered or to be suffering abuse, to share such suspicions with the police. The Office also called for an increase in the maximum prison sentence that can be handed down to the convicted perpetrator of sexual abuse against children.

### Prevention of Child Abuse

The Office made a number of recommendations designed to strengthen the power of the Child Offenders Register to prevent repeat offences on children by convicted offenders. These recommendations included the need for the law to be retroactive, to allow transference of names from foreign registers, and to require vetting of employers. The Office also called for more clarity as to the categories of workers that are covered by the law and for clearer parameters to the discretion that judges and magistrates can exercise in applying the law and deciding whether a convicted child offender should be on the register or not.

### Treatment of Child Abuse

The Office made a number of recommendations concerning the human resources that sustain all efforts to protect children from abuse. Recommendations were thus made for greater investment designed to increase the number of professionals working in child protection and the collaboration amongst them.

In terms of collaboration, the Office called for more multidisciplinary work practices, for the setting up of a Child Protection Register that would contain documentation regarding the identities and care plans of children suffering some form of abuse and which would be accessible to all professionals, and for all real or perceived legal data protection impediments to the sharing of personal data about children between professionals to be lifted.

### Child Labour

The Office called for the minimum age of employment to be tied not with the age of the child, i.e. 16 years as currently provided in the Employment and Industrial Relations Act, but to the child's completion of compulsory schooling. Such legal amendment would ensure

that the start of a child's employment does not overlap with the period of the child's compulsory schooling when the child turns sixteen before having completed the last year of his/her secondary education.

In a similar vein, the Office recommended that the age threshold for enrolment in the army be raised to eighteen, in line with the internationally accepted age threshold of majority, from the present seventeen years and six months.

### Child Poverty

To counteract the phenomenon of child poverty, the Office recommended further action to identify vulnerable families and children whose social and health circumstances put them at a high risk of poverty. In its recommendations, the Office highlighted the needs of single parents, who need to be helped to improve their economic situation through employment and to reconcile their occupational and child-rearing responsibilities. The Office called for the formulation of a national strategy against poverty to coordinate all actions addressed at combating poverty and economic and social malaise.

## Sharing of Knowledge and Expertise with Other Entities

### *Child Trafficking*

The Office was one of the stakeholders consulted by KOPIN, a Maltese voluntary organisation that works in the field of North-South cooperation and global education, for the purposes of the project 'Catch and Sustain', which is being implemented by KOPIN together with a number of European partners and which is aimed at creating an exchange platform and methodology that is conducive to preventing child trafficking.

## Considerations and Concerns

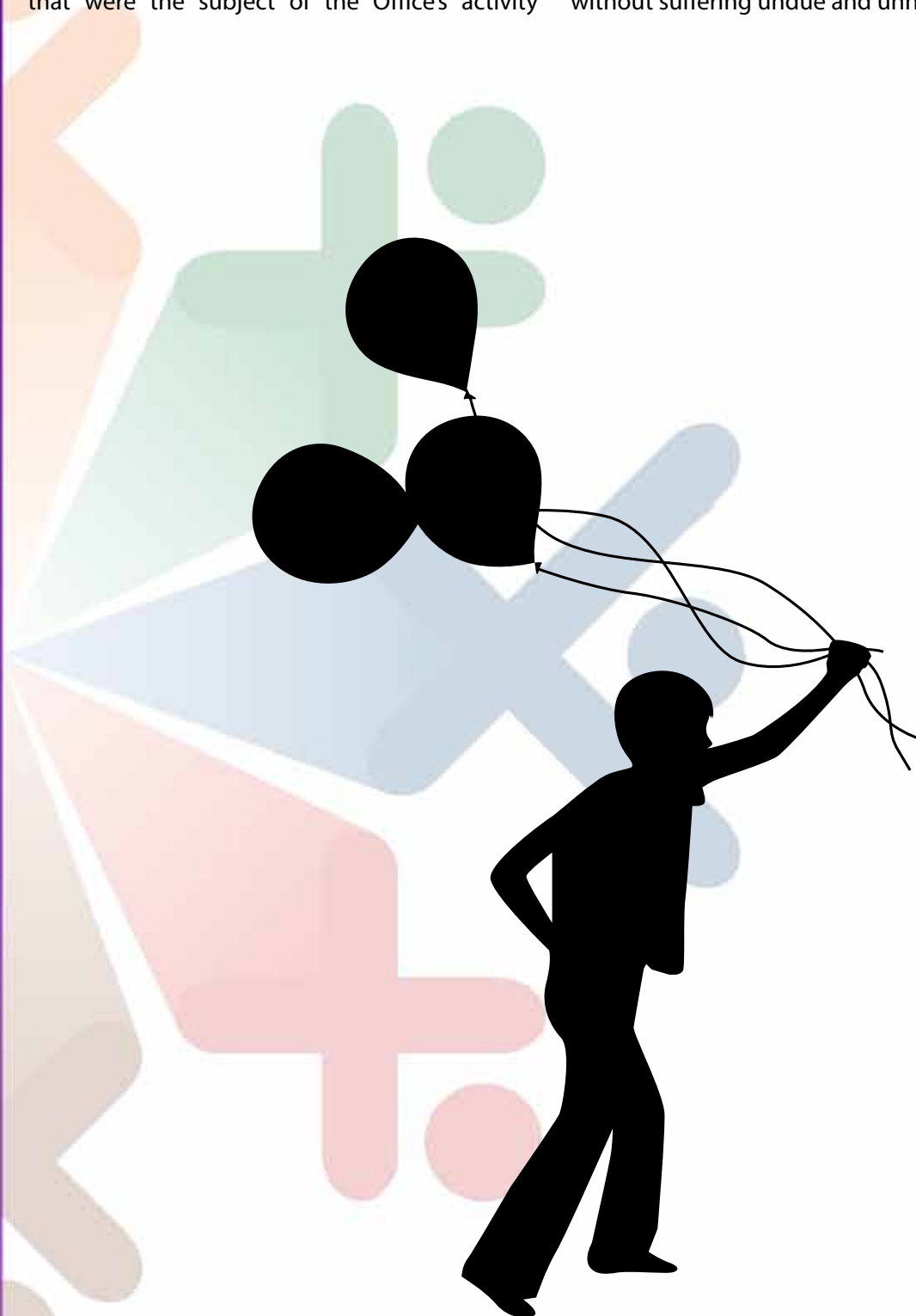
### *Protecting Children's Dignity*

Actions or circumstances that offend the dignity of children are the worst threats to the well-being of children in that they invariably result in feelings of low self-esteem and a poor sense of self-worth in children. This in turn limits their ability to realise their rights and potential during

## Children's Right to the Promotion and Protection of their Dignity

childhood and later on in life. The protection of the child's dignity should thus be a constant and urgent priority for those who are responsible in one way or another for the well-being of children. The concerns and recommendations that were the subject of the Office's activity

described in this chapter give but a small glimpse into the challenges that we face as protectors of children. No time must be lost to strengthen that protective net within which and through which children can discover themselves and the world without suffering undue and unnecessary harm.



# 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)*

## Education and Consultation

### Unaccompanied Minors

The Office participated in the production of a documentary featuring interviews with two migrant children who had fled their countries of origin and arrived in Malta unaccompanied. The respective social workers of the two children were also interviewed in the video. The video is a first-hand account of the situations faced by unaccompanied minors through the whole

course of their life journey. In order to raise awareness on the plight of unaccompanied minors, the video was distributed amongst key Ministers who are mostly involved in this sector. The documentary, entitled 'Children on the Move, Children First', was coordinated by the Belgian General Delegate for Children's Rights within ENOC and was co-funded by the European Commission.

## Advocacy

### Right to Seek Asylum

The Office publicly defended the fundamental right of children to seek asylum in Malta in the light of media reports of the possible adoption of a pushback policy by Government. In its press statement, that was published in all dailies, the Office cited Article 22 of the UNCRC (reproduced in the title section of this chapter) and other human rights instruments that prohibited any sort of action that would deny children and their families the right to seek and apply for asylum in a receiving country which, like Malta, was signatory to them, and which would place them back in the dangers from which they would be fleeing.

### Detention

Another issue raised by the Office in its public statements about the rights of migrant children concerned the time spent by children in detention centres pending the outcome or completion of administrative procedures and medical clearances,



# Equal Rights for All Children

which time can be several days or weeks long. The Office maintained that detention is intrinsically harmful to children, who are unable to cope with its psychological pressures. For this reason, the Office appealed for the immediate release of all detained children and their families and for the adoption of an alternative system that would allow children to bypass the detention phase altogether and undergo the necessary checks and examinations in an open environment that is tailored to their needs.

## Stateless Children

In its press statements, the Office also advocated for a legal amendment that would allow children born at sea on unregistered vessels, hence not flying the flag of any country, to be granted the nationality of the first port of call. This would make it possible, argued the Office, for migrant babies born on boats carrying irregular immigrants to Malta to avoid becoming stateless, thereby enjoying their fundamental right to a nationality.

## Recommendations

### *Social and Health Rights of Migrant Children Seeking Asylum*

The Office called a meeting with the key players within the health and home affairs authorities to conduct a review of the services that are being meted out to newly arrived migrant children seeking asylum and to determine how such services can be improved in the best interests of the children. At the end of this meeting, there was agreement on the following points:

- Migrant families with children should be hosted in an open centre for families where they can undergo all the necessary administrative procedures.
- The medical test carried out to verify whether a migrant is of minor age should be reviewed to ensure it is reliable and valid.
- Migrants who are manifestly of minor age should be immunized upon arrival in order to reduce risks of contagion.
- Manifest or confirmed minors should be screened for various diseases, including HIV.
- To increase availability of cultural mediators who can assist children in clinical settings, a central pool of mediators who can be engaged by all Government entities should be created.

## *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*

Recommendations on how equality of rights for all children in Malta can be guaranteed were also included in the *Manifesto for Children 2013 and Concerns and Proposals of the Office of the Commissioner for Children*. The following is a consolidated account of the Office's recommendations in respect of equal rights for all children.

## Stateless Children

The Office called for the necessary legal amendments so that migrant children who are born at sea during the mother's perilous crossing and rescued by Maltese naval authorities do not end up stateless because the sea vessel they are born on is unregistered but are granted Maltese citizenship.

## Unaccompanied Migrant Children

Migrants who make a formal claim to being minors and who are later ascertained to be minors will have spent a fair stretch of time in detention by the time the age verification process is completed. The Office thus called for the benefit of the doubt to be given to the claimant who should be segregated from adults within a child-friendly environment.

## Participation in Children's Rights-Related Networks and Fora

'Children on the Move' was the theme of two events organised by ENOC, namely a working seminar and the Annual Conference, which the Office participated in. The Head of Office and the Task Manager met with several of their European counterparts to share with them the Office's activities related to this theme, namely the aforementioned video about unaccompanied minors, and other themes, such as the research study on leisure trends among young people (see chapter 3).

Dr Muscat and Ms Gili also had the opportunity to listen to the challenges and initiatives faced by other European independent child rights institutions with regards to migrant children



# Equal Rights for All Children

and to discuss possible ways and means how migrant children can be allowed to enjoy their fundamental rights on a par with children who have regular status.

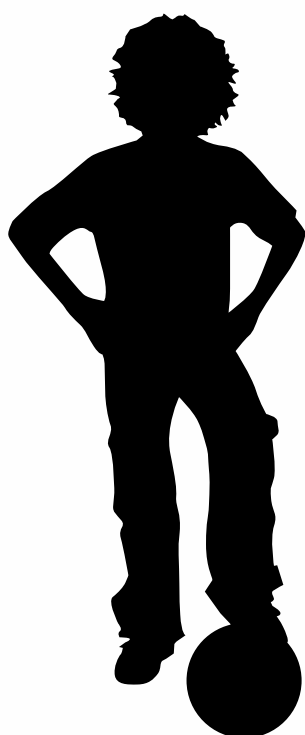
## Considerations and Concerns

### *Rights of Migrant Children*

Rather than saying that migrant children seeking asylum are doubly vulnerable, it is more correct to say that they have multiple vulnerabilities. These stem from the trauma experienced in their countries of origin; the separation from their homeland and their families; the trials of their perilous voyage at sea; the possible experience of death of their fellow sea voyagers, who might happen to be their parents or siblings; the reception in a foreign land where, while being given food and shelter they are also made to go through a raft of administrative procedures which can include a period of detention.

Underpinning this labyrinth of traumatic experiences is their fundamental vulnerability as children. This consideration alone should suffice to understand how important and transcendent of any other consideration relating to national security it is that migrant children seeking asylum should be granted full and equal rights with all other children living in Malta. This entails granting migrant children not simply the same benefits as are enjoyed by all other children in Malta but also providing them with services that are tailored to their particular needs so that they can be helped to recover from the traumas they have suffered. These benefits and services should not be given out of a sense of charity and compassion but on the basis of the fundamental rights of migrant children.

The Office thus calls upon Government to ensure that the rights of migrant children are never limited by security or sustainability factors but are always promoted and respected to the full.





# Conclusion

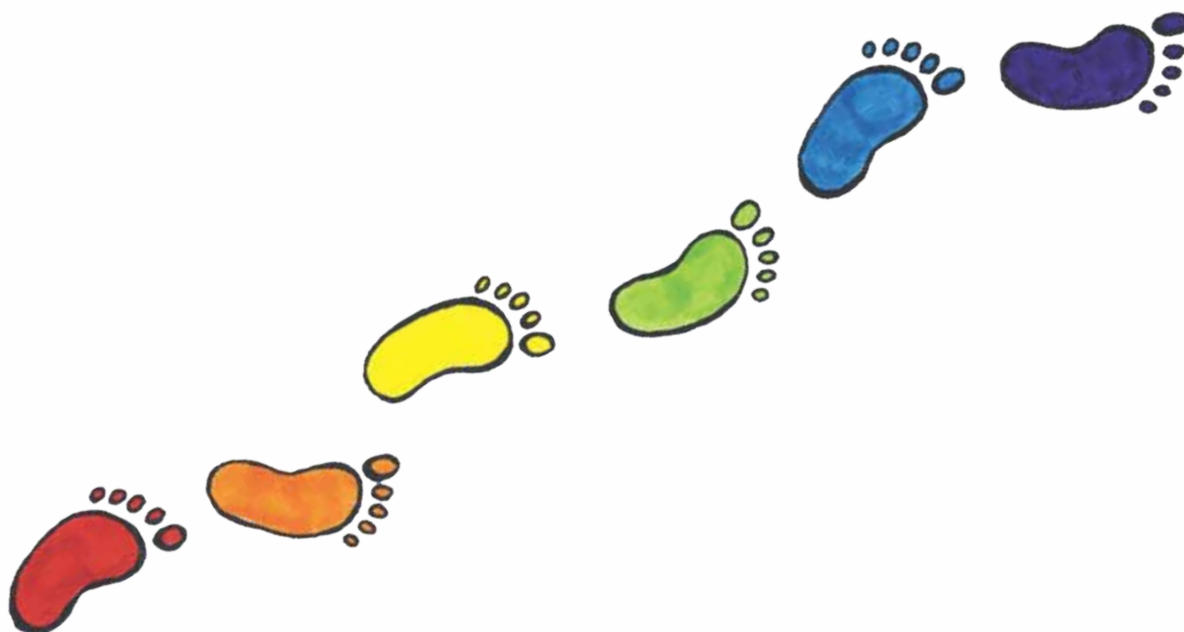
The close of 2013 marks the end of ten whole years of activity by the Office of the Commissioner for Children. One cannot but also thank the former Commissioners, Ms Sonia Camilleri and Ms Carmen Zammit for the sterling work they performed when in office.

The Office is itself a child, bubbling with enthusiasm for the causes that it champions and busily but patiently building up the resources and experience to match not only its energetic spirit but, more importantly, the vast breadth and depth of the subject-matter which it is called to deal with.

Looking back upon this decade of activity allows one to trace the real progress or lack thereof that has been made on specific issues concerning children's rights, and therefore to gauge the impact this entity that is the Office of the Commissioner for Children has had on the situation of the rights of children in Malta.

One can safely say that the Office has established itself as a key stakeholder in the defence and promotion of children's rights. However, one cannot look at the work conducted by the Office in isolation from the contributions of many other stakeholders working in the same field. In fact, the Office has always endeavoured to coordinate its efforts with other stakeholders and to coordinate the efforts of other stakeholders in order to produce the best possible outcomes for children.

As considered in Chapter 1, this decade of activity should also serve as an opportunity to look ahead to the future and to determine what should be done to better equip the Office to face the challenges that persist and those that lie ahead. This Office needs to continue growing while maintaining its independence and autonomy as articulated in Article 4 of the Commissioner for Children Act and without losing its focus, first and foremost, on the best interest of the child.



## Drawings by students from the Safi Primary School

