



**Kummissarju għat-Tfal**  
Commissioner for Children

# **Annual Report 2015**

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 Pauline Miceli**



It is more than fitting for me to start my first written message as Commissioner for Children by paying homage to my predecessor, Ms Helen D'Amato, for the sterling work she carried out for the good of all children in Malta during her tenure of this important office.

The activity that is reported in the following pages is entirely hers. Nevertheless, working on this report has enabled me to better take stock of what has been done so far and thus to clarify my vision as to what needs to be

built upon, and where this Office, in collaboration with other stakeholders, needs to start building. This vision is sketched out in the general considerations that conclude each chapter.

I see the ultimate aim of my work as Commissioner for Children as being quite simply to embolden legislators, authorities and civil society, including children themselves, to think and do more and better to create the right conditions for the well-being of children, in the deepest and widest sense of the term.

While it is true that a majority of children in Malta experience high levels of well-being, we must not be complacent. The fortunate majority of children are facing new and complex challenges in the form of reduced opportunities to spend time with their parents, and the benefits and dangers of the internet, to name but a few. At the same time, we must never forget there is a minority of children whose lives lack some of the most basic ingredients of well-being, such as stable and loving families, sufficient income and social acceptance of their cultural identities.

Childhood should be a period of happiness and development for all children. Working towards this aim is a collective responsibility. I trust that the work of this Office under my leadership will continue reflecting this responsibility very brightly and clearly.

*Leaving, coming and staying...*



***From left to right: Mr Nicholas Vella Laurenti (Policy Officer),  
Dr Lorna Muscat (Head of Office), Mr Charles Giordano (Driver),  
Ms Pauline Miceli (New Commissioner for Children),  
Mrs Helen D'Amato (Outgoing Commissioner for Children),  
Ms Cynthia Sammut (Teacher), Ms Suzanne Garcia Imbernon (Task Manager)  
& Mr Glen Gauci (Project Officer).***

# *The Office of the Commissioner for Children*

## *- Background and Introduction*

### Roots and beginnings

Happiness and well-being are what all individuals naturally yearn and strive for. A fair society is one which enables all those who are part of it to attain such an inner state by creating the right conditions and opportunities for them to satisfy their entire hierarchy of needs.

The most basic and powerful tool that a society can use to this end is to think and act through the prism of individual rights, as enshrined in the Universal Declaration of Human Rights adopted by the United Nations in 1948. In essence, human rights dictate that all individuals **ought** to be well and happy and that governments **must** act to facilitate this.

Children have very particular needs that set them apart from adults. In recognition of this, in 1989, the United Nations created a special charter of children's rights, called the Convention on the Rights of the Child. The Convention is a unique tool for meeting the needs of children and allowing them to experience an optimal degree of happiness and well-being.

Malta not only adopted the Convention by ratifying it, in 1990. In the year 2003, it also set up an independent structure focused on the actual implementation of the Convention. As a State Party to the Convention, Malta did this by enacting a law constituting the Commissioner for Children, who is advised by a Council for Children<sup>1</sup>. Ever since this legislative act, successive governments have committed an expanding pool of human, financial and material resources to allow this Office to fulfil its dual function of overseeing the implementation of the Convention, by carrying out research and investigations, and facilitating the implementation of the same Convention, by recommending changes to laws and policies and providing education on children's rights to children, parents/guardians and society at large.

### Progress

It is safe to say that the Office of the Commissioner for Children now is in a stronger position to carry out its functions than it was at the outset of its development.

The Office is housed in well-sized premises that are used exclusively by the Office.

The Office's operations are financed from public funds to the tune of €180,000 per annum, only a small percentage of which covers administrative costs.

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1 Commissioner for Children Act, 2003

The Office has nine full-time posts, including the Commissioner, in its organisational structure, albeit two of these have been unfilled for over two years. A large part of the Office's strategic and operational capacity lies in the numerous partnerships that it has forged with various national and international governmental and non-governmental organisations.

Ms Helen D'Amato served her last year as Commissioner for Children in 2015. The Council for Children, which was composed of the Chairperson of the Social Affairs Committee, five appointees from the relevant Ministries and six co-opted children, held five meetings in the course of the year.

### **Annual Report 2015**

It is against this broad historical background that the work started, continued and accomplished by the Office in 2015 as reported in this publication must be read and understood. The ideological backbone of the Office, that is the rights of children, can be seen clearly in the very structure of the report, which is articulated according to the specific rights of children and their various aspects. This meaningful structure is filled with descriptive and critical content which points to the difficulty and complexity of the Office's work for the happiness and well-being of children.



# 1

## Children's Rights - General

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

*(UN CRC, Article 3)*

### **Implanting children's rights in children's minds**

In an attempt to sow the seeds of child rights in the fertile minds of children, the Office distributed a number of its educational resources to children of different ages through schools on the occasion of World Children's Day. Children in Kinder 1 thus received Flash Cards on Children's Rights; Year 1 students got a copy each of the colouring Book on Children's Rights, whilst all children in Year 3 and Form 2 were given a simplified version of the United Nations Convention on the Rights of the Child. Finally, the illustrated booklet 'My Rights' was distributed to children in Years 5 and 6 across all schools in Malta and Gozo.

### **Active childhood**

**Shelby Aquilina** and **Christopher James Friggieri** were the two participants from Malta in the CATS (Children as Actors in Transforming Society) Conference, which was held in Switzerland. Accompanied by the Office Task Manager, the two young advisors met with children, young people and adults from all over the world to explore how to create partnerships that can lead to effective participation in all matters that affect children.

### **Advocacy for children by children**

Twenty-one children from as many primary and secondary schools received book prizes in recognition of their altruistic behaviours towards the rights of other children. This award, known as 'The prize for children as promoters of children's rights' and organised by the Office, helped foster the notion in the hearts and minds of students and teachers that children's rights have nothing to do with selfish interest but all to do with social and collective well-being.

### **The right to life**

The Commissioner for Children, Ms Helen D'Amato, upheld this fundamental right in a paper published on its website and carried by a local daily, in which she articulated her Office's position on embryo-freezing and abortion. About the former, the Commissioner opined that this practice endangered the life of the embryo and that it could be justified only if it was medically necessary to delay the implantation of the embryo in the woman's womb. About the latter, the Commissioner condemned the practice as denying unborn child the right to life and called for the article in the law that prohibits abortion to be articulated in terms of this right. Ms D'Amato discussed her positions with the Bioethics Consultative Committee.

### *Social well-being*

200 children from 34 schools gathered over two days at Verdala Palace, courtesy of the President of Malta and her Foundation for the Well-being of Society, to learn and discuss how and why they should foster healthy relationships both at home and at school.

The event, which the Office organised to celebrate World Children's Day in November, was led by professionals from the Directorate for Student Services. The BeSmartOnline! Team and the Cyber Crime Unit within the Malta Police Force pooled their resources to deliver a special programme about internet safety to educators and other adults who accompanied children to the event.

During the activity, the children were also visited upon by a number of institutional figures, namely **H.E Ms Coleiro Preca**, President of Malta, **Dr Michael Farrugia**, Minister for the Family and Social Solidarity, the **Hon. Dr Deborah Schembri** and the **Hon. Mr Robert Cutajar**. This enabled them to understand the importance of healthy relationships as the very foundation of society.



*H.E Ms Coleiro Preca, President of Malta, Mrs Helen D'Amato, Commissioner for Children, Hon. Dr Michael Farrugia, Minister for the Family and Social Solidarity, Hon. Dr Deborah Schembri, Chairperson of the Social Affairs Committee, visiting the participants.*

### *Investing in children*

This was the theme of a draft UN resolution tabled by the EU in collaboration with the Latin American and Caribbean Group (GRULAC) and on which the Office suggested some amendments aimed at strengthening the commitment by nations to the well-being of children.

The Office also contributed to updating the status report on Malta's implementation of the European Commission's recommendation on the same theme by highlighting some relevant aspects of its activity during the previous year.

### *Joining forces in favour of children*

As a member of Eurochild, a network of organisations and individuals working in and across Europe to improve the quality of life of children and young people, the Office participated in the network's Annual General Meeting through its Policy Officer, who attended the event held in Brussels. The meeting underlined the need for closer involvement and participation by the network's large membership base in the initiatives carried out by the network's administration.

### *European Parliament a forum for children's rights*

The Office met with the Maltese Euro Parliamentarian, **Dr Roberta Metsola**, to discuss cross-border issues of concern related to children's rights and to ultimately inform her work as rapporteur to the European Parliament on a number of petitions made across Europe by or on behalf of children. Among the issues raised by the Office was the problem of the statelessness of irregular migrant children born at sea on unregistered sea vessels.

### *Growing in democracy*

The triannual Rights4U live-in course and the yearly publication and dissemination of the booklet 'My Rights' are examples of the Office's efforts to help children and young people understand and embrace democratic rights and values. The Office wrote to this effect in its feedback towards the compilation of information for the EU Youth Report.

### *Children on the move*

In the wake of the sinking in the Mediterranean of a boat carrying hundreds of would-be migrant people of all ages, many of whom died before they could be rescued, the Office instigated the European Network of Ombudspersons for Children (ENOC), of which it is a member, to write an open letter to all National Governments, the European Union and the International Community at large calling on them to fulfil their collective duty to take strong urgent multilateral action towards the creation of safe and legal channels of migration which would put an end to mass tragedies like this. The letter was also carried in the local press.

The Office participated in the effort by ENOC to keep tabs on this evolving issue by joining a Task Force composed of several ENOC members and actively researching the situation of children on the move to and from Malta with a view to compiling a report on the phenomenon. The individual reports by the members of the Task Force are expected to be consolidated and disseminated across Europe in 2016.

The Office homed in on the issue also in comments to a daily newspaper about the EU's strategy of destroying smugglers' boats as a means of

preventing deaths of migrants, among whom are many children, in the Mediterranean. This strategy, even if it were effective, wrote the Office, would not prevent would-be migrants from suffering and possibly perishing in countries of origin or transit where their lives may be at risk. The Office thus called for safe and regular channels of migration to be opened for all those who need international protection.

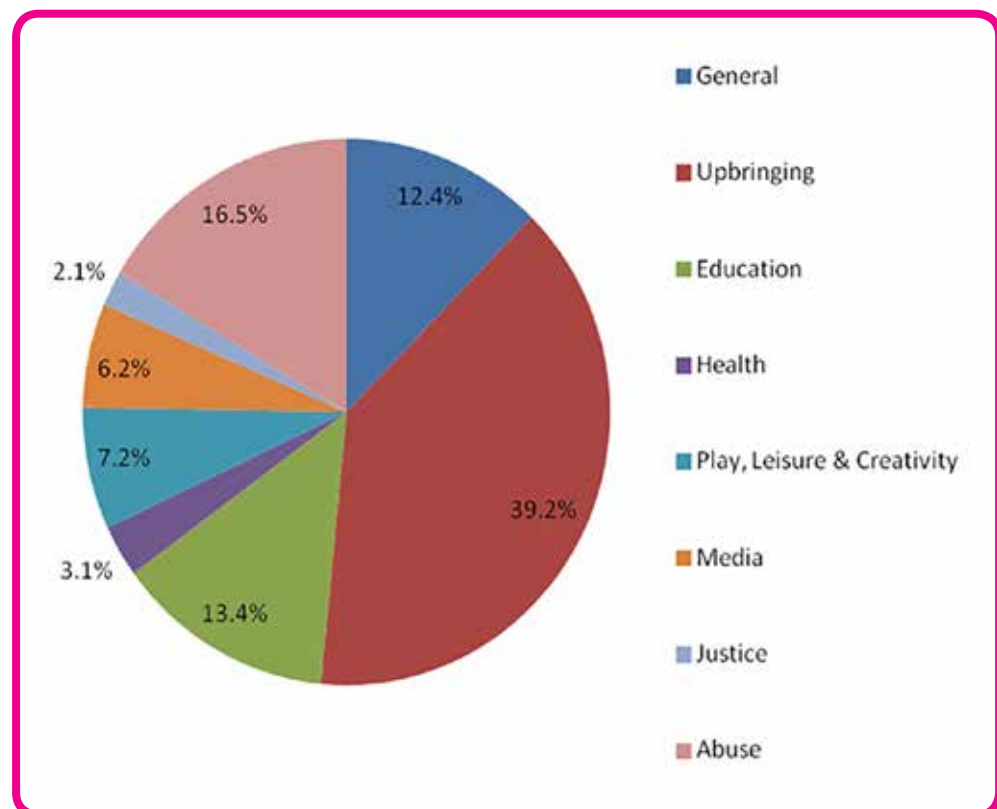
On a draft resolution presented by a member of the OSCE Parliamentary Assembly and forwarded for the Office's advice by a member of the Parliament of Malta, the Office suggested among other things using the less stigmatising sub-heading above to refer to this doubly vulnerable group of children.

### *Raising awareness about the Office of the Commissioner for Children*

The purpose, constitution, functions and composition of the Office were showcased in an article penned by the Policy Officer and published in an edition of 'Solid', a quarterly magazine produced by the Ministry for the Family and Social Solidarity and circulated amongst all public service employees engaged in social solidarity.

### *Individual cases*

The Office received a number of complaints and requests for advice in the course of the year. A large majority of these were issues related to children's upbringing, that is family or out-of-home care. (See pie-chart below.)



### General considerations

The strength of the Convention on the Rights of the Child as an effective guarantee of the well-being of children does not lie in its ratification, notwithstanding the fact that this makes a country subject to a periodic monitoring mechanism. This strength lies rather in the instruments through which the Convention is implemented and the rights of children realised.

There are basically three such instruments. The most fundamental instrument is the law in that it binds all stakeholders, from the weakest to the strongest players in a given country, to respect and uphold the rights of children. In most cases, however, the law on its own is not sufficient for the rights of all children to be fulfilled. National policies and strategies are necessary to produce the desired outcomes. These instruments cannot be wholly effective if children are not empowered through education to take cognisance and ownership of their rights.

Working towards the rights of children means using all three of these instruments in a dynamic and complementary manner without attaching more or less importance to any one of these tools than to the others. One should also bear in mind the need to conduct research to highlight the areas in which the three instruments should be employed in order to bring about concrete improvements in the well-being of children.





## 2

## Children's Right to an Upbringing

*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)*

### **Promoting a healthy family environment**

Children across Malta discussed the overarching theme of a positive environment at home during lessons of PSCD and Art, after which they drew their personal visions. The best three pictures in each of three age-groups were awarded prizes as part of the competition organised jointly by the Commission on Domestic Violence and the Office of the Commissioner for Children with the aim of sensitising children to the problem of domestic violence. This heightened sensitivity will be shared with the rest of society through the use of the winning drawings in a national awareness-raising campaign on domestic violence that is planned for 2016.

### **Continuous upbringing**


The Commissioner for Children, Ms Helen D'Amato, underlined the importance of continuity in the upbringing of a child in the early stages of its development in a position paper on the practice of surrogacy published on the Office's website and carried by a local daily. The Commissioner stressed that the rupture of the bond between the child and its surrogate mother, the formation of which bond started during gestation, was potentially detrimental to the child even if it occurred soon after the birth of the child. Ms D'Amato thus called for the current ban on surrogacy to be retained in the best interest of the child.

### **Understanding successful foster care**

The research team composed of Dr Marian Muscat Azzopardi and Dr Daniela Debono, which the Office set up in 2014 to study how fostered children in Malta benefit or otherwise from their placements, completed its work. The study, which includes a number of recommendations for improvements in the legal and policy frameworks within which foster care operates, will be published, launched and used as a basis for the Office's advocacy on foster care in 2016.

### **General considerations**

The vast majority of children in Malta are fortunate enough to be raised in families that are committed to their (i.e. the children's) well-being.



Helping families, especially those that are at risk of being unable to cater for their children's social developmental needs, in a robust, proactive and nonjudgmental way is crucial to forestall the need for alternative care arrangements.

For those children who will unfortunately require an alternative setting for their upbringing, foster or kinship care should be the method of choice. Sustaining foster families inter alia by helping nurture a harmonious and collaborative relationship with families of origin is essential for children to live and mature positively in an alternative care setting.

Underlying all this is the need to instil in all parents, be they biological or foster parents, a sense that the well-being and development of the children is all that matters and that they, the parents, all bear different yet complementary responsibilities towards this goal.



### 3

## 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)*

### **Big book for small children**

The early learning experiences of children in Kindergarten 2 have been enriched by means of a new interactive tool in the form of a Big Book which narrates the story of *Tamara l-Ħmara* (Tamara the Donkey). This resource, developed thanks to a tripartite collaboration between the Office, the Education Officer for Early Years, Ms Tania Mangion, and the Institute for Art and Design within MCAST, was finalised and disseminated to all Kindergarten Schools.



### **Getting to school from home, getting home from school**

Any changes to the system of school hours and school transport should be designed to work primarily in the best interest of children, since education is for children, not vice versa. This was the terse comment by the Office to questions from an online newspaper about the White Paper 'School Opening Hours and Traffic Congestion', which had just been issued by the Ministry for Education and Employment.

After studying the White Paper in depth, the Office gave its feedback to the Ministry calling for the issue to be looked at more broadly and holistically,

taking into account not only the particularly negative effects of traffic congestion on children travelling to and from school, but also how school hours and transport contribute to making the routine of a child on a normal school day optimally balanced between the child's preparation for school, the child's activity in school, and the child's activity out of school.

### ***Rewarding effort and excellence in schools***

The Commissioner accepted numerous invitations to present prizes to students who had stood out for their diligence and achievements in their studies and who therefore were making the best use of their talents and educational opportunities.

### ***Childhood change***

To mark the handover of the educational resources about sexuality and relationships, *Il-Mixja tal-Ħajja* (The Walk of Life) and *Il-Vjaġġ mit-Tfulija għaż-Żgħożġija* (The Journey from Childhood to Adolescence), to the education authorities for these resources to be used in Personal, Social and Career Development (PSCD) pedagogy, the Commissioner, accompanied by members of staff of the Office, together with the Education Officers for PSCD presented the fruit of their collaboration to the Education Minister, the Hon. Evarist Bartolo.

The Commissioner also met with a group of PSCD teachers to present and distribute the resources to them.



***Commissioner for Children, Mrs Helen D'Amato presenting  
Hon. Minister Bartolo with workbooks  
designed by students of MCAST Art and Design.***

### General considerations

Education is to children what wings are to fledglings, allowing them to explore physical, mental and social realities that lie beyond their family nest.

Just as fledglings are born with the capacity to fly, so do children have an innate ability and desire to learn. This potential needs to be nurtured well before the minimum age of compulsory schooling. Hence, child care, the provision and uptake of which has expanded greatly in recent years, should be seen and practised not as a means of allowing parents to be gainfully occupied but mainly as an early educational opportunity that is offered to children by qualified educators specialised in the pedagogy of early years, and which, together with kindergarten, is integrated into the system and pathway of compulsory schooling.

Likewise, the need to continue learning beyond the maximum age of compulsory schooling is also strongly felt both intrinsically, in terms of personal development, and extrinsically, in view of an increasingly knowledge-based economy.

Extending the educational pathway increases the importance of guiding children ever more closely along this pathway. This requires among other things pedagogical content and methodologies that are tailored as much as possible to the individual needs, talents and abilities of children, and stronger synergies between educational institutions and the families in which children develop.

Last but not least, the respect that a child's family and his or her school should command ought to be reflected also in how the child is made to travel on a daily basis between these two crucial nodes in his or her developmental process.





# 4

## 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)*

### ***Promoting and protecting the health of newborn children***

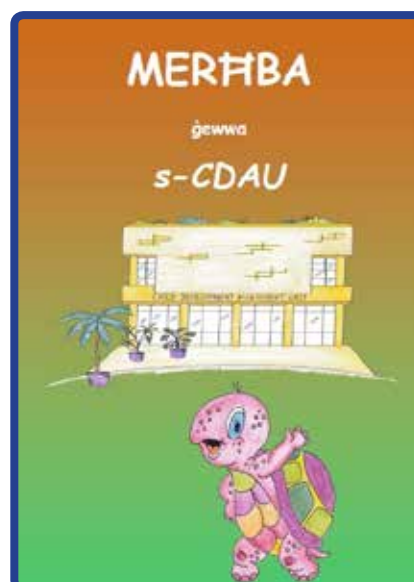
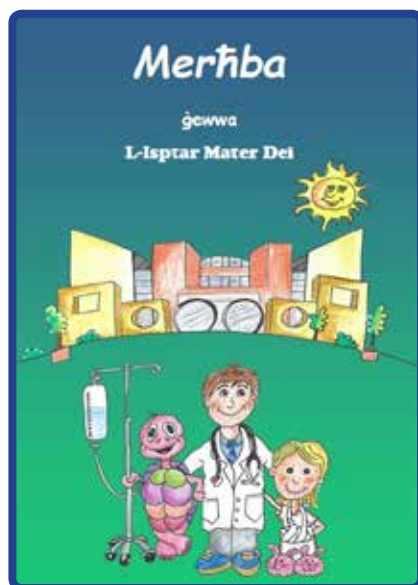
A leaflet explaining the rights and possibilities of mothers of newborn children in respect of breastfeeding practices at their place of work and during working hours was produced through a joint effort between the Office, Parentcraft Services, the Directorate for Health Promotion and Disease Prevention, the Department for Industrial Relations, and the Occupational Health and Safety Authority. The leaflet, which complements another leaflet on the rights of pregnant women at the place of work which the Office co-produced and disseminated in 2014, has been distributed to expectant parents and mothers of newborn children through Parentcraft Services within Mater Dei Hospital.



### ***Orienting children who enter clinical settings***

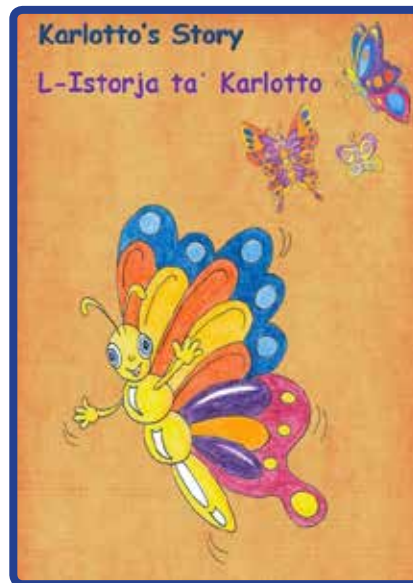
The Office, in collaboration with the Paediatric Practice Development Team, finalised the production of three activity books designed to familiarize children admitted to different clinical settings, namely the medical and surgical wards within MDH, and the Child Development Assessment Unit (CDAU), with their environment. The resources were presented and disseminated within each clinical setting, whilst the actual use of the resources by children is being facilitated by teachers and nurses working within the respective setting.

To further alleviate the sense of alienation felt by children who spend time in clinical settings, the Commissioner visited children hospitalised at MDH during Easter time and Christmas time, talking with and giving a gift to each child.



### ***Supporting children in families disrupted by illness***

To mitigate the disruption caused to the lives of children by serious illness in the family, the Office supported the Karl Vella Foundation in developing a colouring book, entitled 'Karlotto's Story', to prepare younger children for the support they would likely receive within the Foundation. This collaboration led to this valuable resource being launched and disseminated in the course of the year.



### ***Identifying and scoping national health priorities***

In its feedback, the Office homed in on three strategic priorities within the draft action plan of collaboration between Malta and the World Health Organisation, namely obesity, mental health and migrant health. In each case, the Office recommended paying more attention to the needs of children who are directly or indirectly affected by these health issues.

### ***Preventing and managing diabetes in children***

It is positive that the needs of diabetic children and of children who are at risk of developing diabetes are comprehensively identified in the proposal for a National Diabetes Strategy, wrote the Office in its feedback. At the same time, the Office also stressed on the importance of education within schools to avoid the stigmatisation of children with diabetes, and on the need for the various initiatives that are already happening through independent groups like itself and others to be incorporated in the eventual strategy.

### ***Donation of organs by Children***

The Office gave its feedback on legislative proposals contained in a White Paper on organ and tissue donation, recommending that children be allowed to register as prospective organ donors at twelve years of age with parental consent and at sixteen years without such consent. Media reports suggested that the Office's recommendations had been adopted in the draft law that was eventually drawn up by Government.

### ***Road safety for children***

In order to instil a sense of road safety in children, all students in Year 2 were given a copy of the activity book on road safety published by the Office, 'Fit-Triq ma' Kinu', as part of the Office's celebrations of World Children's Day.

The perspective of children on road safety issues was represented on the Road Safety Council thanks to the Office's membership of the council. The

latter was set up in the course of the year to advise Government on the way forward on road safety in Malta and is composed of a wide range of stakeholders in the field.

### **General considerations**

The health of children is the foundation of their well-being. Children with precarious health may have difficulty being with their families, attending school, enjoying leisure activities and partaking of many other things that are vital to their well-being and development.

Despite the fundamental importance of health, health systems, including paediatric systems, tend to be geared primarily towards restoring health when children experience physical or mental ailments rather than towards building and maintaining health in children thus helping them ward off disease and enjoying a higher level of health than they can get just through a curative approach.

While one should not underestimate the importance of curative health institutions like hospitals and clinics, which may treat children who fall ill despite leading healthy lifestyles, it is clear that the balance in terms of public investment and presence on the ground needs to be shifted, slowly but surely, onto the promotion of health as a public and personal good which it is up to society and its individual members to develop and safeguard.

This paradigm shift can happen only if the promotion of health is not limited to piecemeal and sporadic interventions in the form of talks or campaigns but is embedded within the social and cultural fabric of families, communities and schools so that these enable children to take ownership of their health.



## 5

## 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)*

### ***Practising ring sports safely***

A technical committee, steered by the Malta Competition and Consumer Affairs Authority (MCCAA) and composed of the Office and other stakeholders in the field, was very active in the drafting of a national standard laying down safety requirements for establishments that provide services of training and competition in ring sports, such as boxing and kick-boxing, to minors. The draft standard, which incorporates physical aspects of safety as well as the accreditation of instructors, is expected to be finalised, put out for public consultation and officially published as a national standard in 2016.

In the meantime, the need for such a standard, which the Office formally registered in its application to MCCAA in 2013, continued to be felt with the Office receiving reports of irresponsible behaviour by organisers of ring sports events for minors. The Commissioner discussed these reports in a meeting with the Parliamentary Secretary for Research, Innovation, Youth and Sports, Hon. Chris Agius.

### ***Enforcing protection of children using indoor play facilities***

The Office continued in its efforts to make the National Standard SM3600, which lays down specific safety requirements for indoor play facilities, enforceable at law. The Office was informed that a legal notice to this end was in the process of being drafted.

### ***An active summer for children***

The Commissioner visited a number of so-called Summer Schools to meet children and staff and show her appreciation for their efforts to make the summer months a period of active rest from normal school activity.

### ***Towards a child-friendly nightlife***

In comments published in two newspapers, the Office lamented the fact that the current legislation regulating the admission of minors to places of entertainment was limited to barring the display and sale of alcohol to patrons under the age of seventeen. The Office called for the alternative legislation it had helped to draft, which addressed other issues of concern, such as the lack of lower and upper age-limits for entry in places of entertainment and ability of prospective party organisers to escape scrutiny as required by law, to be implemented without further delay. At the same time, the minimum drinking age should be set at par with the age of majority, the Office said.

### ***The world in pictures***

Congratulations to **Svetlana Scott**, an 8 year old from Malta, on winning a Bronze Prize for the picture she composed with the name 'Family Day Out'. Svetlana was among many children from Malta who submitted their drawings through the Office to the IE-NO-HIKARI Association in Japan as part of the Annual World Children Picture's Contest organised by this association.

### ***Rewarding young creativity***

The Office Task Manager was on the evaluation board that judged arts projects submitted by children and young people and arts projects for children submitted by communities as part of the President's Award for Creativity.

### ***Theatrical impersonations by children***

In the wake of concerns expressed in the press by a theatre-goer about the participation of children in theatrical productions, the Office had a frank and fruitful exchange with the Artistic Direction of Teatru Manoel regarding the procedures in place to ensure that the roles that underage actors play out on stage, which may feature negative language and themes, are within the bounds of their development as persons and actors. The two entities agreed on the shared duty of the parents and directors of underage actors to judge about this in the best interest of the children concerned.



***Mrs Helen D'Amato presenting Svetlana Scott with her prize.***

### ***General considerations***

When children are not engaged in some family, school or health activity, they will spontaneously indulge in playful, leisurely or creative activities that allow them to express their imaginations. These activities are as much a diversion from as they are an integral part of their work of developing into well-rounded persons.

Two important corollaries of this is that parents and educators should allocate sufficient time both within and outside the daily routine of family and educational activities for children to pursue ludic pastimes which they enjoy. Furthermore, parents, educators as well as local and national governments need to provide children with adequate facilities and organised activities that allow them to play and be creative without getting hurt. Apart from the intrinsic value of such opportunities, children who are given the time, space and means to express themselves are more likely to be smarter, healthier and overall better children than those whose lives are more confined to strictly family, school or health activities.

# 6

## 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.*

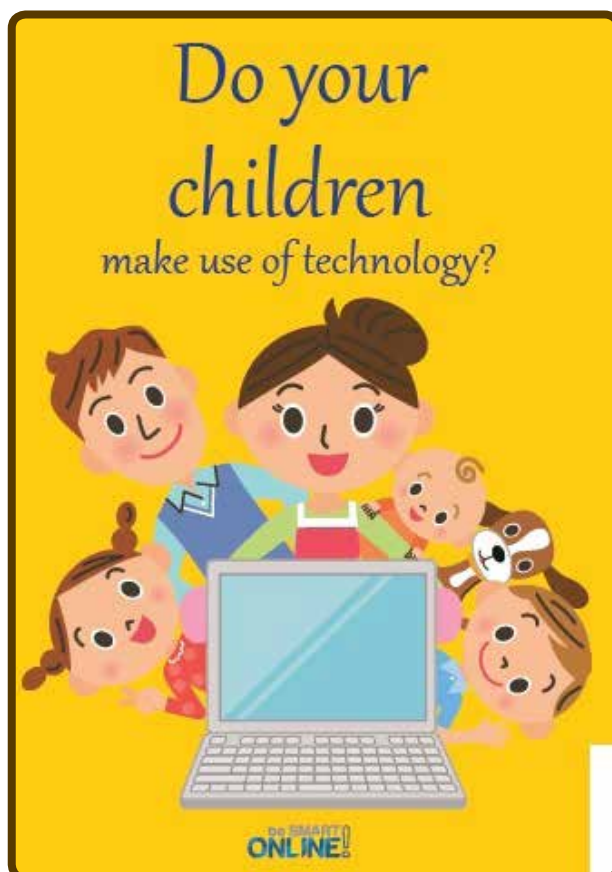
*(UN CRC, Article 17)*

### ***Instilling safe internet use in children and those who care for them***

As part of the Office's celebrations for World Children's Day, the Office's resources about internet safety were distributed to children in schools as follows:

- Children in year 4 each got a Board Game promoting the good use of the internet.
- Children in Forms 1, 3 and 4 received an information note on internet safety.

As part of the BeSmartOnline! Project, the Office finalised the production of a leaflet presenting the 'Golden Rules' which parents should follow to help their children be safe online. The leaflet shall be launched and disseminated to parents in early 2016.



The need to educate children and parents on safe internet use as opposed to relying merely on age restrictions in the use of the internet was at the heart of the Office's comments to a daily newspaper on a new law enacted by the European Parliament requiring parental consent from children under sixteen to use social media.

### ***Internet safety a global effort***

The Commissioner and the Task Manager participated in three international meetings on issues of internet safety.

In the first instance, they travelled to Berlin to participate in the 'Net Children 2020 Conference', wherein they discussed the creation of a roadmap on challenges and solutions of digital media education and child protection in Europe.

In the second meeting, they joined a host of other stakeholders in internet safety from across the world to discuss the need to address internet safety within national frameworks. The meeting, held in Rome, was called by the Family Online Safety Institute (FOSI).

In the third meeting, held in Prague, they met with representatives of the Safe Internet Centres of various European countries to receive training from the INSAFE network on a variety of internet safety issues.

The Office hosted and participated in a meeting about cybercrime between the partners in the BeSmartOnline! Project and GENVAL, the preparatory body of the Council of the EU that deals with the subject of organised crime.

### ***The myriad consequences of misusing the internet***

As part of the BeSmartOnline! Project, the Office helped in the organisation of a conference for professionals working with children, particularly educators, social workers and mental health professionals, which addressed the excessive use of the internet and the complex interplay between self harm, eating disorders and the worldwide web.

### ***Reflecting sexting***

Young members of the Council for Children and children from the Drama Centre joined forces with the Office to raise awareness among young people about the risks of sexting by producing a short video about this practice. This effort was made in the context of the 'Let's Talk Young' project coordinated by the European Network of Young Advisors (ENYA). The video was uploaded on an online distribution platform for audio-visual content along with the videos produced in nine other countries on the same subject. It will be launched and disseminated at a national level in 2016.

### ***Sensitive reporting about children in the media***

The Office used the media to remind all media outlets and operators about the need to show discretion and sensitivity when reporting on the distressing life events of particularly vulnerable children. The danger of insensitive media

reporting, such as when the personal details of the children concerned are published, is that children may relive a trauma from just reading or hearing about it in the media and experience hurt rather than healing in the process. This appeal was also made in the context of the terrible accident that occurred during the fund-raising event *Paqpaqli għall-Istrina* (see Chapter 7), in the aftermath of which visual material relating to the moments preceding and those following the accident was rife on many media outlets.

### **General considerations**

The relationship of children with the media is qualitatively more complex than is their relationship with any other external reality, such as the education system or the leisure scene. While these realities are but extensions of children's private selves, the media inevitably exposes and projects children into the public domain.

Learning how to act and react in the vast space of the public domain is a key stage in the psycho-social development of children. By being involved through the media in issues that are of public interest, children can learn how to be good and active netizens of the communities in which they live.

But while the traditional media, epitomized by the TV medium, engage users, including children, in a mostly passive relationship as viewers, modern-day media, notably the internet, places children in a much more active role. This is so because internet users can navigate through the worldwide web with much more freedom of movement and choice than the circumscribed content and connectivity of television and radio can afford. Furthermore, the extraordinary popularity of internet-powered social media has meant that every person, not only those who are famous or hold public office, can construct and project a public persona.

While all this offers young netizens infinitely more opportunities for enhancing their well-being and development, it also exposes them to myriad new dangers. This highlights the need for systematic education of children in the judicious use of the internet and for legal and technological safeguards against children's exposure to various cyber-threats.





## 7

## 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)*

### **A day and a hand against child sexual abuse**

The Office reacted with enthusiasm to the proposal by the Council of Europe to start celebrating 'The European Day on the Fight against Sexual Abuse and Sexual Exploitation of Children' on 18 November, arguing that this would help channel efforts and attention on such an important theme during a time of the year when children's rights would already be present in the public domain through the celebration of World Children's Day.

In a bid to help kids recognise and stop sexual abuse from a very young age, all children in Kinder 2 received a copy of *Kiko and the Hand* as part of the Office's celebrations of World Children's Day. This is a publication issued by the Council of Europe which the Office translated into the vernacular some years ago for the benefit of children who are predominantly Maltese-speaking.

*Kiko u l-Id* was also mentioned by the Office in the information it submitted in response to a questionnaire sent by the Council of Europe about Malta's status viz-à-vis the the CoE Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, better known as the Lanzarote Convention.

### **No to violence**

The right of anybody not to be the victim of violence in any form or degree was the theme for this year's Rights 4U Course which wanted to empower young people to put a stop to violence be it directed towards them or the people around them. A total of 120 young people aged between 13 and 15, spread over three courses, participated in this year's edition of this popular live-in course. The educational content of the courses was augmented by presentations on internet safety and victim support delivered respectively by officials from the BeSmartOnline! Project and Victim Support Services to the course participants.



Rights 4U benefited from the patronage of the HSBC Malta Foundation and the moral support of the Hon. Minister for the Family and Social Solidarity, Dr Michael Farrugia, and members of the Family and Social Affairs Parliamentary Committees, all of whom visited the youngsters in the course of their live-in experience.

The fight against various phenomena of violence against children around the world was the theme of the ENOC Annual Conference, in which the Commissioner, Ms D'Amato, and the Task Manager participated and during which they presented the video on sexting (see Chapter 6, 'Reflecting Sexting') to their fellow European counterparts.



***Visit by Hon. Dr Michael Farrugia, Minister for the Family and Social Solidarity during one of the Rights 4U Courses.***

### ***Child abuse an ever present risk***

Harm to children, be it voluntary or involuntary, is a much less remote possibility than we may be willing to accept. Children can be harmed or abused within their own families and within places intended for them to have fun, such as indoor or outdoor play areas. In its comments published on a weekly newspaper, the Office gave an overview of the various forms of abuse of and harm to children and highlighted the importance of strong preventive action to spare children unnecessary suffering.

### ***Stopping child abduction***

A case of child abduction dealt with by the Office threw up some serious concerns about the power of the law to protect children from the threat of abduction at the hands of a parent. The Office followed up these concerns with the Malta Police Force and the Office of the Attorney General with a view to drafting proposals for amendments to the law that would render child abduction a criminal offence in all circumstances.

### ***Reaching out to children who have witnessed a horrific accident***

As many as eight children who had witnessed the terrible accident that occurred during the fund-raising event *Paqpaqli għall-Istrina* were referred



by the Office to the Child Guidance Unit for debriefing sessions. The parents of these children had responded to a public call which the Office issued after making arrangements with CGU for the setting up this one-off ad hoc service.

### *Reflecting on child protection*

Members of staff of the Office and other professionals working in the field of child protection came together to discuss positive and challenging aspects of their work. The discussion was organised by the President's Foundation for the Well-being of Society to mark World Child Protection Day.

### *Protecting children in detention*

The Office fed into the reports and recommendations of the UN Working Group on Arbitrary Detention and the CoE Sub-Committee for the Prevention of Torture on the situation of detained children in Malta by meeting with each of the two bodies. As an independent entity, the Office gave its account of the grounds, duration and conditions of detention of various groups of child detainee, such as children serving a prison sentence, children detained in mental health institutions as well as children living in institutions, who while not formally detained, are nevertheless at risk of being deprived of their liberty by an institutional culture that confines them to a life within the residential home.

### *Age of sexual consent*

In response to a proposal made in Parliament to lower the legal age of consent to sexual relations to sixteen, the Office wrote to the Health Parliamentary Committee calling upon the Committee to summon a variety of experts in human development and pedagogy to share their knowledge and views about the age at which most children would be emotionally and morally ready to engage in sexual activity within a stable relationship and about the kind of educational support that children need to prepare themselves for and cope with the challenges of such activity.

The Committee heeded the Commissioner's call when, in conjunction with the Social Affairs and Family Parliamentary Committees, it invited the Commissioner for Children among other experts to deliver a presentation on the subject. Whilst maintaining that laws and attitudes should not be permissive of sexual activity between adults and minors, the Commissioner advocated more and better sex education for children and young people and called for consensual sexual activity between minors to be decriminalised. The Office reiterated these recommendations in comments to a daily newspaper.

### *Helping children escape the cycle of poverty*

Financial incentives encouraging regular school attendance must be accompanied by practical and professional support that renders parents able and willing to send their children to school regularly. This was in essence the Office's reaction, published in a newspaper, to Government's announcement of a Child Supplement linked to school attendance of children from low-income families.

### General considerations

Actions or circumstances that offend the dignity of children are the worst threats to the wellbeing 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 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 around them without suffering undue and unnecessary harm.

## 8

## 8. 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, 1)*

*....the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*

*(UN CRC, Article 12)*

*A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.*

*(UN CRC, Article 40, 4)*

### **Creating child-friendly environments in police settings**

On the strength of its preparation of a children's room within its own premises in 2012, the Office gave financial and knowledge-based support to the Police Force towards the setting up of a similar room for the interrogation of minors within the Force's main headquarters. This children's room, which is expected to be functional in 2016, will cater for the needs of different age-groups of children.

### **Helping juvenile offenders and their victims**

Although it is a good thing that children below the age of fourteen are no longer held criminally responsible for their offences, new structures, services and synergies must be created to support these children and the victims of their wrongdoings. This was in a nutshell the message conveyed by the Office through a daily newspaper in response to questions about the case of a girl who had suffered abuse at the hands of another child who could not be

brought to justice after the age threshold of criminal responsibility had been raised through a legal amendment passed in 2014.

### *Helping incarcerated children across systems*

The Office sustained its attempt, initiated in 2014, to bring the relevant stakeholders round a table to create protocols of collaboration that would create a continuum of care for children who enter and leave the Young Offenders Unit Rehabilitation Services (YOURS) within a short span of time. More meetings were in fact held between the Department for Educational Services, Corradino Correctional Facility, *Aġenzija Appoġġ* and the Office in the course of the year.

### *Access to justice for children*

This was the title of a report compiled by the Child Rights International Network (CRIN), a global research, policy and advocacy organisation, about how easy it is for children in Malta to access justice regarding an alleged violation of their rights. The Office helped in reviewing and updating this report.

### *Doing justice to juvenile justice*

In an attempt to raise the level of international awareness of juvenile justice as a key aspect of the rights and well-being of children, the World Congress on Juvenile Justice, held in Geneva and attended inter alia by the Head of Office, adopted a final declaration that highlighted the principles of child-friendly justice with a special emphasis on the use of restorative justice in judicial proceedings involving minors.

### *General considerations*

For children who suffer any sort of serious physical or psychological harm, the right to justice is of paramount importance. For these children, accessing this right means having safe and effective channels to report the offence suffered to the justice system, being protected from falling victim to further harm before, during and after the conclusion of the judicial process, and benefitting from a setup of health and social services designed to aid their full physical and psychological recovery.

Hence, the justice system must in and of itself be therapeutic for children who have suffered or are suffering as a result of some traumatic personal experience. What the system should not do is to cause children to experience further suffering as a result of the workings of the system or its misuse by those who seek redress. The principle of the best interest of the child as the primary concern should be at the heart of all the structures, processes and outcomes of the justice system.

This should apply even in respect of those children who cause or are thought to have caused offence to others. The justice system should not act punitively towards these children but should seek to facilitate their effective rehabilitation so as to steer them away from a life of crime and delinquency. Adopting a restorative model of justice can be highly conducive to this end.

## Conclusion

### *The Future*

Looking ahead from the progress accomplished to date by and through the Office of the Commissioner for Children, it is fair to say that the Office can grow further not simply through the mere replenishment or even addition of resources but also through a qualitative improvement in its independence and functions.

The independence of the Office, or its status as a disinterested (i.e. above any vested interest) promoter and guardian of the fundamental rights of children in Malta, would be strengthened if such status were enshrined in the Constitution, and if the Office were endowed with a legal personality of its own.

The functions of the Office, or its effectiveness as a promoter and guardian of the rights of children, would be enhanced if the Convention on the Rights of the Child and its optional protocols were to become part of national law; the Commissioner for Children given the faculty to represent the best interest of children in national law courts; and the Office empowered to act as a supporting structure for children who may need to communicate with the Committee on the Rights of the Child, the ultimate guarantor of children's rights, as per the Third Optional Protocol to the Convention, which Malta is yet to ratify.

Fortifying the independence and functions of the Office of the Commissioner for Children ultimately means equipping our nation with a more effective tool to enable all children in Malta to attain happiness and well-being.









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