

 $\frac{\text{Kummissarju ghat-Tfal}}{\text{Commissioner for Children}}$ 

Annual Report 2019

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**

## Pauline Miceli Commissioner for Children

It is now thirty years since the children's rights movement was born with the adoption of the United Nations Convention on the Rights of the Child. This is how, as a proud member of this movement, I would like to look back upon this moment in the history of children's rights, as the start of a movement.



By movement I mean much more than a group of people promoting a cause they are passionate about. The gesture that was the adoption of the Convention set the whole world moving to a vitally new way of thinking about children and childhood itself. With the advent of the Convention, people began to move to an enlightened vision of childhood as a joyful time of discovery of oneself, others and the world around them, of active participation and decision-making in one's own life and the life of the family and the community.

Thirty years on from that historic gesture the vigour and vitality of this movement are as fresh as ever. The Convention has been ratified by almost all the countries of the world, including Malta where we are now moving towards incorporating the Convention into national law. Despite the uninterrupted movement of children's rights, a lot remains to be done to put into practice the Convention's principles of **provision**, **protection and participation**.

This Annual Report is an opportunity to cast a look back on how my small Office has worked with other people and organisations towards the ideals of the Convention. With the benefit of this hindsight, we can look forward to building on these efforts to increase Malta's momentum for children's rights.



## **BACKGROUND & INTRODUCTION**

## Why do children need rights?

Children's rights are not an end in themselves but are the best means through which children can achieve well-being in their lives. This is so because when opportunities for well-being are granted to children by right not by favour, they are not subject to the personal or political goodwill and disposition of the people in authority but stem from a moral obligation that cannot be failed with impunity. Children are human rights holders as the rest of humanity.

A key corollary of a rights-based framework is that we as adults have the obligation to empower all children to claim the opportunities for their well-being and to work hard to maximise them. Conversely, a paternalistic framework that grants these opportunities by favour renders children passive and unable to realise their full potential even when the opportunities for doing so are plentiful.

For this reason, the guarantee offered by children's rights is essential not only in social contexts, where the well-being of children is not prioritised, but equally in those where the people in authority take great pains to care for and protect children.

## What rights do children have?

Children have a right to whatever they need to develop and be happy, such as health, education, care and financial security, and to be protected from anything that can cause them harm, such as all forms of abuse.

These substantive rights are strengthened and overarched by their right not to be discriminated against on any grounds, their right to have their best interests considered primarily by those who take decisions on their behalf, their right to participate in any matter that concerns them, and their inherent right to life.

All these rights are enshrined in the United Nations Convention on the Rights of the Child (UNCRC).

## **Rights in reality**

The UNCRC is legally binding on the countries that have ratified it. Malta ratified the Convention in 1990. This means that Malta has committed to doing everything it can to implement the Convention and to ensure that everything it does is in line with the Convention. The extent to which Malta is honouring this commitment is monitored by the Committee on the Rights of the Child, to which body Malta is bound to periodically report its progress in the implementation of the Convention, and on whose critical feedback it is called upon to act. In June 2019, the Committee presented Malta with its concluding observations on the combined 3rd to 6th periodic reports. The Committee recommended inter alia that Malta strengthen its capacity to implement the Convention by equipping the Ministry for the Family, Children's Rights and Social Solidarity with the tools to coordinate all activities related to the implementation of the Convention; by developing a strategy on the basis of the National Children's Policy with clear objectives and coordinated plans of action; and by setting up a system for monitoring and evaluating the allocation of financial resources to the implementation of the Convention.

Although the process of ratification and monitoring associated with the Convention is a strong catalyst for children's rights to evolve from paper to practice, it does not provide a rock-solid guarantee since the Committee does not have the power to impose sanctions on State Parties which renege on their commitments. Such a guarantee is possible if children's rights are enshrined in national law, ideally in the country's constitution.

The UNCRC is not yet part of Maltese law, be it ordinary or constitutional. Nevertheless, Malta's body of laws contains numerous provisions that are in sync with those of the Convention.

#### **Commissioner for Children**

In such a landscape especially, Malta needed a domestic entity with the power, autonomy and competence to prod the authorities to implement children's rights ever more widely and fully in the country. The Commissioner for Children Act was passed in 2003.

Ever since its inception, in the same year its law was enacted, the Office of the Commissioner for Children has carried out this prodding not so much for as with children, in keeping with the aforementioned principle that a rights-based approach to children's well-being requires proactive and empowered children. In view of this, the Office works very closely with children both in making them aware about their rights and in gaining insight regarding their views and experiences through participation sessions and research studies. Thus, as children become more cognisant of their rights they also become better able to articulate their perspectives as children. Their contribution is important for the Office's role of advocacy for the rights of children and monitoring of their implementation.

In 2019, the Office of the Commissioner for Children consisted of the following staff members:

Commissioner for Children

Head of Office

Task Manager

Principal

Policy Officer

**Project Officer** 

Support Officer

Driver



Office Staff (Back row starting from the left): Nicholas Vella Laurenti, Pauline Miceli and Glen Gauci. (Front Row starting from the left): Suzanne Garcia Imbernon, Lorna Muscat and Anna Maria Debono.

Hereunder is a table representing the Office total annual budget and expenditure.

| Total Budget                                   | € 195,000 |  |
|--|-----------|--|
| Salaries (Commissioner and 3 members of staff) | € 116,259 |  |
| International Memberships                      | € 1,350   |  |
| Operational costs                              | € 36,866  |  |
| Projects and Initiatives                       | € 35,152  |  |
| Total Expenses                                 | € 189,627 |  |

The Commissioner's work was also supported by an advisory body, the Council for Children. The Council for Children consists of the chairperson of the Social Affairs Committee; representatives from the Ministries responsible for Social Policy, Education, Health, Justice and Home Affairs; and young people. Throughout 2019 four meetings were held in which the members discussed issues related to Education, Health, Migration and issues arising from the work of the Office.

## **Annual Report 2019**

The foregoing document is a testimony of a year's work by the Commissioner's Office with and for children in Malta. It provides an account of the context, content and challenges of the Office's work in the following activity areas:

- 1. UNCRC 30th Anniversary
- 2. Awareness-raising
- 3. Complaints Received
- 4. Child Participation
- 5. Training & Research
- 6. Advocacy & Monitoring



# UN CONVENTION ON THE RIGHTS OF THE CHILD 30TH ANNIVERSARY

#### **Context**

2019 marked thirty years since the General Assembly of the United Nations adopted the Convention on the Rights of the Child. This special anniversary was an opportunity for everybody to remember that as highly as they regard children's rights nowadays, for the eons of time before the 20th of November 1989, children had no rights. Despite the vast progress made, the Convention is still well off its intended destination. One can say that this thirtieth birthday has shone a light on the historical value of the Convention and thus on the real nature of children's rights, not as abstract lofty principles but as concrete and powerful tools for the self-realisation of children.

#### **Content**

This was the message conveyed in a **booklet** containing child-friendly information on the Convention which the Office produced and distributed to all children attending State, Church and Independent Schools in Malta and Gozo. A leaflet for parents, highlighting children's rights as enshrined in the Convention and the Role of the Office, was also distributed in all households in Malta and Gozo. Both the booklet and the leaflet were produced and distributed with the collaboration of the Ministry for the Family, Children's Rights and Social Solidarity.



Children attending State, Church and Independent schools, also received from the Office a number of **publications** that directly or indirectly promote their rights, such as reading books, an activity book promoting road safety and a comic book promoting healthy eating.

A **flash mob**, organised jointly by the Office, children from St Margaret College, particularly Zabbar Primary B, Verdala Secondary and Aġenzija Żgħażagħ, gave people walking the streets of Valletta a keen sense of the revolutionary nature of the Convention. The Office encouraged and supported several organisations working at a more local level, notably schools and local councils, to celebrate World Children's Day through a variety of activities for and by their child population.

The Office also commends the work carried out by Esplora to commemorate this important day. Free entrance was given to all schools during the week of World Children's Day. This was done in collaboration with the Office.

A set of **Video Clips** was launched and shared on the Office's social media platforms. These video clips were produced by students following courses at the MCAST Institute for the Creative Arts. The video clips aimed to create awareness about various aspects of children's rights including the right to free play, education, care and protection and the right to choose their religion and beliefs.

A recorded **video message** from the Commissioner was disseminated in all schools and also shared through social media. In this way the Commissioner was able to address a large number of children to commemorate this important day. A short message from the Commissioner was also shared across European platforms through the European Network of Ombudspersons for Children (ENOC). In 2019, the work carried out by ENOC focused on children's rights in the digital environment. Even though the Convention was written 30 years ago, the articles still apply to the digital age.

The 30th anniversary of the Convention prompted not only festive celebrations but also a sober analysis of how its impact on the children's rights landscape in Malta can be strengthened. In this respect, the Government sought to deliver on its electoral promise to **incorporate the Convention** into Maltese law so that the rights of the child as enshrined in the Convention become directly enforceable in Malta and applicable in Maltese courts, fostering a culture change in the attitude of all stakeholders towards children's rights and giving children greater access to justice.

As a first step towards implementing this promise, the Government, through the Ministry for the Family, Children's Rights and Social Solidarity, commissioned the Office of the Commissioner for Children to conduct a legal study consisting of an analysis of the extent to which every single article and sub-article of the Convention is reflected in national law and policy. This exercise resulted in a detailed audit that also identified gaps in Malta's legal and policy frameworks. The Office of the Attorney General vetted the study, following which a bill was drafted to enable the incorporation of the UNCRC into Maltese law under a new act. It is envisaged that the bill will be tabled in Parliament in 2020.

The Commissioner also stressed the importance of putting children's rights at the top of the agenda through her intervention during the first National Children's Conference organised by the Ministry for the Family, Children's Rights and Social Solidarity.



#### **Challenges**

Although the occasion of the 30th anniversary of the Convention spurred all those who work with and for children to double their efforts to raise public awareness and knowledge of children's rights, there still is insufficient appreciation of the importance of children's rights. The feedback the Office receives in the course of its work indicates that there is some resistance to the concept of children's rights among those who work closely with children on a daily basis, namely parents and educators. This resistance is borne of a deeprooted authoritarian and paternalistic mindset that frames children's rights as disruptors of the harmony between the benevolence of the persons exercising authority over children and the children's obedience to this authority. As explained earlier on this dynamic is inherently flawed as it leaves children exposed to the failings of the persons who have authority over them (i.e. they may have a poor understanding of or choose to ignore the best interests of the child) and discourages children's participation in their own lives, which is a cornerstone of the Convention.

As children's rights advocates we should not overlook or underestimate this widespread mentality and the hostility to our work. The Office's strategy is to design its awareness-raising campaigns in such a way as to counter the mentality and bring people to understand that a rights-based approach to caring for children is the best guarantee for the well-being of children and harmonious relationships with their carers, educators and peers.

A rights-based approach to the pursuit of children's well-being is exactly what Malta subscribed to when it ratified the Convention in 1990. With the year 2020 marking the thirtieth anniversary of Malta's ratification, one hopes that Malta will make the next step in the rights-based approach by incorporating the Convention into national law. The work carried out in 2019 in this direction shows there is also the political will for this vital step to be accomplished.

## **AWARENESS-RAISING**

#### **Context**

When trying to raise awareness on children's rights, one should start from the simple observation that the attention of children and adults tends to be captured by a mass of content that circulates continuously through the various media of communication and that has a far greater power of reach and attraction than any message in favour of children's rights one may wish to disseminate.

#### Content

#### General awareness raising

One of the main roles of the Office is to create awareness amongst the general public, including children themselves, about children's rights. This is done mainly through talks, activities, debates and through the media. The Commissioner and members of her staff are often invited to discuss different issues pertaining to children's rights. The Office also produces a number of resources which are available on its website **www.tfal.org.mt** and uses its facebook page and Instagram account to promote these resources and to create awareness.

The Commissioner has also delivered presentations and formed part of panels at several conferences in order to ensure that children's rights remain at the forefront. On one particular occasion, the Commissioner was asked to provide a children's rights perspective during a sitting of the Family Affairs Committee regarding adolescents with aggressive behaviour.



## Towards a better internet for all

Nowhere is this challenge more acutely felt than in the area of internet use by children. For children, the internet is not simply a practical tool but a way of life. Children have become used to being connected at all times of the day with school and friends. Any message about the internet directed to them is likely to be picked up since they perceive it as highly relevant to their lives. But for the message to be accepted and heeded by children, its content should also reflect the complexity and nuances of their web experiences by offering a balanced view of the opportunities and dangers of the internet. The importance of the internet in our lives is highlighted by the fact that, while we are writing this report the schools are shut to contain the pandemic of Covid-19 and children are continuing with their learning experience through the internet. Teachers, students and parents are directly communicating through these technologies and maximizing their use of this important tool.

The Office together with its partners in the **BeSmartOnline!** project, Malta's Safer Internet Centre, produced a leaflet with practical tips on how children should balance their lives between the physical and virtual worlds. The leaflet which was disseminated to children through schools, encourages children to set time-limits to their online activities to avoid getting carried away, and to indulge in offline activities like reading and sport activities.



The work of the Safer Internet Centre will continue to be co-funded by the European Commission as the consortium, made up of Tech.mt, Agenzija Appogg, the Office of the Commissioner for Children and the Ministry for Education and Employment, have successfully submitted an application under the Connecting Europe Facility. Funds have been guaranteed for the fifth cycle of BeSmartOnline! which started running in March 2019 and will go on until the end of February 2021. For this cycle, close collaboration with the Cyber Crime Unit will continue as they have also come on board as a partner.



Launch of the fifth cycle of BeSmartOnline!

Also in the framework of BeSmartOnline!, the Office explored the dual potential of the internet as an enabler and disabler of children's rights with two heterogeneous groups of children aged 13-15 during the two editions of the three-day live-in 'Rights4u'. Online privacy, cyber-bullying, hate speech, online/offline balance, and robotics were among the issues analysed, both verbally and practically, by the fifty-five participating youths. Through the live-ins, the participants got to meet and work with different young people and also put forward suggestions and recommendations on how to create a better internet for children and young people.

Children in Malta united around the rallying call 'Together for a better internet' to celebrate **Safer Internet Day** on the 5<sup>th</sup> of February, a day commemorated in over 150 countries around the world. Children from over 40 schools were sensitised to issues of a better and safer internet through various activities, such as special assemblies, talks by

professionals, lessons, crafts and storytelling. An information stand was also set up at Baystreet in order to promote a better internet for Children amongst the general public.



Participants during the Malta edition of the Rights 4U live-in.

Awareness raising in this regard needs to be ongoing due to the new trends and challenges that emerge. Therefore the Office, together with the other partners, carries out sessions in various settings with the aim of creating awareness amongst children, parents/guardians, educators and other significant adults. The Office also regularly addresses issues pertaining to internet safety and children's digital rights through the media.

## Empowering Children to Stop Sexual Violence

Child participation is particularly effective and needed in situations where children are victimised. For this reason, the above subtitle was the thematic focus of the campaign held on the European Day on the Protection of Children against Sexual Exploitation and Sexual Abuse, on the 18th of November. The Office contributed to this campaign by distributing to all children in Kinder 1 a copy of Kiko and the Hand, a Council of Europe publication in the form of a story book with an insert for parents, which aims to help parents make their children aware from an early age of physical boundaries that should not be trespassed where sexual body parts are concerned. Copies of this booklet in the Maltese version, which was translated and printed by the Office, were distributed together with the original version in English. A press release calling for stronger awareness and action by all stakeholders against the scourge of child sexual abuse was issued.





Staff members were also invited to participate in talk shows on television and radio stations.

#### Safe Design, Upkeep and Use of Roads

We tend to forget how crucially the well-being of children depends on their mobility, that is, on their ability to navigate the outdoors. A key factor in this ability is the safe design of roads and their safe use by motorists and pedestrians, including children.

In working towards this goal, it is important to mainstream the needs of children as road users, be it as passengers or pedestrians. To this end, the Office, through its Project Officer Mr. Glen Gauci, is a member of the **Malta Road Safety Council**, an inter-sectoral body

that strives to foster consensus and awareness on road safety in Malta. Apart from taking an active role in the work and deliberations of the Council, the Office also seeks to collaborate with this body in promoting a more child-friendly outdoor environment in the context of the Office's new research study (refer to chapter on Research & Training).



H.E Dr George Vella, President of Malta, during a visit by the Malta Road Safety Council.

## Positive Parenting

Even though the vast majority of adults, who have or are expecting children, approach their parental responsibilities with the best of intentions, it is almost inevitable that they develop their parental skills as they go along. This is especially so considering that parents have very little time and opportunity to train themselves in a structured manner as is normal in other child development roles like teaching or nursing. While this is a natural state of affairs, a robust public policy framework of positive parenting can go a long way towards enabling actual, expectant or aspiring parents to meet the challenges they are facing or which lie ahead, better than they would if they were left to their own devices.

In 2016, Malta gave itself such a framework with the launch and publication of the first ever **National Strategic Policy for Positive Parenting** and the institution of a multisectoral Task Force to steer and monitor the implementation and impact of the Strategic Policy. The Commissioner is part of this Task Force and of its drive through various media to bring parents to understand why and how they should parent their children in a positive manner that is in a way that is conducive to the realisation of their rights. The strategy specifies the need of listening to children's

voices by assigning this role to the Office through an advisory and consultative board made up solely of children. The Office issued a call for children who would be interested to form part of this group and is pleased to note the very good response received from children.

## Challenges

It is almost ten years since BeSmartOnline! was established and the Safer Internet Centre is still dependent on the co-financina provided by the European Commission, and the close collaboration of the consortium. Considering Malta's commitment to ensuring that people are protected when using ICT, there is a clear and urgent need to establish an entity that is adequately resourced to take on the formidable challenges in this sector, particularly for children. The work of such an entity should be guided by a National Internet Safety Strategy that is periodically reviewed and renewed. A multidisciplinary approach needs to be adopted so as to enhance the learning and teaching opportunities the internet offers and develop those skills necessary to make the internet experience a safer one.

## **COMPLAINTS RECEIVED**

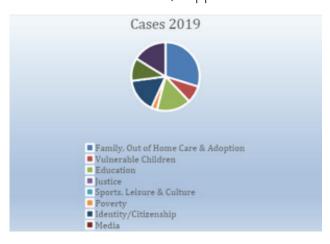
#### **Context**

One of the roles of the Office, as outlined in article 11 of the Commissioner for Children Act, is 'to monitor the conditions under which children develop'. This is done through the monitoring of legislation, policies and also services being offered to children. One of the channels used for such monitoring is by listening to children themselves and their families or those who care for them.

#### **Content**

The Office receives complaints on a regular basis. They are often received by email, telephone and Office visits. Staff members within the Office listen to such complaints and intervene when necessary. The Office, apart from providing requested information, either refers people making the complaints to other existing services or facilitates the resolving of the issue. The Office also makes recommendations to the relevant authorities regarding various issues which arise from these complaints.

A number of people contact the Office to ask for information about their children's rights and how to access certain services. In 2019, most of the complaints received dealt mainly with family issues such as parental separation, access visits, domestic violence and alleged cases of neglect/abuse. A large number of cases were regarding Education issues, such as access to education, support for children



with behavioural issues and transport. In 2019, the Office also supported a number of third-country nationals having difficulty in accessing services. A breakdown of the cases received in 2019, according to the relevant children's rights issues, can be seen in the table **Cases 2019**.

The following case studies are a few examples of the cases dealt with by the Office in 2019.

Third-Country Nationals – Throughout 2019, the Office was contacted by a number of third-country nationals as they were having difficulty obtaining residence cards for their children and therefore their children could not access services such as Education and Healthcare. Their difficulties were mostly due to not having enough income to meet the required amount to bring their dependents to Malta.

The Office supported these families by presenting their case to Identity Malta and facilitated where possible. The Office also met with the Parliamentary Secretary for Reforms, Citizenship and Simplification of Administrative Processes, Officials from Identity Malta and the Migrant Learner's Unit within the Ministry for Education and Employment, to discuss a way forward and to push for a solution to be found so that children can be brought up by their parents and have access to services.

Access to Education – Due to certain circumstances some children are unable to access education even though Primary and Secondary School Education are compulsory. In 2019, the Office was contacted regarding a student attending primary school who was not being allowed to attend school due to behavioural issues which caused concern for her safety and the safety of others.

After receiving the complaint, the Office spoke to all professionals involved including family members, SMT, the College Principal and the psycho-social team so as to find a way to support the school, the student and her family. The Office also presented its

concerns, regarding the lack of support and resources available to schools to the Minister responsible for Education. The intervention of the Office was instrumental to find a solution for these children and secure their right to education.

Family Reunification – A parent who had refugee status needed assistance as her children were residing in another country, even though she had been living in Malta for a while. Apart from the fact that the parent was obviously eager to be reunited with her children who were all under the age of 18, she was also concerned for their safety. The Office supported this parent to apply for family reunification and successfully facilitated the process which ensured that these children are granted permission to reside in Malta and be reunited with their parent.

## CHILD PARTICIPATION

#### **Context**

Participation is one of the main principles outlined by the UNCRC. Yet, its precise meaning is not always clear. Clarity can be found by saying that children have a right to take part in what is happening around them.

When children participate in a decision or an event of any kind, they consciously and wilfully take a part of the decision or event, however big or small that part may be. In so doing, children become part of the decision or event and make it their own, transforming it into something that bears their individual intelligence and personality.

From this follows the principle that children can never be forced or coaxed into participating. The choice as to whether and how to participate is entirely theirs to make. The role of adults in child participation is to create the optimal conditions for children to feel they can participate in a meaningful way if they want to.

#### **Content**

## Advocacy for Children by Children

At no time is child participation more meaningful and effective than when it is directed at itself that is when children become advocates for their own rights. By participating in events and fora that seek to promote a better understanding and implementation of children's rights, children gain the necessary knowledge, confidence and skills to not only stay abreast of children's rights issues but also to influence the way these issues are framed and addressed. The children's rights movement is thus greatly strengthened by the participation of children.

The Office has always actively encouraged this kind of child participation by including children in the core processes and structures of its work. In 2019, a quarter of the members of the **Council for Children** were under 18 years

of age. The Council met four times, during which meetings four young people between the ages of 13 and 17 gave their take on such issues as the needs of migrant children in Malta, the child-friendliness of urban areas in Malta and on the work of the Office of the Commissioner for Children in addressing such issues. One of the issues discussed with the Council for Children was the need for children with diabetes to be given free access to a device which enables Continuous Glucose Monitoring. Healthcare professionals and parents of children with diabetes brought this concern to the attention of the Office. The Council for Children sent a letter to the Health Ministry with its recommendations.



Federica Coleiro, young member of the Council for Children, presenting the views of children during a conference organised by the Human Rights Laws Platform.

The mainstreaming of child participation in the work of the Office is not limited to the Office's internal structures and processes but extends to its structured collaborations with other entities.

In the framework of the National Strategic Policy for Positive Parenting, the Office will be setting up a Children's Advisory group in order to involve children and young people in the implementation of the strategy. The advisory group will also be involved in other work carried out by the Office. This Advisory Group is expected to be set up in the first quarter of 2020.

In the context of BeSmartOnline!, the Office manages the project's **Youth Participation**, which consists of various initiatives including out-reach sessions. The aim is to listen to as many young people as possible in order to determine the new trends and challenges being faced by children online as well as to guide the work carried out by the consortium.

As in previous years, the Office participated in the Youth Participation project co-ordinated by ENOC entitled **ENYA** (European Network of Young Advisors). The aim of this project is to involve young people in the work carried out by Ombudspersons and Commissioners for Children across Europe. The theme for the work carried out by ENOC was that of children's rights in the digital environment.

A two-day seminar was organised by the Office in collaboration with Aġenzija Żgħażagħ. During this two-day seminar, a group of 20 young people between the ages of 13 and 16, discussed issues relating to their rights in the digital environment and put together a set of recommendations. The young people stressed the need to create awareness amongst children themselves as well as their parents/carers on how to be safe online. They also provided concrete examples on how this can be done in an effective manner. The young people also highlighted the need for all children to have access to the internet and to be protected from all forms of harm.



ENYA participants during the two-day seminar.

As part of this initiative, two young people, Federica Coleiro and Valentina Caruso, travelled to Brussels to discuss these recommendations and those of their peers from seventeen other European countries in the framework of the seminar by **ENYA**.

The young people were supported and accompanied by the Office Task Manager, Ms Suzanne Garcia Imbernon. In its Annual Conference later in the year, ENOC was able to include ENYA's consolidated recommendations on children's rights in the digital environment in the statement adopted at its General Assembly. Federica Coleiro also participated in the ENOC annual conference together with Ms Pauline Miceli, Commissioner for Children and Ms Suzanne



Federica Coleiro and Valentina Caruso in front of the General Delegate for Children's Rights Office in Brussels where the ENYA seminar took place.

Child participation reaches the pinnacle of its significance and vitality when the focus of its work and attention is **child participation**. This happened in the 6<sup>th</sup> edition of the NOW International Mayors' Conference, which had Youth Participation as a vehicle for social cohesion in communities as its theme and in which Ms Cheyenne Mangion, a member of the Youth Panel was invited to participate and voice the concerns and aspirations of her peers on the subject. She was supported and accompanied by the Office Task Manager who was also asked to present the Rights 4U initiative as a measure of good practice of child participation.



Cheyenne Mangion and Suzanne Garcia Imbernon at the NOW International Mayors' Conference.

## Visual Art as a Medium of Child Participation

Creating the right conditions for child participation requires understanding which media children are more comfortable expressing themselves in.

Since children are still developing, the best media for child participation are those that allow children to represent reality in the same way as they perceive it through the simplest of means. Visual art is one such medium that is very popular amongst children.

For this reason, the Office promoted the participation of children in Malta between the ages of 6 and 15 in the 27th Annual World Children's **Picture Contest** organised by the IE-NO-HIKARI Association in Japan. The children were able to give free rein to their imaginations since no theme was set for this edition of the contest encouraging children to be self-expressive. In 2019, the Commissioner also presented Kirsten Bugeja with his honourable mention certificate which he won, for the second time in a row, for his work submitted in the 26th edition of the contest.



Ms Pauline Miceli presenting Kirsten Bugeja with his honourable mention certificate.

#### Commissioner's Prize

The Office encourages children of all ages to be advocates not only for their own rights but also for the rights of their peers. It does so in different ways, namely by awarding a book prize to those school children who stand out for their sensitivity and activism for the rights of other children, especially those who are more vulnerable. It is up to each and every school to nominate students for this prize.

## **Challenges**

Child participation has received a lot of attention in Malta in recent years, with several child participation initiatives launched by organisations that work with and for children. Government should take cue from these initiatives by launching a National Child Participation Strategy with the aim of streamlining these initiatives and extending them across the board so that child participation becomes a normal and integral part of how public and private entities that work with and for children, not necessarily exclusively with and for children, operate.

Quality is of the essence in this effort. As a country, we need to promote a model of child participation that is not patronising and tokenistic but genuinely involves children in all decisions that concern them.



## **RESEARCH & TRAINING**

#### **Context**

At first glance the main strength of an advocate for children lies in the power of action. However, the truth is that, in children's rights advocacy, knowledge is power. Effective advocates for children's rights will spare no effort in trying to widen and deepen their knowledge of children's rights, to shed light on the situations of children and to find the most effective ways and means of improving these situations.

To do this, the Office of the Commissioner for Children carries out research studies on topics and issues which reflect the predominant current concerns of all those who hold children's best interests at heart. The Office strives to include children's participation and their views in all research studies it embarks on.

All findings are shared with the wider community and the recommendations proposed taken a step further with the relevant authorities.

#### **Content**

#### Scientific Research

Ever since its inception, the Office of the Commissioner for Children, has been conducting scientific research which covers various aspects of children's lives. To do this, it has tapped the technical expertise of academic researchers in the field of child well-being.

One group of researchers with which the Office has established a fruitful collaboration is the Centre for Resilience and Socio-Emotional Health within the University of Malta, led by Prof. Carmel Cefai. This collaboration started in 2017 when, in the light of the increase in the number of migrants coming to Malta, the Office commissioned the Centre to conduct research on the health and well-being of migrant children and their families in Malta as well as the challenges they face.

The year 2019 saw this research study being finalised, launched and published under the name of 'A Passage to Malta – The Health and Wellbeing of Migrant Children'. The study revealed that migrant children and their families were experiencing success as well as challenges in adjusting to life in Malta. The attitude of Maltese children to the presence of foreign children in their midst and in particular in the classroom was also investigated.

Although the vast majority of Maltese children have positive attitudes towards their foreign classmates, there remains a worrying percentage (less than 25%) who are adverse to the idea of interculturalism. This negative attitude is prevalent mainly in children who have little to no direct exposure to foreign children in their classrooms. In general, the stories of migrant children and families from EU countries emerging from the study were ones of greater success and adjustment than those of third-country nationals, whose adaptation to life in Malta was more complex and challenging.

The Office launched and shared for the first time the findings and conclusion of the study at a national conference that was attended by a large and varied number of service providers and policy-makers in the field. Prof. Barbara Herzog Punzenberger, Head of Migration and Education, Institute for Education and Psychology, Johannes Kepler University, was a guest speaker at the conference.



A video portraying the ideas and experiences of foreign children living in Malta also featured during the conference. The video was produced by the Office with the support of the Maria Regina Naxxar Middle School.

In parallel to finishing works on this study, the Office also initiated collaboration with the Centre on a new study that would probe children's views and aspirations in respect of the built urban environment and set about putting these views and aspirations in the form of a pilot project in a select locality in Malta. The Office has sought collaboration with other entities, namely the Faculty for the Built Environment within the University of Malta, the Planning Authority, the Environmental and Resource Authority (ERA), Infrastructure Malta, Transport Malta and the Hamrun Local Council. All these entities have endorsed the project and will be actively contributing to its outcome, especially in the implementation of the pilot practical project. The study is expected to be completed, published and launched by the end of 2021.

Policy-makers are so aware of the potential of scientific research to inform public policy that they often commission it themselves prior to policy-making. This is the case of the **Research Advisory Group on Adoptions**, set up by the Social Care Standards Authority. The group, whose membership comprises the Office, represented by its Head, Dr Lorna Muscat, commissioned its first research project, which aims to identify barriers to local adoptions.

The Office also lent its support in the carrying out of the EU Kids online study. The study is being carried out by the University of Malta in collaboration with BeSmartOnline! with the aim of researching the access, use, risk and opportunities of Maltese children on the internet. The final report will be launched at the beginning of 2020.

## Sharing of best practices

The problems and challenges faced by countries in the sphere of children's rights and well-being have plenty in common despite there being undeniable contextual differences and particularities in and between countries. Today more than ever before, it is vital that children's rights advocates look beyond their country's borders for solutions to

the challenges faced by children. In so doing, they will find and learn from countries where the adoption of certain practices has resulted in challenges being eased or overcome.

A desire to take stock of how other countries are grappling with the challenges posed by the influx and integration of **migrant children and families** is what prompted the Office to participate in an informal meeting of governmental and non-governmental organisations involved in the migration field from across the EU. The Office's Support Officer, Ms Anna Maria Debono was thus able to hear and see what other member states are doing both administratively and judicially to meet the needs of migrant children and their families in the best possible way.

While in the area of migration different countries may be faced by different migratory flows of people hailing from different regions and cultures, there is no such differentiation in the **online world**, which is one big arena where the rights and well-being of children are being played out. For this reason, the Office's training and research collaboration with other countries in this domain is ongoing and highly structured.

An important part of this collaboration is developed through Insafe, a European network of Safer Internet Centres. The Office's Task Manager, Ms Suzanne Garcia Imbernon, participated in a meeting of the network held on the island of Crete in which emerging online opportunities for and challenges to children's rights were discussed. Framing these rights as **digital rights** which children can claim and exercise in the online word was the subject of a seminar by ENOC, which the Commissioner and Task Manager travelled to Manchester to attend.

**Sexual exploitation and sexual abuse** facilitated by Information Communication Technologies (ICTs) was a major item on the agenda of the 23<sup>rd</sup> and 24<sup>th</sup> meetings of the Lanzarote Committee of the Council of Europe, the remit of which committee is to monitor the implementation of the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. The meetings were attended by the Head of the Office, Dr Lorna Muscat. Also discussed during the meetings was how to make the Convention

protective of two especially vulnerable groups of children, namely children affected by the refugee crisis and children in residential care and institutional settings.

Like migration and internet use, child protection from all kinds of abuse is a challenge that cuts across borders, calling for not only the sharing of knowledge and best practices but also for coordinated responses between countries. In a scenario where the well-being of children is catered for by myriad service providers, such as schools, sports and arts clubs, the need is felt for children's rights organisations to promote a common **child protection policy** that overarches and underpins the various activities of these organisations. The adoption of such a policy by ENOC and its member's organisations was also discussed in the seminar held in Manchester. The Office has also been instrumental in providing training on child protection for staff and volunteers. Such training is provided by request.

While it is important to put in place mechanisms and procedures that protect children from harm and abuse, it is equally important to avoid a bureaucratic overkill that would stifle the formal or informal service that is being regulated and with it the enjoyment of rights by the children receiving the service. Restoring this balance in the area of adoption procedures is the aim of a Simplification **Group** set up by the Social Care Standards Authority (SCSA). The Office was represented in the group by its Policy Officer, Mr Nicholas Vella Laurenti. The Office also contributed to the production of a child-friendly version of the standards regarding children in alternative care to be launched by SCSA in 2020.

Connecting organisations that work with and for children across Europe together in such a way that they grow individually and as a conglomerate of children's rights advocates is what **Eurochild** is about. The Policy Officer, Mr Nicholas Vella Laurenti, flew to Brussels to take part in the Eurochild General Assembly and Members' Day. The Office's membership of and participation in this network as well as the **European Network of Ombudspersons for Children (ENOC)** serves to strengthen the Office's influence at the level of the EU, and to leverage that same influence to bring about changes at national level.

## **Challenges**

Research sheds light on the situations and experiences of children that were previously unknown. The trouble is that the revelatory light of scientific research goes out the moment the research is concluded and, thereafter and until the light is turned on again, we are in the dark as to how the situations and experiences of children have changed. This means that we need the light of research to be directed all the time to the situations and experiences of children by means of a national observatory of children, with a special focus on the most vulnerable children. Such a structure would meet the recommendation made by the Committee on the Rights of the Child relating to Malta's need to improve its data-collection system vis-a-vis the situations of children.

It is surprising how even in a small country like ours, entities that work with or for children are not always aware of what other entities are doing by way of scientific research until such research is published and launched. This lack of awareness can lead to duplication of research efforts and missed opportunities for collaboration and pooling of resources. Clearly, there is the need for all entities that work with or for children to come together in a network or platform where they can streamline their research efforts and collaborate in many other ways, such as speaking out with one stronger and coherent voice on children's rights issues.



## ADVOCACY AND MONITORING

#### **Context**

As much as awareness-raising, child participation, and research and training are all essential aspects of the work of a children's rights advocate, it is clear that the core and kernel of this work lie in advocacy. When doing advocacy, a children's rights advocate no longer operates in the safe milieu of the children's rights community, engaging with like-minded people and organisations. Instead, one enters a sphere of public life and discourse that is much larger and far more crowded by different people and their ideas. These can be not only very powerful, but also, owing to competing or conflicting principles and priorities, indifferent, lukewarm or even hostile to the message of a children's rights advocate.

In such an environment, it is not easy for children's rights advocates to make themselves noticed let alone heard. The challenge for them is to stand by the principles of the Convention steadfastly and exercise a gentle but resolute insistence on the people and organisations that have the power to do the things that will make a difference in children's lives.

Constantly monitoring if and how these things are being done and what impact they are actually having on the lives of children is part and parcel of children's rights advocacy.

#### **Content**

## Public advocacy

Effective advocacy for children's rights cannot be conducted only behind closed doors with the people and organisations which hold the power to make things happen for children. Momentum for children's rights must be built in the busy highway of public opinion.

Doing this is not the same thing as raising public awareness of children's rights, as described earlier on in the report. Public advocacy requires taking and defending a stand on concrete children's rights issues and situations that would be at the centre of public

debate. Public sentiment and opinion about a given issue or situation is often influenced by personal and political considerations. This difference of background and perspective can cause public opinion and the stand taken by a children's rights advocate to clash.

Irregular migration is a very sensitive issue both for children's rights advocates, who must defend and promote the needs and rights of child migrants and their families, and a large and loud segment of public opinion which tends to look diffidently on the phenomenon. The Office issued numerous public statements on this issue in the course of the year. In these statements, which were published in the majority of news portals and papers in Malta, the Office lamented the fact that child migrants and their families often suffer a double whammy of suffering and hardship, facing strife back home that forces them to leave their countries and embark on a perilous journey, only to encounter, if and when they reach their destination, all sorts of obstacles in their quest for and right to asylum.

One such hurdle which the Office spoke out against was the decision by national authorities of receiving countries to refuse entry to sea vessels operated by humanitarian organisations carrying migrants rescued at sea, as a result of which the migrants would be stranded at sea for days on end unable to disembark and receive the assistance they need. In its public statements, the Office was resolute in its position that child migrants and their families should never be held hostage to political and administrative squabbling over which country should receive the migrants, and that the children's right to asylum and family life had to be guaranteed.

If and when child migrants and their families do set foot in a safe haven like Malta, their odyssey is sometimes far from over, as measures taken by the authorities of the receiving country in the name of national security often override and impede child migrants' access to their rights. The Office contributed to the formulation and dissemination of a statement by ENOC condemning the easy recourse by

receiving countries to the legal argument of 'the last resort' to justify the temporary detention of newly arrived migrants, including children.

There is little security of stay even for those third-country migrant families who have been in Malta for a long time. This stark truth was brought to the fore by the case of many third-country nationals living in Malta whose children were being denied the opportunity to join their parents in Malta because their parents were deemed to have insufficient income to meet their children's needs. In a press release on the subject, the Office condemned the cynical practice of attracting foreign workers to Malta who would be unable to earn enough income for their children to live with them in Malta. The Office maintained that Malta was morally responsible for the well-being of those children who, even if not living in Malta, would be deprived of the care of one or both parents working in Malta.

Children are at the mercy of adverse political and administrative decisions when there is not a clear legal framework that defends their best interest. For over five years, the House of Parliament has been fine-tuning the text of a bill which once enacted will strengthen the system of child protection in Malta. The Office issued a statement calling for the legislative process leading to the **Child Protection Act** to be expedited and warning against well-intended but misguided attempts to broaden the scope of the bill that would have the effect of weakening, not strengthening, the child protection system.

In another public statement, the Office called on all those responsible for the care of children to limit children's exposure to and contact with adult **places of entertainment** and the toxic elements found therein, such as alcohol, tobacco and exploitative attitudes and behaviours.

These and other toxic elements are rife and more insidiously at that on the internet, where it is much harder but equally urgent to protect children from them. The Office endorsed a statement by ENOC calling for greater recognition of **children's rights in the digital environment**.

#### Lobbying the decision-makers

Although public advocacy for children's rights does not by itself bring about the desired change even when it is effective in swaying public opinion in its direction, it definitely is a catalyst for such change. Those who have the power to bring about change are much more likely to consider implementing the desired change if the weight of public opinion leans towards it than if it is neutral to or against it.

For this reason, the Office did not just publicly advocate on the issues described above but worked closely with the relevant authorities on addressing the issues. On the **migration** front, the Commissioner held numerous meetings with the highest-ranking officials within the Ministry for Home Affairs in a bid to impress on them the seriousness and urgency of the children's rights issues and to find practical solutions that are able to reconcile conflicting needs and priorities. This was done following a series of visits to various centres where migrant families and unaccompanied minors reside.

There were other issues on which the Office did not leverage public advocacy before lobbying the relevant authorities because these same issues had already received a lot of attention within the public debate. Concerns about the **safety of water-based fun parks**, was one such issue. The Office set up a number of meetings with and between the relevant stakeholders to identify the systemic shortcomings in the sector and how best they could be addressed. In so doing, a worrying regulatory vacuum came to light that allows some players in the industry to operate with an almost complete disregard for the safety and well-being of children.

The need to bolster safety but also transcend it to enhance children's play experience was the thrust of the Office's participation in a review of 'DSM3500:2020 'Public Playgrounds – Requirements for Public Playgrounds Safety, Accessibility, Play-Value and their Management' conducted by the Malta Competition and Consumer Affairs Authority (MCCAA). The revised standard, which also prioritises child participation in the design of public playgrounds, is to be launched for public consultation in the first quarter of 2020.

Holding authorities accountable

A commitment to upholding children's rights cannot be taken seriously if it remains such, that is a generic event, through sincere declaration of intent or principle. The commitment needs to be translated into SMART (i.e. specific, measurable, achievable, relevant and time-bound) objectives.

This approach ensures not only that commitments materialise into concrete improvements in the lives of children but also that their implementation and impact on the ground can be monitored by third parties and, therefore, that those who make and deliver on commitments can be held to account for their actions or inactions. In short, commitments to children's rights must be auditable.

A key part of the role of the Office of the Commissioner for Children is precisely this, to audit the work of public and private entities that are responsible for the well-being of children against not only the rights of children as enshrined in the Convention but also the commitments made by these entities in the various policies, strategies and standards which they are bound to implement.

The **National Children's Policy** is a broad set of commitments to delivering change across all spheres of children's lives. Shortly after its launch in November 2017, the Office started actively monitoring the implementation of the Policy. It has been carrying out its task by holding meetings with key stakeholders with the aim of ascertaining what concrete measures have been, are being or are going to be implemented to realise a given objective of the Policy, following the implementation of measures, including the commitment of funds for implementation, and measuring as far as possible the impact of the measures implemented.

In mapping the actions conducive to a particular objective of the Policy, the Office has also been evaluating the adequacy of the measures and lobbying stakeholders to beef up measures where inadequacies were identified. In following implementation, the Office has prodded stakeholders where implementation was found to be lagging. In measuring the impact of measures, the

Office consulted with those parties whom the measures were designed to positively affect, namely children.

In the course of the year, the Office worked on all three fronts of its monitoring role, meeting with key stakeholders and completing a round of workshops with children who were also presented with a child-friendly version of the Policy. This work is set to crystallise in an interim implementation report that will be published by end 2020. This report, which will map the progress made and the progress that still needs to be made, will enable Government to assess if it is on course to delivering on the commitments made in the National Children's Policy and to take corrective or auxiliary action if and where needed.

## **Challenges**

When assessing the effectiveness of the Office of the Commissioner for Children as an advocate for children's rights, it is important to keep in mind that unlike the Office of other Commissioners, such as that of the Office of the Information and Data Protection Commissioner, the Office of the Commissioner for Children does not have the power of enforcement, that is the power to force the implementation of its stands and positions.

The Office of the Commissioner for Children can only exercise the soft power of making recommendations to those entities that are vested with executive power and authority (Article 17(1) of Commissioner for Children's Act), which on their part have a legal duty to consider the Office's recommendations (Article 17(2) of Commissioner for Children's Act) and the legal right to respond to the Office's recommendations with a justified refusal to implement them (Article 17(3) of Commissioner for Children's Act).

This should not belittle the power of the Office in the eyes of civil society and the general public. Soft power, if exercised gently but resolutely, can effect change, even though this change is not as quick and immediate as all those who have the best interests of children at heart would like it to be.

In children's rights advocacy especially patience is a virtue. This is particularly true of those recommendations that require profound and extensive changes to the current legal and institutional setup. A case in point is the regulatory vacuum flagged by the Office's work around water fun parks, described earlier in this chapter. This clearly is not a vacuum that can be filled with a mere readjustment of organisational remits and responsibilities but calls for a rethink in how the State interfaces with establishments of this kind.

The Office is not daunted by the scale of challenges like this one. In the past, it has fought battles that in the end were won after years of slow or no progress, or even backtracking at times. The Office is confident that it will manage to rally the necessary political will and technical expertise to fill this vacuum that is exposing children to many kinds of hazards.

None of the above remarks should be understood to mean that there is no room for improving the function of the Office of the Commissioner for Children. On the contrary, Government should heed the recommendation made by the Committee on the Rights of the Child on the need to strengthen the Office's independence.

# **Conclusion**

The 30th anniversary of the adoption of the Convention on the Rights of the Child by the United Nations of the world was much more than an occasion for celebration. It was a timely opportunity for all those who work with and for children to renew their commitment to children's rights.

Much has changed over the three decades that have passed since that historical event. New challenges and opportunities to and for the well-being of children that were unimaginable at the time the Convention was written and adopted have emerged and made the work of children's rights advocates much more complex, intriguing and at times overwhelming.

In this tricky context especially, the Convention on the Rights of the Child should serve to inspire children's rights advocates and give a renewed sense of purpose to their work with and for children.



"A child has only one chance to develop, and the protection of that one chance therefore demands the kind of commitment that will not be superseded by other priorities. There will always be something more immediate, there will never be anything more important."

(James Grant, Executive Director of UNICEF in 1989)



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