

# Office of the Commissioner for Children

Annual Report 2020



Kummissarju għat-Tfal

Commissioner for Children





# **Office of the Commissioner for Children**

**Annual Report 2020**

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

© Copyright 2021, Office of the Commissioner for Children

Published by the Office of the Commissioner for Children  
16/18, Tower Promenade  
St, Luċija, SLC 1019, Malta

Tel: +356 21 485180  
Email: [cfc@gov.mt](mailto:cfc@gov.mt)  
Websites: [www.tfal.org.mt](http://www.tfal.org.mt) and [www.zgħażaġħ.org.mt](http://www.zgħażaġħ.org.mt)

Design & Printing: Government Press



# Contents

	Page
Message from the Commissioner.....	5
1. The Power of Children's Rights .....	7
2. A Strong Children's Rights Framework.....	11
3. Socialisation.....	19
4. Health .....	25
5. Education.....	29
6. Free Time.....	37
7. Economic Security .....	43
8. Justice.....	45
9. Celebrating Diversity, Ending Discrimination .....	47
Conclusion.....	53



# Message from the Commissioner



When people are faced with a real and immediate threat to their lives, a basic binary human instinct of flight from and fight against the threat inevitably kicks in. When the COVID-19 pandemic broke out in the first quarter of 2020, human societies across the world reacted very much in this way. First, they fled from the pandemic by imposing restrictions on travel and public gatherings. Then they fought against it by funding scientific research into a cure and vaccine against the virus and supporting those whose lives and livelihoods had been disrupted by the pandemic.

In many ways, this response characterised the actions of my Office in this first year of the pandemic. No sooner had we taken stock of the seriousness of the situation than we rolled back our face-to-face engagement with children and other stakeholders and, hard though it was for an organisation whose *raison d'être* is the promotion of children's rights, we supported the ordered closure of so many establishments which served the rights of children in order to guarantee their most basic right of all, their health and survival and that of their significant others.

Yet, it was not long before we started to fight back from the corner which the pandemic had forced us into. We reestablished contact through digital means with children and other stakeholders. We also advocated for all service providers to do the same with the children and families in their care and to work towards the safe reopening of their premises.

Our objective was not simply for the status quo vis-a-vis children's rights that prevailed before the pandemic to be restored as early and safely as possible, especially in view of the impotence of children's entitlement to education and how socialisation with peers suffered when schools were closed. We strongly believe in the need to get the children's rights agenda for a deeper and wider consideration of the best interests and views of children. We had been pushing for months and years before the pandemic, for the Government to prioritise the incorporation of the UN Convention on the Rights of the Child in domestic law and the implementation of the National Children's Policy, aware that these might not be seen as overriding concerns in the midst of a pandemic that was claiming lives and bringing the economy to its knees. With our European counterparts, we worked to promote the concept and practice of a mechanism to ensure that the impact of any public action on children's rights is examined before and after implementation. We also continued exploring how to render the urban environment more child-friendly and, therefore, all-people-friendly, by eliciting and channeling the input of children in its design.

In short, while the pandemic had the effect of sidelining children's rights in the order of national priorities, my Office worked with all its partners and stakeholders towards mainstreaming children's rights across public policy. I would say that our spirit and approach were not so much defiant as opportunistic in that we sensed that with the need for the Government and the public sector to take on an ever bigger role in countering the pandemic, the time was right and ripe for the fight for children's rights to acquire new strength and momentum.

Pauline Miceli,  
Commissioner for Children

be SMART!  
**ONLINE!**



No  
**HATE**  
Speech

# 1. THE POWER OF CHILDREN'S RIGHTS

## BACKGROUND & INTRODUCTION

The Office of the Commissioner for Children was set up in 2003 by an act of law (the Commissioner for Children Act (Cap. 462 of the Laws of Malta)) that was passed in Parliament in the same year. This law endows the Office with the remit, independence and powers to promote the rights of children in Malta as enshrined in the United Nations Convention on the Rights of the Child (UNCRC).

Even though children's rights are a cornerstone of the Act, which is possibly the first legal text in Malta to make explicit reference to them, their practical value and applicability reside not so much in the law as in Malta's accession to the UNCRC, which was accomplished in 1990.

This is because in ratifying the Convention, the Government of Malta committed itself to doing everything in its power to help all children in its jurisdiction access their fundamental rights (Article 4). Therefore, it is the obligations stemming from this commitment that give the Office the moral authority to prod the Government and the authorities to act towards and refrain from acting against the realisation of children's rights. Without this moral authority, the legal authority of the Office to act in accordance with the provisions of the aforementioned law would be void.

## THE COVID-19 PANDEMIC

Early on in 2020, the world was taken by storm by the emergence of a novel coronavirus that quickly turned into a pandemic. Authorities scrambled to contain the transmission of an uncommonly contagious and deadly virus by shutting down a number of services, notably schools and non-emergency healthcare, and setting curbs on social interaction between people from different households. These measures lasted several months, were then lifted during the summer months only for some of them to be reinstated following the emergency of the second wave of the pandemic.

Children were largely untouched by the new virus per se but were badly hit in terms of their socialisation, education and leisure among others by the restrictions that were imposed. This was especially true of children who were already lagging behind in the enjoyment of their rights.

## ARE CHILDREN'S RIGHTS DEROGABLE?

There is no doubt that the rights of children in Malta and beyond were curtailed by the State's response to the pandemic, which, as observed by the European Network of Ombudspersons for Children (ENOC)<sup>v</sup>, betrayed a systemic failure to take into account children's rights and wellbeing and highlighted the lack of coordination and integrated approaches to children's wellbeing.

This begs the question, what happened to the obligations of the State as a party to the Convention? This question becomes all the more troubling when one considers that the Convention does not have a provision that allows a State Party to derogate from its obligations in the face of a public emergency. Such a provision exists in Article 4 of the International Covenant on Civil and Political Rights<sup>xxix</sup>, and, to a lesser extent, in that of the International Covenant on Economic, Social and Cultural Rights<sup>xxix</sup>.

The Convention's own Article 4, which calls on the State Party to adopt measures towards the implementation of the Convention, does contain a proviso to the effect that "State Parties shall undertake such measures to the maximum extent of their available resources...". In fact, a number of measures, most notably those related to the provision of non-emergency healthcare services to children in Malta, were suspended as the professionals manning these services were redeployed to the frontline of the healthcare system to help fight the pandemic. However, the permissibility of such a suspension according to the Convention presupposes that the State can reallocate resources from children to the public emergency response, for which, as already said, the Convention does not specifically make allowance.

It is not immediately clear if a country that, like Malta, is a party to all three of the aforementioned international human rights instruments, can extend the derogability allowed under the two international covenants to its implementation of the Convention on the Rights of the Child. That this is somehow possible is suggested by a statement issued by the Committee on the Rights of the Child, the guardian of the Convention, shortly after COVID-19 was declared a pandemic by the World Health Organisation. In this statement<sup>xxix</sup>, which follows up on a joint statement issued by the Chairpersons of the 10 Human Rights Treaty Bodies<sup>xxix</sup>, "the Committee recognizes that in crisis situations, international human rights law exceptionally permits measures that may restrict the enjoyment of certain human rights in order to protect public health."

## DEFENDING CHILDREN'S RIGHTS IN AN EMERGENCY

Concerned about the potentially devastating impact of the pandemic on children's rights, in the same statement the Committee on the Rights of the Child also called on Governments to uphold the rights of the child in their response to the pandemic by aligning their actions to eleven guidelines. These guidelines are an appeal to Governments to apply the principle of the best interests of the child in their responses to the pandemic by ensuring that: services designed to help children access their rights are not rationed during the pandemic; new policies aimed at managing the pandemic do not create new or widen existing inequalities between children; and that children are helped and involved in responding to the pandemic.

Underlying the Committee's exhortation of governments to be mindful of children's rights throughout the pandemic is not merely a defense of its interest group but, more importantly, a reminder that, because children are still developing, the consequences of any derogation from their rights would be irreversible for the children affected, especially if the pandemic stretches out for several months.

The stand taken by the Committee against the tendency of state parties battling the pandemic to derogate their responsibilities towards children's rights sends a clear message to children's rights institutions, like the Office of the Commissioner for Children, that they should not flinch from taking Governments to task for slowing down, or even backtracking on the implementation of the Convention. On the contrary, children's rights institutions should be at the forefront in advocating that responses to the pandemic do not sacrifice children, and that children's rights policies and strategies that were in place before the pandemic are not shelved or put on the backburner.

---

<sup>1</sup> This article, in its first sub-article, reads that "In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin."

<sup>2</sup> This article reads that "The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society."

<sup>3</sup> Committee on the Rights of the Child COVID-19 Statement: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en)

<sup>4</sup> UN Human Rights Treaty Bodies call for human rights approach in fighting COVID-19: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25742&LangID=E>



## ANNUAL REPORT 2020

Against this turbulent background, the Office carried out its mission to promote the rights of children in Malta. The COVID-19 pandemic informed much of the work done by the Office, which happened either despite or because of it. Even work carried out before the pandemic must be seen in light of the new reality.

The following report thus aims to give an objective and contextual account of how the activity of the Office of the Commissioner for Children helped safeguard and advance children's rights in the course of a most challenging year defined by the pandemic. The activity conducted by the Office is described in all its thematic content, and structured in terms of how it helped address the various emerging concerns regarding children's rights.

be SMART  
**ONLINE!**

**KEEP**

**active**





## 2. A STRONG CHILDREN'S RIGHTS FRAMEWORK

*'Children's rights should be made a priority despite the current situation'.* So read one of a number of animated posts which the Office disseminated through its social media on World Children's Day. This chapter describes how the Office responded to its battle cry by working with its national and international partners and other stakeholders to strengthen the country's children's rights framework.

### INCORPORATING THE CONVENTION

The best way to ensure that a State Party does not derogate from its duties in respect of the Convention is to give it legal effect by incorporating it into national law. This was an electoral pledge by the ruling party. As a stepping-stone to incorporation, the Government had tasked the Office with preparing a technical report on gaps in national legislation and policy in respect of the Convention. As reported in the Office's Annual Report for 2019<sup>1</sup>, this report was completed and forwarded to the Minister responsible for children's rights in the second half of that year.

The Office sustained its contact with key figures in Government for this process to keep moving forward. The Office's efforts came to a head when the Office was invited to deliver a presentation on the benefits and implications of incorporation to the Cabinet of Ministers. Also championed by the Minister responsible for children's rights, Hon. Dr Michael Falzon, the proposed move to incorporate the Convention into national law encountered no significant objections from the members of Cabinet. The Office was asked to provide further information on the necessary implied changes this would bring about to other various pieces of legislation. It is hoped that the Government will not drag its feet or backtrack on this very important piece of legislation, or opt for an approach that falls short of a full and direct incorporation of the Convention.



### IMPLEMENTING THE CONVENTION

#### *Child's Rights Impact Assessment & Evaluation*

The incorporation of Article 4 of the Convention into national law would place a legal obligation on all persons in authority to weigh the best interests of children as a primary consideration in any decision they make. This obligation would apply even to the public health response to the pandemic, whereby health authorities would be called not to underestimate the social impact of confinement on children, in line with the final recommendation of the *13th European Forum on the Rights of the Child*, which included Federica Coleiro, young children's rights activist, who was assisted by the Task Manager, among its participants.

However, for such an obligation to actually serve the best interests of children, the Office called for the development and use of a Child's Rights Impact Assessment (CRIA) tool in respect of and before any law and policy, budgetary and other administrative decision that directly or indirectly affects children is adopted.<sup>iv</sup> Furthermore, the statement issued at the end of ENOC's 24th General Assembly extended this call for the use of CRIAs beyond the national level to the transnational European level of the Council of Europe and European Union Institutions and to the stage after implementation through a Child Rights Impact Evaluation (CRIE). The need to take into account the impact which the pandemic and the response thereto has had on the rights of children was felt by the Parliamentary Health Committee when it summoned the Commissioner to deliver a presentation on the subject.

Promoting and supporting the use of these tools among all public bodies can help embed a child rights-based approach in public decision-making. As highlighted in the final recommendations of the *13th European Forum on the Rights of the Child*, this means that in the event of a future pandemic, authorities would be much better prepared in future to deal with emergencies in a way that is mindful of and sensitive to children.



*Federica Coleiro during the 13th European Forum on the Rights of the Child*

As the ENOC General Assembly position paper rightly stated, there is no such thing as a child-neutral policy. However, beyond determining the prospective or actual impact of any policy on children, CRIAs should also, establish the opportunity cost of a given policy or project for children, by looking at any initiatives for children that might be harder to implement if the assessed project went ahead. This is all the more important in the current situation of reduced availability of financial resources and in the context of Malta's limited landmass. Also the assessment and evaluation of any impact of children must, as stressed by the Commissioner in her speech to mark Victory Day, take into account that children are resilient and that their resilience is built from learning through experience how to deal with adversity.<sup>iii</sup>

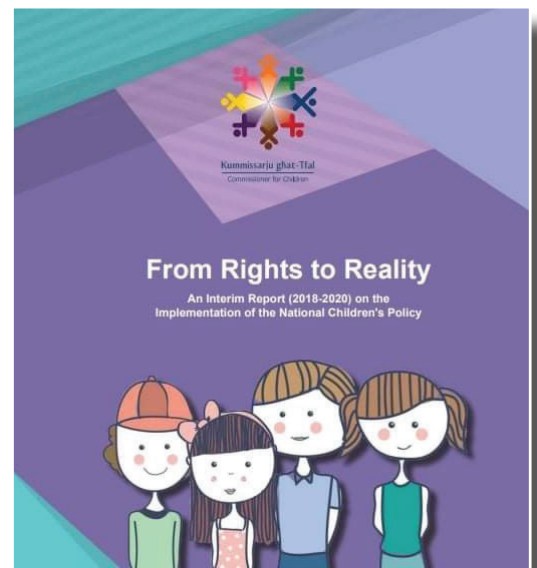
## NATIONAL CHILDREN'S POLICY

Ensuring that no law, policy, budgetary allocation, and other administrative decision has a negative impact on children's rights is a necessary first step towards a full implementation of the Convention in that it paves the way for more proactive policies for children whose positive impact on the lives of children would not be diminished by the negative impact of broader policies.

Just as the aforesaid Child's Rights Impact Assessment or Evaluation are standardised scientific tools, so too must any policy that aims to better the lives of children be grounded in research for it to be effective. As was discussed in a webinar organised by Eurochild called *'What is Childonomics, and how can it guide post-pandemic policy decisions?'*, which the Policy Officer was a participant in, a solid grounding of policy in research ensures the best return on public investment in terms of positive outcomes for children. To enhance the evidence base of national children's policies, the Office called for an improved system of regular collection and analysis of data covering all areas of the Convention and its Optional Protocols, disaggregated by age, sex, disability, ethnic and national origin and socioeconomic background in order to facilitate analysis and action on the situation, needs and appropriate intervention for all children, particularly those in situations of vulnerability.

The Office had long called for a more holistic and cross-sectoral approach to policymaking for children. After being in gestation for many years, finally, in late 2017, the Government launched a seven-year plan, the National Children's Policy, to take children's rights and the Convention to a higher level of implementation. The course towards a fuller realisation of children's rights charted in the National Children's Policy was diverted by the pandemic, which not only siphoned resources away from children but also gave rise to new needs and inequalities. Some children stopped thriving as much as they had been before the pandemic as well as in comparison to other children during the pandemic, forcing the State to intervene among these new pockets of disadvantage.

To prevent this all-important instrument from fading into obscurity, the Office, which had been tasked with the monitoring and evaluation of the Policy, took to the media to raise awareness of the Policy<sup>2</sup>. On the occasion of World Children's Day the Office published an interim report on the implementation of the Policy which will be presented to the Minister responsible of Children's Rights at the beginning of 2021. In this report, the Office highlighted, among other things, the inherent strengths and weaknesses of the Policy, notably the lack of a designated body to steer the implementation of the Policy and the need for a strategy with well-defined targets, timeframes, budget and actions. To coordinate the implementation of such a strategy, the Commissioner called for the institution of a Directorate for Children's Rights or an Office of the Parliamentary Secretary for Children's Rights with a horizontal mandate that extends beyond the social policy remit<sup>3</sup>.



## CHILDREN'S PARTICIPATION

Another force exerting pressure on Governments not to let up in their pursuit of a children's rights agenda despite the pandemic is the activism and participation of children. A shining example of this was Federica Coleiro, the Maltese adolescent who was supported by the Office to form part of the call of the *13th European Forum on the Rights of the Child* on Governments to step up, not scale down, their efforts to uphold children's rights in these troubled times.

The European Network of Young Advisors (ENYA), whose forum was preceded and fed into by a group of young people in Malta, called for the inclusion of children's input as to how they think and feel a given measure taken by a public body, in relation to COVID-19 would affect or has impacted them. The meetings held with this group of young people were coordinated by the Task Manager in collaboration with Aġenzija Zgħażaġħ. The recommendations that were made by these young people, together with the recommendations made by young people from other European Countries, fed into the proceedings of the ENOC General Assembly. A Position Statement on Child Rights Impact Assessment (CRIA) was adopted at the General Assembly by the ENOC members including the Maltese Commissioner for Children. The Statement included the recommendations made by young people from 15 different European countries/regions. The young people from the Malta group made various suggestions regarding CRIA. These included: the need for a Child Rights impact assessment of the Education system and syllabi so that they can be revised to include more relevant skills and topics; the need for policy-makers to assess the impact of all decisions on children's rights as they are not only the present but their future will also be affected.

The Commissioner warned against the tendency to limit the participation of children to a narrow range of issues that are considered as belonging to children, like education and leisure, and excluding children from taking an active role in public debates and decision-making on other subjects, such as the economy, urban planning and development.<sup>iii</sup> The Office reiterated this stand when it called for the participation of children to extend to broader longer-term issues like sustainable development and climate change, which experts believe has fueled this pandemic and will, unless they are robustly addressed, lead to further pandemics whilst undermining our ability to respond to them.

For children's participation to be a real force strong enough to shape public policy and action even in emergency situations it needs to permeate the different levels of social and political life. Enhancing the participation of children requires embarking on a research project like the one conducted by the Council of Europe<sup>iv</sup> to gauge how widespread children's participation is in our society. The insight gained through such a project can help our country undertake action to strengthen children's participation. This action should address three priorities equally and concurrently.

The first priority is, as the Office called for, to foster more awareness among children about what their rights are and how they can access and claim them. This can be achieved through awareness-raising programmes<sup>iv</sup>, including campaigns to promote the meaningful and empowered participation of all children, and the development and implementation of a national plan of action for human rights education, as recommended in the framework of the World Programme for Human Rights Education<sup>iv</sup>.

The second priority is to create structures and platforms where children can make their voices heard. The Office welcomed various efforts made in this direction over the past years, such as the extension of voting rights to young people aged 16 and over for all the State, Local and European elections and referenda<sup>iv</sup>; the commitment to strengthen the Youth Parliament by encouraging more young people to participate<sup>iv</sup>, and the introduction of Children's Local Councils in some localities<sup>iii</sup>.



The third priority in relation to a stronger participation of children is to ensure that their voices are genuinely heard by those who will take decisions for and about them. As the Office recommended, this requires three broad actions, namely the: i) dissemination of information on the Convention and its Optional Protocols to all those who work with and for children in a personal or professional capacity<sup>iv</sup>; ii) training of these professionals, also by means of the Council of Europe Child Participation Assessment Tool, on hearing the views of children in all decisions affecting them and taking them into account in accordance with the child's age and maturity; and iii) the setting up ad hoc structures and processes for hearing rights-related complaints from children by ratifying and implementing the 3<sup>rd</sup> Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, which the Office has called for on various occasions.<sup>iv</sup>

## OFFICE OF THE COMMISSIONER FOR CHILDREN

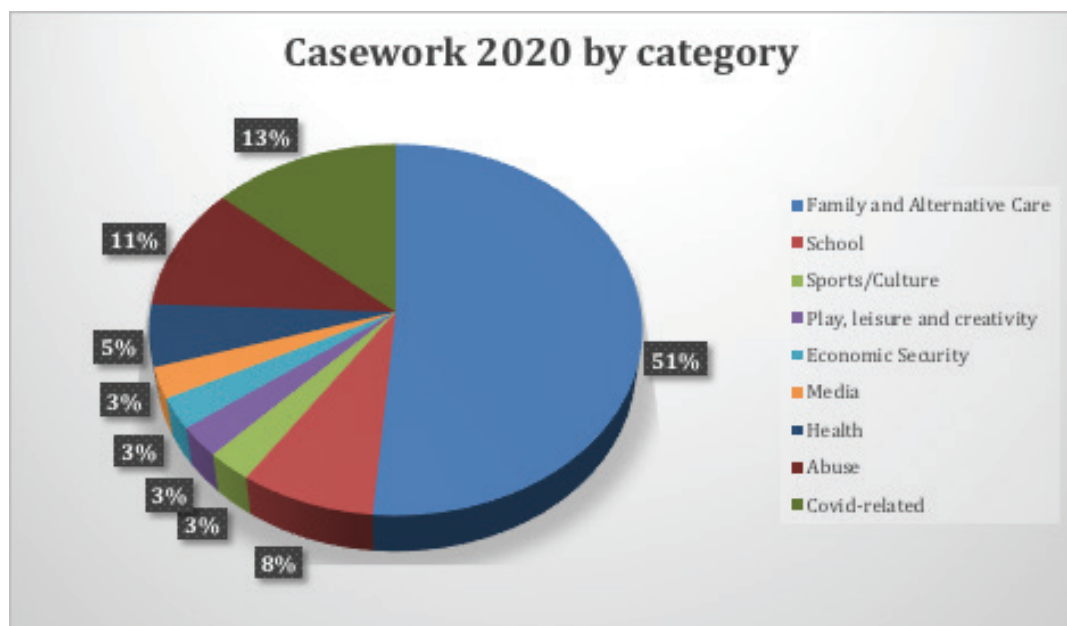
As the Commissioner and Task Manager discussed in an online meeting organised jointly by the European Network of Ombudspersons for Children (ENOC) and UNICEF to explore challenges faced by children's rights institutions during the pandemic, the Office was not immune to the trials of the first year of the pandemic. The latter did not pose particular challenges to its resources, where the Office was able to stand up for children's rights during the pandemic without any cutbacks to its financial or human resources, with both its annual budget (€220k) and staff complement (8 full-time workers, see Table 1) remaining unchanged since the last few years.

Office Position	Staff Member
Commissioner for Children	Ms Pauline Miceli
Head of Office	Dr Lorna Muscat
Task Manager	Ms Suzanne Garcia Imbernon
Principal	Ms Irene Muscat
Policy Officer	Mr Nicholas Vella Laurenti
Project Officer	Mr Glen Gauci
Support Officer	Ms Anna Maria Debono
Driver	Mr Charles Giordano

Table 1: Composition of the Office of the Commissioner for Children in 2020

It was on its operations, that is the way the Office employs its resources, that the effect of the pandemic made itself felt, forcing the Office to rethink, adapt and, in some cases, renounce its work. By its very nature as a promoter of children's rights, the Office liaises continuously with policymakers, professionals, children and parents as stakeholders or partners. For years, the Office had harnessed the directness and intimacy of face-to-face meetings to listen to and be listened to effectively by stakeholders. With restrictions in place on in-person meetings, the Office, like all of its counterparts in various European countries and regions<sup>v</sup>, had to shift its engagement with stakeholders and partners online. For instance, the periodic meetings of the Council for Children, an advisory structure to the Commissioner set up in accordance with Article 12 of the Commissioner for Children Act, were held virtually. During 2020 four meetings were held with the multi-sectoral Council which also consists of five young people between the ages of 13 and 17. The meetings focused on the work carried out by the Office but also served as an eye opener for the Office regarding the challenges being faced by professionals working with children and young people themselves.

The Office conducted its casework almost entirely by telephone and email. The Office continued to provide support to those who made contact with the Office regarding the children in their care. As expected the Office saw a rise in cases and also some cases were directly related to the pandemic such as issues with schooling as well as access visits.



The teamwork within the Office between its members of staff was also conducted remotely as Public Service Directive 13 led the Office to close its premises in Santa Lučija for several months, at the end of which period the Office reopened with safety measures in place.

Members of staff had to shift most of their work online including awareness raising sessions, giving and receiving training and child participation initiatives. Even though there were health restrictions in place, the Office still managed to maintain its media presence through technological means.

In these and many other instances, the Office met the technical challenges relating to the use of remote communication technologies, as it described in its responses to a questionnaire by the Information Management Unit of the Social Policy Ministry. The transition to remote working also entailed a change of approach aimed at preserving the success and effectiveness of these engagements. In some cases, unfortunately, the very nature of the engagement precluded the effective use of the virtual medium, resulting in the engagement being put on hold. Thus, the biannual live-in course, Rights4u, which for years had helped to develop advocacy skills in children aged 13-15 by giving them the opportunity to network closely together on children's rights issues was cancelled.

A silver lining in the effect of the pandemic on the work of the Office is that it has brought out with more clarity and urgency than ever the need to strengthen this Office as a guarantor of children's rights. The Office and the Committee on the Rights of the Child called for a more independent Office of the Commissioner for Children, through the provision of adequate, specific and separate human, technical, and financial resources as well as the immunities to effectively carry out its function, including dealing with complaints from or for children in a child-sensitive and expeditious manner.<sup>iv</sup> This requires amending the Commissioner for Children Act, which almost twenty years on from its passage into law is in dire need of a revamp.

Among the aspects of the law regulating the Office that should be strengthened is the insertion of a provision that endows the Office with a legal personality of its own. This would allow it to move and act in the public domain with greater freedom and independence from Government, such as in applying for national or European funds for its research, awareness raising and advocacy as well as representing the best interestss of individual children or children in general in a court setting.

Another aspect of the Commissioner for Children Act, which the pandemic highlighted a weakness in, is the absence of a clear provision authorising the Commissioner to visit any establishment where children are receiving a service at his/her own discretion without prior notice. While it is true that in countries where Ombudspersons or Commissioners for Children have this legal power, inspection visits to different facilities for children have been limited or suspended,<sup>v</sup> such a provision would have given the Office legal grounds to challenge administrative restrictions barring its access to these establishments, and its ability to witness first-hand how the most vulnerable children, those living in residential children's homes or open centres for migrants, were faring during the pandemic.

be SMART  
**ONLINE!**



*Reach*  
**OUT**

☎179



### 3. SOCIALISATION

The pandemic has had widely divergent effects on children's socialisation. It has brought them physically closer to some of their significant others but more physically distant from others. This chapter looks at how the Office addressed these gaps, imbalances and inequalities in the way children were able to interact with their significant others during the first year of the pandemic, with a special focus on those children who were already vulnerable before the pandemic.

#### INCREASED CLOSENESS OF CHILDREN TO THEIR FAMILY

As a result of the forced confinement indoors, for several months most children spent a lot more time with their parents or guardians than ever before. Although at first glance this was positive, the Office publicly acknowledged that this unprecedented situation had created tensions as parents, especially but not only those who were working remotely, struggled to help children structure their day at home<sup>vi</sup>.

The additional days of leave that had been granted to workers in the budget, did somewhat ease the impact of the pandemic on parents.<sup>iv</sup> However, the Office recommended more flexibility for working parents to be able to spend more quality time with their children, including through remote working arrangements.

The Office joined its European counterparts within ENOC in calling for parents to be advised and supported remotely during this difficult period<sup>viii</sup>. The Office provided support to parents by publishing an advert on the booklet *Flimkien* containing a few tips on how to help children in these difficult times. The Office also shared child-friendly information about the pandemic on its social media platforms.

**KIF TISTA' TGHIN LILL-ULIEDEK  
F'DAWN IŻ-ŻMINIJET DIFFIČLI**

- OĦOLQU RUTINA – din għandha issir flimkien mat-tfal u tinkludi tagħlim, qari u logħob.
- TKELLEM MAT-TFAL TIEGHEK – importanti li nindirizzaw it-tħassib tagħhom u nipprovdulhom informazzjoni adattata.
- AGHTIOM L-ATTENZJONI INDIVIDWALI – dawn iż-żminijiet jistgħu joħolqu ċertu ansjeta' u għalhekk huwa importanti li noffru s-sapport.
- HEĠĠIĠHOM BIEX JIBQGHU ATTIVI – għandna ngħinuhom joħolqu bilanċ fl-użu tat-teknoloġija.

t: 2590 3708 | e: cfc@gov.mt | w: tfal.org.mt

@cfc\_mlt @Comm4Children

Kummissarju għat-Tfal  
Commissioner for Children

Difficult though it was, the situation brought their responsibilities towards their children into sharper focus for parents. This was complemented by a number of multimedia awareness campaigns on parental responsibility that were run as part of the implementation of the National Strategic Policy for Positive Parenting 2016-2024<sup>iv</sup>, to which the Office contributed thanks to the Commissioner's role as a member of the strategy's Task Force. To enhance parental skills, the Task Force also planned to organise, in collaboration with Tavistock University, a train-the-trainer programme called 'Parents as Partners'. The Office stressed the importance of online safety through various means including an article in the *Familja* magazine which provided tips for parents on how to ensure their children's online safety.

Despite its myriad difficulties and challenges, the pandemic enabled children and parents to spend more time together and to renew or rediscover that spiritual connection between them which the hustle and bustle of the pre-COVID-19 routine had somewhat obscured. The Commissioner expressed hope that this all-important parent-child rapport would grow stronger beyond the pandemic<sup>vi</sup> and called for increased efforts to enhance communication between children and their parents<sup>iv</sup>.

Writing in *Familja*, the Commissioner opined that an optimal child-parent relationship requires the parent to genuinely listen and consider the views, desires and inclinations of the child, even from a young age, and make decisions in their best interest. Naturally, this balance tilts more to the side of parental authority and responsibility the younger the child is, and more to the side of child participation for older children. In the case of children in their late teens, their maturity may be sufficiently developed for them to take certain decisions on their own without their parents' knowledge or consent. As the Office responded to a number of professionals who sought its advice on this matter, this needs to be decided on a case-by-case basis.

As part of this Positive Parenting Policy, the Office set up the Child Advisory Group to mainstream the views and perspectives of children and young people in the implementation of the strategy. Among the views expressed by children was their aspiration for a quiet space within the home where they could chill out. ENOC drew attention to the plight of children living in small flats, which in a situation of confinement like that experienced during the pandemic could act like pressure cookers, heightening normal tensions between members of the same household to boiling point.<sup>vii</sup> In Malta, it is likely that children and adults living in overcrowded households, especially among third-country nationals<sup>viii</sup>, would have faced such a situation. Since many of the changes in the way people work and learn are likely to last beyond the pandemic, this calls for some serious rethinking of the way residential units, including the nearly 700 additional social housing units which are being developed<sup>iv</sup>, are designed and built in Malta.

### *Vulnerable children*

Since the pandemic took its psychological toll on all families, it is reasonable to assume that the stress and difficulties faced by some parents in providing appropriate care and guidance to their children increased during the first year of the pandemic. ENOC called for care and support for these children and families.<sup>vii</sup> Provided childcare day centres are open, this support could pass through the implementation of the Office's recommendation for the free childcare scheme to be extended to those children whose parents are not in full-time employment or training but whose development could benefit from the service due to certain vulnerabilities within the family<sup>iv</sup>. However, these parents can and should be supported even when childcare centres are closed since, as the Policy Officer and other participants in the webinar organised by Eurochild called '*Shaping Eurochild's joint campaign on early childhood development in Europe*' agreed, investing in early childhood education and care

fruitfully and effectively is also about providing vulnerable families with very young children with the financial and cultural tools for the children to flourish and thrive. In its responses to a questionnaire on Early Childhood Development by the World Health Organisation, the Office called for efforts to monitor and enhance the scale and effectiveness of public expenditure dedicated to this most critical of childhood phases.

The Office raised awareness about the predicament of children who before the onset of the pandemic had been living in abusive households and who were now stuck in the toxic environment of their families.<sup>vi</sup> The Office also highlighted the increased risk of domestic and family violence these children were exposed to<sup>v</sup>. This point was echoed at the *13th European Forum on the Rights of the Child*, which recommended that the protection of children and women facing these situations must be treated as an essential lifesaving service that should not be rolled back in the face of the pandemic.

The Office called for increased efforts to end all forms of violence within the home and in all custodial settings, including schools, in the administration of justice, childcare institutions, including early childhood care institutions and alternative care settings.<sup>iv</sup> This requires, first of all, taking, both administratively and legally, a stand of zero tolerance against child abuse, including through the removal of ‘reasonable chastisement’ as valid grounds for corporal punishment, and enforcing this uncompromising stand by prosecuting all acts of harm against children.<sup>iv</sup>

Ending violence against children also requires increased efforts towards three ends. The first is to raise awareness among parents, professionals working with and for children and the general public about what constitutes and causes harm to children, such as corporal punishment, and against the stigmatization of victims of sexual exploitation and abuse.<sup>iv</sup> The second end is to detect harm in children, such as through the further development of the 179 helpline, and through accessible, effective, confidential, child-friendly mechanisms, procedures and guidelines to ensure mandatory reporting and referral of cases of child sexual abuse and exploitation.<sup>iv</sup> Thirdly, efforts should be directed towards investigating harm to children through the allocation of adequate human, technical and financial resources to the Office of the Director Responsible for Child Protection.<sup>iv</sup> To all these ends, the Office continued its work on creating a blueprint for a Child Protection Policy that any organisation can adapt and adopt to ensure that the children it works with suffer no harm while they are in its care.

An overarching requirement to step up the fight against violence against children, is the setting up of all the necessary structures, including the necessary human, technical and financial resources, for the child protection system to work in accordance with the requirements of the Minor Protection (Alternative care) Act, the new legal framework of child protection which inter alia incorporates the principle of the best interests of the child.<sup>iv</sup> Another requirement is the establishment of a national database on all cases of violence against or abuse or neglect of children, including cases of domestic violence, and the undertaking of a comprehensive assessment of their extent, causes and nature.<sup>iv</sup>

## INCREASED DISTANCE OF CHILDREN FROM THEIR FAMILY

While the pandemic brought most children closer to their parents and families, for other children, it opened or widened a rift from their families. Federica, the young Maltese representative in the *13th European Forum on the Rights of the Child*, homed in on the lack of parental supervision and support faced by children left at home alone because their parents had returned to their jobs. In its responses to the questionnaire by the World Health Organisation on early childhood development, the Office wrote that the lack of supervision exposed the youngest among these children to suffering injury at home, for the prevention of which the Office called for more awareness campaigns targeting parents.<sup>iv</sup> It is legitimate to question why these children were not able to benefit from emergency care and schooling, which ENOC reported that some countries, like Denmark or France, had organised for children whose parents performed critical functions and had to go to work or were unable to care for their children.<sup>v</sup>

The pandemic seems to have caused or brought to the fore relationship problems in couples, resulting in an increase in the number of couples seeking separation<sup>ix</sup>. Since many separations are settled out of court, the Commissioner lamented that in these cases the children's right to be heard, their future care and custody arrangements was not guaranteed.<sup>iii</sup>

During the first months of the pandemic, children's contact with their extended family members, notably grandparents and cousins, as well as with their peers and friends was greatly reduced, depriving them of a valuable source of comfort and company. In a press statement published in the first weeks of the pandemic, the Office advocated for the power and value of digital means of communication as an escape from the monotony of staying indoors and a great opportunity for children to interact with extended family members and friends while staying and keeping others safe.

### Adolescents

Reduced face-to-face contact with peers was particularly harsh for adolescents, as a host of community services designed for their social interaction, such as youth cafes, including the two new ones in the south of Malta and the detached youth work in five localities, which Aġenzija Żgħażaġħ had launched<sup>iv</sup>, shut down. Among the most vulnerable youths, ENOC warned that the provision of aftercare to children leaving out-of-home care should not be curtailed as a result of the pandemic.<sup>vii</sup> The need for adolescents to maintain close contact with their families was highlighted when the Office called for the law to be amended so that no person under the age of 18 years could enter a marital or civil union.<sup>iv</sup>

### Vulnerable children

The Office also observed that for children of separated or divorced parents, their rightful access to the non-custodial parent had, in some instances become problematic.<sup>vi</sup> Since this was leading to the violation of communication rights between children and divorced parents,<sup>vii</sup> the Office proposed that these rights be exercised via phone and other remote communication means.<sup>v</sup>

Failure to maintain contact with the other parent would inevitably lead to or exacerbate parental alienation from children. The latter phenomenon was the focus of the Office's attention as it teamed up with Dr Claire Francica, a psychologist with vast clinical experience in the field, to impress on the relevant Ministers the need to train and sensitise professionals in the justice system to parental alienation as a distinct phenomenon from contact dispute. The Office's



advocacy on this issue is expected to lead to the formation of a working group that will make recommendations to the Government on the legal and administrative measures that are needed to address the phenomenon of children becoming psychologically embroiled in their custodial parent's conflict with the non-custodial parent and thus socially and psychologically alienated from the latter to their own detriment. These recommendations are expected to focus *inter alia* on the value of co-parenting as an arrangement between parents who are no longer together that works best for the child.<sup>iv</sup>

A different form of parental alienation affects children of parents detained in a correctional facility. In its feedback on the Draft Work Programme of the Fundamental Rights Agency for 2021, the Office called for more attention to the plight of these children in terms of access rights that should be more child-friendly, especially in light of COVID-19 restrictions on visits, and the poverty, stigma and discrimination suffered by these children.

For those children experiencing or at risk of neglect or abuse, the Office recommended that they be removed from the family only as a measure of last resort, only after an appropriate assessment of their best interests and views,<sup>iv</sup> and, according to the proceedings of a conference called *'Reaching out to Communities Centring client's needs at the heart of our interventions'* that was attended by the Head of Office, only after therapeutic outreach programmes are provided to the families of these children. For those children for whom it is best to be separated from their family environment, ENOC called for authorised links of children with their birth families to be maintained through digital means of communication.<sup>vii</sup> This was also encouraged by the Office.

ENOC stressed the need for the return of children to families to be subject to thorough and uniform case-by-case assessments and warned that children should not be returned prematurely to families with the aim of alleviating child protection systems stressed by the pandemic.<sup>vii</sup> The Office called for security measures at the airport to be strengthened so as to prevent cases of children being taken out of the country illegally whilst under a care order. In connection with one such case, the Office appealed to the relevant local and international authorities to do everything in their power for the girl to be found and brought back to the care of her foster parents in Malta as soon as possible whilst safeguarding the child's safety at all times.

For those children for whom it is best to receive out-of-home care, the Office called for a continued review of policies in order to reduce the placement of children in residential care.<sup>iv</sup> To this end, the Office stressed the need for the foster care system for children who cannot stay with their families to be strengthened.<sup>iv</sup>

Adoptions were also very much on the Office's radar as another non-institutional form of alternative care. The Office welcomed the introduction of a bonus for newly adopted children and financial aid for prospective adoptive parents to cover the costs of overseas adoptions. It also noted with satisfaction the focus on post-adoption services found in the guidelines and social regulatory standards on the adoption of children and in the *'National Adoption Strategy for Children and their Families (2018-2022)'* that had been launched.<sup>iv</sup> As part of this strategy, the Head of Office represented the Office on a working group that had been set up to coordinate scientific research about adoptions in Malta. The Office participated in a public consultation on possible amendments to the adoption law designed to facilitate local adoptions, where the Office called for the views and desires of children to be heard and considered in the adoption process. The Office welcomed amendments to the Embryo Protection Act that provide for the right of children born through assisted reproduction technologies to have access to information about their origins.<sup>iv</sup>

Where a family-based style of alternative care is not possible, the Office stressed the need for alternative care policies that ensure that residential care placements are appropriate to meet the needs of children, that siblings are kept together as much as possible and that priority is given to community-based family units.<sup>iv</sup> To this end, the Office welcomed the launch of standards and guidelines for residential out-of-home care for children and called for the adoption of Occupational Standards for those frontline workers responsible for the upbringing of children living in residential out-of-home care. The Office also called for the system of residential out-of-home care to be sufficiently funded for the optimal care of children, including by setting up homeless shelters for emergency cases of minors who are not being cared for by their parents.<sup>iv</sup> While children in residential care constantly feel the lack of a family environment, this feeling is perhaps more pronounced in the period leading up to and during the end of year festivities. To help ease this feeling, the Office funded the purchase of Christmas presents for children in care by the management of the residential homes.

Children who suffered the loss of a close family member found less solace and support from their extended families during the pandemic. The Policy Officer participated in the launch of a project entitled 'Wrinkles & Twinkles', coordinated by the Karl Vella Foundation. It enables these children to tap the values and coping skills of elderly persons whom they get the chance to talk to and write stories about, through which toolkits used by educators and psycho-social practitioners with their students/clients are created. The Office stressed the importance of fostering friendship and camaraderie between schoolchildren when it voiced the wish of children for festive occasions, like birthdays and school parties to be exempt from healthy food rules and standards.<sup>iv</sup>

## 4. HEALTH

Concerns about the transmission of the virus and the restrictions imposed on normal living all carried serious implications for the health of children. This chapter looks at how the Office's activity tried to make sense of these implications, with regards to the children's physical health, their mental health and the healthcare they received.

### PHYSICAL HEALTH

The restrictions put in place in response to the pandemic were designed to safeguard public health, including that of children. Whilst acknowledging the hardship faced by all children as they were forced to stay at home, the Office urged all those entrusted with the care of children to prioritise their health and safety by keeping them at home<sup>x</sup>. ENOC called for care institutions to be provided with all the necessary equipment and guidelines to prevent and address infection among children and staff as effectively and humanely as possible.

The near absence of outdoor activities during the first wave of the pandemic rendered children's lives sedentary and physically inactive to the detriment of their health. The Office raised awareness about how badly children had missed out on opportunities for play and physical activity as a result of their near confinement over the three months of the first wave of the pandemic, and that their developmental need for outdoor activity had gone largely unmet in this period. Even when restrictions were eased, the Office recognised that it was hard to coax children to go outdoors for much needed physical activity.<sup>vi</sup> Children's reduced physical activity increased the urgency of the plans to launch a policy on physical activity and of the Office's calls for more time to be dedicated to physical education, and for outdoor gyms to be set up in every locality.<sup>iv</sup>

Being confined at home also put children at risk of engaging in excessive and wrong food consumption. This highlighted the urgency of plans for an educational campaign amongst students in Primary Schools and their parents on the importance of maintaining a healthy balanced diet, and for intensified efforts in raising awareness of healthy nutrition.<sup>iv</sup>

The combined effect of increased physical inactivity and unhealthy nutrition during the pandemic does not bode well for Malta's already high rate of child obesity. This heightens the need to carry out a research study to look at the rate of obesity in children between the ages of 4 and 5 and for an increased focus on combating child obesity by inter alia evaluating and updating the 'A Healthy Weight for Life: A National Strategy for Malta 2012-2020' and the 'Food and Nutrition Policy and Action Plan for Malta 2015-2020'.



Improved health outcomes cannot be achieved unless the underlying social determinants of health are aggressively tackled. The Policy Officer participated in a seminar on this subject, where participants agreed on the need for a more cross-sectoral approach to health.

Although the reopening of schools allowed children to be physically more active, it also led them to experience the problem of heavy school bags again, possibly to a greater degree as a result of safety measures limiting the use of lockers. Through the feedback it provided on 'Guidelines for Schools – The Weight and Carriage of School Bags' that were issued by the Education Ministry, and an article by the Commissioner that was published in *Familja*, the Office called *inter alia* for drinking water fountains to be installed in all state schools and for more and better use of lockers in schools to prevent heavy school bags.

## MENTAL HEALTH

In terms of their mental health, the physical isolation from friends, extended family members and other significant others outside the home, put children at risk of experiencing loneliness. Through its casework and meetings with children, the Office was receptive and sensitive to the negative emotions of isolation, stress and anxiety that the pandemic was generating in children. The Office raised awareness about how the pandemic had negatively affected children's mental health,<sup>vi</sup> and voiced the call by children for more and better support for those among them who were passing through a difficult time.<sup>iv</sup>

Even before the pandemic, there had been an increased focus by the Government on the mental health of children. This was evident in the specialised clinic that had been set up at the Marsa Primary School to provide Sensory Integration Therapy to children with autism and others who were not able to fully participate within the educational system.<sup>iv</sup> More broadly, just a year before the onset of the pandemic the Government had launched Malta's first ever Mental Health Strategy covering the period 2020-2030, which includes specific provisions for children. The Office called for these provisions to be prioritised in the implementation of the strategy, starting with the formation and allocation of adequate human, technical and financial resources in order to augment the availability, accessibility and quality of child mental health services and programmes. Among the priorities in this respect are the allocation of new and more appropriate premises to the Children and Young Persons Services, and an improved system of assessment and treatment of children for attention, hyperactivity and/or behavioural disorders.<sup>iv</sup>

Children's mental health can be sustained also if they are duly informed as to why the sacrifices they are being asked to make are necessary for their own good and that of their loved ones. ENOC called on health authorities to disseminate child-friendly information on the pandemic.<sup>vii</sup> Such information should not, however, create anxiety among children. The Office voiced the concern of some parents that this might be happening as a result of the

use of pandemic-related material in class, or expectations from educators on children to keep up-to-date with the evolution of the pandemic.

Those children who, being interned in a mental health institution, were already isolated from family and friends, became even more isolated as the pandemic limited the frequency, duration and intimacy of social visits. One hopes that such restrictions in existing and prospective residential mental health facilities, including the planned safe centre for female children with behavioural issues,<sup>iv</sup> can be lifted or relaxed for the benefit of child in-patients.





## Adolescents

The mental hardship caused by social isolation was particularly true of adolescents, for whom contact and interaction with peers is more important than it is in any other phase of childhood. This is so in part because of the psycho-sexual changes associated with this developmental phase. The Office called for an updated sexual health policy that includes mandatory sexual and reproductive health education for both adolescent girls and boys, with special attention to preventing early pregnancy and sexually transmitted infections.<sup>iv</sup> The Office also called for an increased availability of adequate sexual and reproductive health services for adolescents, in particular access to modern contraception methods.<sup>iv</sup> Such availability would complement the legal amendments highlighted by the Commissioner that allow children from the age of 16 to seek medical assistance without their parents' knowledge and consent.<sup>iii</sup>

Interaction with peers also helps adolescents build their self-image and self-esteem. One cannot exclude that the pandemic had a depressive effect on these essential dimensions of psychological wellbeing. This heightened the relevance of the Office's call, based on feedback received from adolescents themselves, for an increased availability and accessibility of adolescent mental health services and programmes, for initiatives to make adolescents more aware of how they can reach out for help, particularly in regards to self-harm, and for increased efforts to reduce stigma surrounding mental health.<sup>iv</sup>

It is not clear if the social isolation of adolescents caused an increase or a decrease in their use of recreational drugs and other addictive substances. The results of the ESPAD study in 2019 had shown that certain dangerous drugs like cocaine were perceived as more easily obtainable by Maltese youths than by their European peers<sup>xi</sup>. Such a state of play does not warrant any letup or slowdown in the implementation of the National Alcohol Policy (2018-2023), or on plans to roll out a strong educational campaign amongst school age students regarding cannabis use, or on the setting up of a drug rehabilitation centre offering residential and day services to young people under 18 with drug addiction problems and support to their families.<sup>iv</sup> On the contrary, the Office called for continued measures to address alcohol, drug and tobacco use among adolescents, including by providing accurate, age-appropriate and objective information and life skills education on preventing substance abuse, and by developing accessible and youth-friendly drug dependence treatment and harm reduction services.<sup>iv</sup>

## HEALTHCARE

A drawback to the policy of keeping children indoors arises when they need to receive a healthcare service. Bringing healthcare close to home can help address this. The Office reported on various completed or ongoing efforts to open new or refurbish existing local and regional health centres across Malta and Gozo.<sup>iv</sup>

Much as it recognised the necessity of children staying indoors, the Office was also critical of other restrictions, namely those which in order to protect the health of the mother and the newborn from possible transmission prohibited the accompaniment of expectant mothers during childbirth and curtailed postnatal support.<sup>vii</sup> In view of the very delicate and critical nature of this developmental phase of childhood, these measures risked undermining the good work vis-a-vis the implementation of the National Breastfeeding Policy and Action Plan (2015 - 2020), and also the formulation and implementation of plans for a pilot project by which new and expecting parents would be screened for mental health and relational problems.<sup>iv</sup> The Office thus called for these restrictions to be lifted or relaxed,<sup>vii</sup> and for continued efforts in this field through an updated National Breastfeeding Policy and Action Plan, the full implementation of the International Code of Marketing of Breast-milk Substitutes and the

Baby-friendly Hospital Initiative, and the provision of appropriate counselling and support to parents receiving treatment with assisted reproduction technologies.<sup>iv</sup>

Another key element in the primary prevention of disease in children is vaccination. The stress on the national health system and the social isolation caused by the pandemic may have had an impact on the rollout of and participation in national child immunisation programmes, including the most recently introduced vaccine on the National Immunisation Schedule, the Pneumococcus vaccine.<sup>iv</sup> Towards the end of the year, the European Medicines Authority approved the first vaccine against COVID-19, which clinical trials had shown to be highly effective and safe.<sup>xii</sup> It so happened that all those working with and for children, especially educators and social workers, were to be prioritised in the administration of the vaccine to the population so that essential services for the wellbeing and development of children can resume safely and normally.

In terms of secondary prevention or early detection of disease in children, the process kick-started by the signing of a preliminary agreement to screen children aged 0 to 16 for physical, intellectual and psychosocial developmental problems,<sup>iv</sup> may also have been held up by the pandemic.

In terms of tertiary prevention, many of the therapeutic services required by children suffering from chronic health conditions were suspended during the first few months of the pandemic. The Office raised awareness around the fact that these children had likely fallen further behind in their development and health status because many healthcare services had not been or could not be offered remotely.<sup>vi</sup> The Office called for more and better telehealth and telemedicine so that the health of vulnerable children is not compromised by the continuation of this pandemic and the emergence of future pandemics.<sup>vi</sup> In a situation of normality where children receive the healthcare they need in hospitals, the Office called for hospitals to be equipped with more child-friendly waiting areas, and for professionals administering healthcare to children to be trained to address children directly and in a child-friendly manner.<sup>iv</sup>

## 5. EDUCATION

The effect of the pandemic on children's education was the most startling as children found themselves from one day to the next learning in a completely different environment to that which they were used to. This chapter describes how the Office dealt with the upheavals and controversies that shook the right of children to education to its core in each phase of the education sector's response to the pandemic, namely the closure of schools, the shift to online learning and reopening of schools and the vision for education beyond the pandemic.

### CLOSURE OF SCHOOLS

On Thursday 12<sup>th</sup> March, the Government announced that all schools and childcare centres would be closed for a week as of the following day. The closure would eventually be extended to the end of the scholastic year. The thinking behind the closure of schools seems to have been that while children were less at risk of falling ill with COVID-19, they were carriers of the virus which if transmitted to others or by others to them could result in the spread of the virus spiraling out of control.<sup>xiii</sup>

Although many more countries would follow suit in shutting down educational establishments, some countries, like Finland and Iceland, kept schools open throughout the pandemic. ENOC reported the Ombudsman for Children in Finland explaining the reason for this choice, namely that not a single child had been hospitalised due to COVID-19 in Finland and not a single chain of transmission had been identified in schools, and that Finland was one of the countries with the lowest rates of infection in Europe.<sup>v</sup>

On the 17<sup>th</sup> of March, five days after schools were shut down, places of entertainment, such as bars and restaurants, together with gyms and clubs, closed their doors to the public. With the benefit of hindsight, one can venture to suggest that places of entertainment, where the risk of transmission is higher, should have been the first establishments to close and that this might have resulted in a reduced rate of transmission that would have allowed schools and childcare centres to remain open with safety measures. This ignores the fact that at that early stage in the development of the pandemic, very little was known about the virus and the mechanisms and risk factors of its propagation.

### THE SHIFT TO ONLINE LEARNING

Before the pandemic, there had been substantial ongoing investment in digital infrastructure in schools across Malta, such as through the planned rollout of a pilot project for the introduction of tablets in Middle schools.<sup>iv</sup> However, by no means were schools prepared to shift to online learning. Hence, the abrupt closure of schools caused educators to scramble to find viable digital means to keep the educational process alive. The Education Ministry responded to the situation by setting up a Working Group to explore methods of online teaching during the pandemic and the latter's impact on the curriculum,<sup>xiv</sup> but this group gave individual educators discretion as to how to go about providing remote learning to their students.

The Commissioner for Children publicly aired her disappointment with the very wide variance between and within schools in the ICT tools that were being used, ranging from the use of email by teachers to share educational content, resources and tasks, to recorded lessons through to live lessons.<sup>vi</sup> Even after the first wave of the pandemic, when schools had had more time to organise themselves for remote learning, the Office aired the complaints of many parents that schooling that was being provided remotely at all levels of education was mostly asynchronous, and that this was depriving students of much-needed interaction with their educators and classmates.<sup>xv</sup> Another common problem in accessing online learning was caused by inadequate internet connection at the teacher's end. As suggested by the grievances of a 16-year old girl from Malta, who took part in the international survey '#COVIDUnder19: Life Under Coronavirus', this might have been a particularly sore point for older children preparing to sit for high-stake exams.

Parents had to step in to obviate to the lack of interaction with educators. ENOC welcomed efforts by education authorities to assist parents in creating a learning environment at home but insisted that "home schooling should not put additional pressure on families in the current anxiety-provoking time".<sup>vii</sup>

Although the sudden shift to online learning was challenging for all children and parents, those children who were thriving at school and who received a lot of support from their families during the pandemic, managed to adapt to this new reality. During the *13th European Forum on the Rights of the Child*, Federica, the young childre's rights activist, noted that some children had used the confinement period to study hard.

By contrast, children with learning difficulties struggled as their parents had to compensate for the reduced academic support from both the child's class teacher and his/her Learning Support Educator (LSE). The Office voiced the concern of parents about the unnecessary anxiety, stress and learning gaps being caused to these children by the lack of support and called for all union directives blocking online support from LSEs to be lifted in the best interests of these children. The statement also called for better trained and more specialized LSEs to provide individual support to children with learning difficulties.<sup>xv</sup> The Office also cast the spotlight briefly on those children whose parents or guardians lacked the knowledge to support them, and who despite having possibly previously thrived at school thanks to their proximity to their teachers now faced the risk of effectively dropping out of school through failure to participate in online learning.<sup>vi</sup>

Despite her disappointment with the inconsistent provision of online learning, the Commissioner expressed hope that this pandemic would serve as a wake-up call to the need to invest more heavily in ICT as a key tool in the educational process, both in normal situations and emergencies like this pandemic.<sup>vi</sup> The Office also called for better utilisation of school tablets and more use of technology within the classroom as well as remotely.<sup>iv</sup> There is also the need to enhance digital literacy amongst students. The plans for a pilot project on the introduction of content related to Artificial Intelligence in education<sup>iv</sup> and the partnership of Tech.mt, in collaboration with the Office of the Commissioner for Children, with UNICEF to bring forward a child-centred approach into Malta's digital policies and strategies go in this direction.

This investment in ICT infrastructure and competencies in education should not be limited to the pedagogical dimension but should encompass non-academic support provided to students. The plans to enhance psycho-social services in all colleges and to train educators about these services<sup>iv</sup> should take into account the online dimension of schooling in terms of the content and delivery of these services.

The Commissioner also called for regulatory standards governing education to encompass elearning so that key elements of the educational process, such as student-teacher interaction, would be guaranteed even in the context of remote learning.<sup>vi</sup> This should be facilitated by the new Education Act, once it enters into force, that will grant greater autonomy and clout to the national regulator of compulsory education.<sup>iv</sup>

The Office balanced its call for education to continue online pending the reopening of schools with a focus on online safety in the context of remote learning. To this end, the Office reached out to educators through an information sheet, produced as part of BeSmartOnline!, with practical tips on what to do and what not to do to protect the safety of children in the context of remote learning. This issue was also discussed during an online Insafe Training meeting attended by the Task Manager. Before the pandemic on the occasion of Safer Internet Day, the Office had reached out to educators with a range of free resources, including lesson plans and presentations created by the BeSmartOnline! team,

which they could use to sensitise their students to a safe and beneficial use of the internet. The Task Manager, who represents the Office on BSO, also delivered a number of talks on internet safety to schoolchildren.

One aspect of the educational process that was seriously disrupted by the pandemic was assessment of learning. The Office reported to ENOC that in Malta, children aspiring to enter a post-secondary or tertiary education institution would be able to sit for the Secondary Schools Exams just before the start of the new academic year. However, this depended on whether these very important exams could be held in a safe manner.<sup>v</sup>

The difficulty in holding examinations was felt less in State schools where mid-yearly exams had been phased out and replaced with continuous assessment in order to reduce stress for students and promote their holistic wellbeing.<sup>iv</sup> This courageous change and the impact of the pandemic should force education authorities to rethink the value of traditional assessment methods and to seriously consider open-book examinations where children can be assessed more for the depth of their grasp of concepts than for their ability to recall superfluous detail.

## REOPENING OF SCHOOLS

Several months had passed since the outbreak of the pandemic, during which time, as the Commissioner said, the World Health Organisation concluded that children were not significant carriers of the virus,<sup>xix</sup> as had been feared when schools were closed in spring. Hence, the reopening of schools after summer was a national priority, to the extent that Government covered the costs incurred by independent schools for the safe reopening of their doors to students.

The end of school closures was particularly important for those cohorts of children for whom remote learning was not a viable alternative to in-class learning. These included the youngest cohorts of children, those attending child day care or kindergarten, about whom





the Commissioner stressed how badly they had been affected by the pandemic since their development hinges on physical contact with objects and people much more than that of older children, making remote learning a poor substitute for in-person learning and play.<sup>vi</sup> The Office reported how the educational pathway had been enhanced for children aged 0-3 through the revision of the National Standards for Child Day Care Facilities in line with the latest research in Early Childhood Education & Care (ECEC) theory and practice, with recent developments in the local context of ECEC<sup>iv</sup> and following feedback from the Office. Before the pandemic, the Office distributed a Big Book on online safety, entitled Ir-Rigal, to early school classes. This big book was produced by BeSmartOnline!

Another group of children for whom the reopening of schools was the only option in terms of continuing their education comprised secondary school students who thanks to the continued rollout and enhancement of 'My Journey', had opted to orient their studies to vocational and applied subjects. Since by their nature, these subjects are very hands-on and cannot be learned remotely, the pandemic disrupted the numerous plans to increase the volume, variety and quality of the provision of vocational education and the links with the manufacturing industry in secondary schools, and placed children who had undertaken the vocational pathway at risk of dropping out of school.<sup>iv</sup>

As the first wave of the pandemic subsided over summer, education authorities prioritised the reopening of schools for the new scholastic year in accordance with strict safety protocols. In some cases, the implementation of these protocols required that children go to school on some but not all weekdays whilst learning online for the rest of the week.



The Office welcomed the reopening of schools when it disseminated the call of parents on health authorities and the Government to ensure that schools remain open with all safeguards in place, on the grounds that children's wellbeing and mental health depended on school attendance. This was particularly true, the Commissioner said, of children living in abusive or problem-ridden households, for whom school is a respite from home.<sup>xviii</sup> In keeping with its position to keep children safe at school, the Office distributed mask holders to all children in Year 7. The Office also distributed masks to a number of children, particularly vulnerable children, with the tagline Spread Kindness not Hate. These masks were produced as part of BeSmartOnline! with the

aim of addressing the issue of hate speech and to support families with the added cost of purchasing face masks.

Thus, after several months of hiatus, the entire machinery of school attendance was set in motion again. This included school transport, which had started being provided for free to all school children, even though the Office called for efforts to make it more efficient, child-friendly and safe in terms of pick-up and drop-off times and supervision on school transport vehicles.<sup>iv</sup>

Although schools reopened, not all children were able to attend. Children who were vulnerable for health reasons were advised to stay at home. Children who lived in a household with vulnerable siblings or family members also stayed at home. The Office voiced the concern of

parents about the need to invest in remote learning to enable those children who are unable to attend school to access quality education and ensure they do not fall through the gaps.<sup>xv</sup>

A few weeks after this statement, the Education Ministry set up a virtual school for children attending State schools who could not go to school due to health vulnerability. However, this virtual school was not offered to students whose parents were scared to send their children to school. It is not clear to what extent Church and Independent schools guaranteed full access to education to their students who could not attend school.

For those children who were able to go to school, the view that schools should reopen was not shared by all parents, some of whom were still concerned about the safety of reopening schools, especially with the emergence of the second wave of the pandemic. This led education authorities to declare that parents would not be warned or penalised for not sending their children to school. According to newspaper reports, 12% of children failed to turn up at school on the day schools reopened.

The Office took a strong stand against this decision, which in effect made compulsory education non-compulsory. In a press statement, the Office underlined the importance of school attendance as promoting a stronger sense of school belonging, which research shows helps children do better at school and to have higher life satisfaction. The fact that, in the UNICEF Innocenti Report Card '16 *Worlds of Influence, Understanding What Shapes Child Well-being in Rich Countries*', Malta ranked low overall with regards to life satisfaction made such a move all the more ill-advised. The Commissioner spoke out on this issue warning that the huge progress achieved since education became compulsory in Malta risked being rolled back<sup>xix</sup> and that children whose school attendance was guaranteed by the legal enforcement of compulsory schooling risked relapsing into absenteeism.<sup>xviii</sup>

The Office aired the concern of parents who sent their children to school regarding the overly drastic precautionary measures that were being taken in some schools. These included children being asked to sit down throughout their whole break after spending the whole day sitting down; teachers not helping children open their water bottles; parents being asked to provide a letter from a doctor stating that their children are fit to attend school if their children miss one day of school for any reason; and children being kept in isolation and sent home as soon as they show signs of being slightly unwell, creating anxiety in children and problems for parents.<sup>xv</sup> These draconian measures flew in the face of the Office's call for improved school breaks in terms of the amount of time allocated and the organisation of games in order to foster inclusion and friendship between students.<sup>iv</sup>

The reopening of schools was good news for children only insofar as schools were adequately structured and equipped to meet their needs in a holistic way. The Office reported on the opening of or continuation of building works on new schools and the completed or planned refurbishment, maintenance and/or improvements of several State schools. The Office called for more regular maintenance of school buildings, to ensure that they are safe for children and educators, and for the provision of more comfortable and ergonomic chairs for children.<sup>iv</sup>

Many educators too were sceptical about the reopening of schools, especially as the first cases of infection amongst students and school staff were registered. This brought about numerous and vociferous calls against the reopening or for the re-closure of schools by members of the teaching profession, whose unions repeatedly threatened industrial action. The Office spoke out against these calls and threats in a press statement. It called on all stakeholders to uphold children's fundamental right to an education, by respecting the remit of the health authorities to decide what public health measures were needed to respond



to any outbreak of COVID-19 in schools, and to strike a reasonable balance between the conflicting demands of health and education without making compromises on the quality of either. The Office also voiced the call of a number of parents for the educational system to prioritize the best interests of the child rather than those of the unions.<sup>xv</sup>

Despite the Office's clear position in favour of the reopening of schools, there may be children who thrive better in remote learning than in in-class learning. Among these children are those who are bullied at school. Hence, the importance of protecting children from such violence, as the Office said on its social media on the International Day Against Violence and Bullying at School. In its comments on a UN draft resolution on bullying, the Office said that actual or potential victims of bullying may also be protected through programmes that develop resilience in them so that they can stand up to and report perpetrators of bullying.





On a more positive note, the fact that schools reopened allowed children to celebrate their day, World Children's Day, on 20th November, together in person. Children who were following their classes remotely were also able to participate. Almost sixty schools responded to the Office's clarion call for compulsory education establishments to organise activities for and with children to commemorate this annual recurrence. Children from some schools embedded the theme of COVID-19 in their activities, which expressed hope that the pandemic would end soon and lead to the dawn of a better world. The Office was also able to donate a set of books, in English and Maltese, to all primary school libraries to promote literacy as well as children's rights.

## EDUCATION BEYOND THE PANDEMIC

The endless conundrum of whether schools should remain open dominated the educational debate at the expense of longer-term structural issues concerning the quality and organisation of compulsory education in Malta, where, as the Commissioner lamented,<sup>xix</sup> our country lags behind, as evidenced by the poor showing of Maltese students on international educational indices of learning, such as the PISA study. Although action to counter the impact of the pandemic on education cannot be deferred, it is equally urgent for Malta to continue to implement plans to upgrade its infrastructure for measuring and addressing its still high rate of Early School Leavers in order to ensure that all children leaving compulsory education have an acceptable level of mastery of core competencies.<sup>iv</sup>

Before the pandemic, progress was registered in the creation of a Learning Outcomes Framework to support the National Curriculum Framework and in the drafting of a new Education Act that grants greater autonomy to individual State colleges and schools and to the regulator.<sup>iv</sup> Further efforts to keep the educational reform process alive ensued during the pandemic with the formation of a think tank to chart the future of compulsory education in Malta,<sup>xx</sup> possibly by encouraging children to make greater use of their imaginative faculties at school.<sup>iv</sup>

By the end of the year, not only had this think tank not produced any deliverables, the Office's calls for the earliest possible enactment of the Education bill amended to address those reservations raised by the Unions that were in the best interestss of children went unheeded, as little or no progress was made towards this aim. Whilst the conclusion of these processes should not wait until the pandemic is over, the Office reiterates the calls it made during the year for the education system to be truly centred around the rights and individual needs of children. As highlighted by the Commissioner, this means the right of students to participate and question what they are taught,<sup>xix</sup> and the broadening of educational curricula and methodologies to empower children to think critically, embrace diversity and acquire practical life skills, like first aid, financial literacy and entrepreneurship.<sup>iv</sup>

Finally, a thorough assessment of remote learning needs to be conducted with a view to identifying those aspects of the online learning experience that should be further developed and integrated within the traditional in-class learning setup. In-class and online learning should not be pitted against each other but amalgamated.

be SMART  
**ONLINE!**

QIS *mitt*  
*Darba...*

U  
**aghafas**  
*Send* DARBA



## 6. FREE TIME

Outside their social, health and educational commitments, children are left with a considerable amount of free time on their hands, their use of which can bring great added value to their lives both as an extension of their social, health and educational development and as a respite from the stresses stemming therefrom, more so during a pandemic. The latter both increased the amount of free time available to children and decreased the variety of available options for how they could utilise this time. This chapter explores the efforts made by the Office to address these imbalances in children's use of their free time in their pursuit of structured and unstructured activities.

### STRUCTURED USE OF FREE TIME

Like compulsory educational activities held in-person, the vast majority of structured in-person leisure, sport or cultural activities were cancelled. The Office harped on the importance of play in the development of children and how this developmental need had gone largely unmet.<sup>vi</sup> One notable exception were summer schools, many of which opened their physical doors to children, allowing them to release all the pent-up energy accumulated over months of confinement. The Office contributed to the regular opening of summer schools by providing feedback on the safety protocols that had been drafted for the Government's *Skolasajf* programme.

The physical and practical nature of many structured activities made the shift to online delivery harder than it was for compulsory education. Despite these natural constraints, many cultural events and activities did go online before summer, enabling children to participate in them. This was also thanks to the rollout of such measures as the increased budget allocation to the Culture Pass and the implementation of the Create 2020 Strategy.<sup>iv</sup> The Office was pleased to present Leona Farrugia, age 10, with a certificate for Honourable Mention by the jurors of the 27th Annual World Children's Picture Contest organised by the IE-NO-HIKARI Association in Japan for her artistic work entitled *Planting Seeds of Friendship*.



Ms Pauline Miceli presenting Leona Farrugia with her Honourable Mention Certificate

The activities that fared worst were team-based sports, like football or basketball, which children had to wait until the beginning or end of summer to return to practising in a training or competitive setting. On a much more positive note, the Malta Football Association announced it had abolished fees for the movement of children from one football nursery to another, and applauded the Office's long and strong advocacy on the issue.<sup>xxi</sup>



## UNSTRUCTURED USE OF FREE TIME

Coupled with the increased amount of time spent at home, the reduced availability of opportunities for structured leisure activities arguably led children to engage more in unstructured leisure activities, namely physical and online play. In some ways, this was positive since, as Federica noted during the 13<sup>th</sup> *European Forum on the Rights of the Child*, some children had used the confinement period to try out new hobbies. However, with children in Malta spending more time online, the regenerative counterbalancing power of engaging with the physical world was diminished.<sup>v</sup>

To address this heightened risk, the Office, together with its partners in BeSmartOnline! worked on the production and distribution of two tip-sheets targeting children and parents respectively on how to safeguard the online-offline balance of children. The extreme difficulty experienced by some children in maintaining this balance as a result of their excessive use of the internet prompted the Office to call on the State to set up and provide for a free new service backed by specific training to address problematic use and overuse of the internet.<sup>iv</sup>

### Online activities

Accompanying the increased time spent by children online was a greater exposure to the risk of cyber-harm, including cyber-bullying and pornography, as discussed by the Task Manager in a meeting organised by Insafe. These risks are compounded by sexual offenders exploiting children's increased use of the internet to groom children, which has inadvertently been made easier by European privacy laws that have made technology used by Internet Service Providers to scan messages for child sexual abuse material and patterns of grooming illegal. The issue of online child sexual abuse material was one of the main issues discussed during a training meeting organised by Insafe and Inhope. The meeting was attended by the Task Manager and aimed to address certain grey areas such as child sexual abuse material on adult pornographic websites. The Lanzarote Committee underlined that violence against children, facilitated by ICT technologies, is another pandemic that makes millions of victims.<sup>xxxiv</sup>



Members of the BeSmartOnline! team during Safer Internet Day celebrations

In this challenging context, the Office continued its work on the 5th cycle of BeSmartOnline!, including the national awareness campaign on internet safety amongst children, parents, educators and other stakeholders, and submitted an application for a subsequent cycle of the project, cofunded by the European Commission so as to ensure continuity of action.<sup>iv</sup> The Office was able to engage in-person with children and parents/guardians before the pandemic broke out through a stand that was set up in Valletta by the BeSmartOnline! team to celebrate Safer Internet Day by promoting activities and information about a safer use of the internet. In preparation for Safer Internet Day 2021, the Office worked with its youth panel, within the BeSmartOnline! framework, on two videos. The themes for these videos are Body Image and Digital footprint, they were chosen by the young people who were also involved in the development of the script. The BeSmartOnline! team also created lesson plans to go with the videos and to be disseminated amongst PSCD teachers.

The Office engaged with parents/carers and other professionals working with children by organising an online parent/carer forum meeting together with Agenzija Appogg so as to discuss the challenges of online safety for children brought by COVID-19.

An info sheet produced through BeSmartOnline! during the pandemic aimed at making children more aware of the dangers of sexting, which phenomenon the Malta Police Force were reported to have said to be on the rise<sup>xxiii</sup> and against which the Office called for more education for children.<sup>iv</sup> On this subject, the Office also raised awareness through a press statement issued to mark the *European Day on the Protection of Children from Sexual Exploitation and Sexual Abuse*, which focused on the risks faced by children when sharing explicit material of themselves online. '*Addressing the challenges raised by child self-generated sexual images and/or videos*' was the theme of the second monitoring round implementation report being prepared by the Committee of the Parties to the Lanzarote Convention, where the Office is represented by the Head of Office.

The efforts by BeSmartOnline! and the Council of Europe must be complemented by education in schools. The increase in the number of schools which offered Ethics as a subject<sup>iv</sup> is positive, but the Office also called for more and better sex and relationships education in schools.

To ensure that movies shown in cinemas and on television in Malta are age-classified in a child-friendly way, the Office was represented on the KRS board by its Support Officer. The Office called for regulations that apply to traditional media to be extended and adapted to social media platforms.<sup>iv</sup> Progress in achieving this was made through the passage into law of the Broadcasting (Amendment) Act,<sup>xxiii</sup> which addresses the reality of user-generated videos, among other things.

Given the global nature of modern media, the issue of child protection in and from the media cannot be effectively addressed only at a national level. It is positive that the European Commission adopted a strategy against child sexual abuse.<sup>xxiv</sup> Beyond the continental level, the Office was notified by the Malta Competition and Consumer Affairs Association (MCCAA) of the proposal by the International Standards Organisation (ISO) to protect children from harm by creating a standard that would provide principles and best practice guidelines for advertising and marketing that targets or features children and which is disseminated through all communication media, including digital media.

## OFFLINE ACTIVITIES

### *Facilities for children*

The onset of the pandemic brought about the closure of all public playgrounds, which by the middle of the year were allowed to reopen subject to a strict cleaning regime. The Office was able to ascertain that all but one local council managed to adhere to this requirement in respect of the playgrounds in their locality. It is vital that children's right to play and be creative within the wider community is not only restored but also upgraded in and ahead of a post-pandemic future. This means on the one hand setting up more public facilities for play, such as the planned Adventure Family Park in Cottonera, and more recreational activities at school and community level for children to spend time with friends.<sup>iv</sup>

On the other hand, it is equally if not more important to make a leap forward in the quality of the facilities that are offered. To this end, the Office continued its direct involvement in the Technical Committee steered by the Malta Competition and Consumer Affairs Authority (MCCAA) whose brief was to update the national quality standards relating to public playgrounds.<sup>5</sup> The Office's participation in this process helped to ensure that the revised

<sup>5</sup> 'DSM3500 'Public Playgrounds – Requirements for Public Playgrounds Safety, Accessibility, Play-Value and their Management'



standard, which is expected to be published early in 2021, delves more into the play value of public playgrounds and the participation of children in the design and upkeep of the playgrounds. The focus on the safety of children was not lost as the Office also called for the standards to be made legally enforceable through the constitution of a regulatory authority for all leisure facilities in order to ensure their regular and optimal upkeep.<sup>iv</sup> Beyond the availability and quality of play facilities, children need to have enough free time to make use of these facilities. To this end, the Office called for enhanced coordination between teachers to ensure children are given a balanced amount of homework, which, as the Commissioner opined,<sup>xix</sup> would not lead to poorer educational outcomes.

In terms of free time and the outdoors, it is important to keep in mind the particular needs of adolescents and youth and the greater mental suffering they endured during confinement. The Office was sensitive to their needs and plight in calling for them to be provided with more and better social and sports facilities in the community.<sup>iv</sup>

### *Child-friendly environment*

Planning for children to make a more fruitful and enriching use of their free time beyond the home environment is not just about setting up child-friendly places in a community that is otherwise oblivious to their needs and aspirations. In an ideal post-pandemic world, communities should not just have child-friendly places but should be child-friendly. This is the philosophy underpinning a project commissioned by the Office, co-funded by the Environment and Resource Authority (ERA) and carried out by the Centre for Resilience and Socio-Emotional Health in collaboration with the Faculty for the Built Environment within the University of Malta. This project, which includes a case-study of Hamrun, seeks to explore what '*Child-Friendly Towns and Villages in Malta and Gozo*', as the project is called, means to children in Malta and how their vision can be translated into reality. To this end, a number of focus groups were held with children. A number of walk-about workshops were also planned but due to the COVID-19 restrictions these have been postponed. The data from these activities are set to feed into the subsequent phases of the project, which include the design of a child-friendly town/village and a ranking of localities in Malta and Gozo by an index of child-friendliness.

Pending the completion of the project, which is scheduled for the end of 2021, one can say that a child-friendly community is one that is open, safe and clean, among other things. In terms of the community having open spaces, one looks forward to the implementation of plans to pilot the closure of certain squares and main roads to traffic on certain days.<sup>iv</sup>

A key aspect of an outdoor environment that is safe for children concerns the safety of roads. This includes the safe use of roads by motorists, regarding which the Office called for more awareness campaigns on the dangers of drink-driving. The Malta Road Safety Council, on which the Office is represented by its Projects Officer, conducted various outreach sessions in primary schools on various aspects of road safety.<sup>iv</sup> Road safety is also about designing and maintaining roads in a way that is geared for safety. To this end, the Office called for roads to be designed and equipped with more and better signage, lights, pavements, pedestrian zones and bicycle lanes.<sup>iv</sup> Another aspect of a safe outdoor environment is that it is free from crime and delinquency. In this respect, the Office called for stronger efforts to stop crime, drugs and fighting in certain areas where they are rife and children are exposed to them.<sup>iv</sup> Many of these recommendations were based on suggestions made by children themselves during various workshops.

A clean environment is another hallmark of a child-friendly urban area. Cleanliness must be maintained on the ground and in the air. A clean environment on the ground requires reducing the amount of waste that is disposed of in public outdoor spaces, which the Office called on authorities to do by installing more bins in the community in which waste can be

separated and encouraging people, including children, not to shed waste on but to pick it up from the ground.<sup>iv</sup> A clean environment on the ground also requires reducing the amount of waste that is created, for which the Office called for stronger efforts to promote recycling and reduced use of paper, particularly in schools.<sup>iv</sup>

Maintaining a clean environment in the air requires minimising air pollution, which the pandemic was more successful in doing in a few months<sup>xxv</sup> than years of environmental policy had managed to achieve. To avoid a return to normality leading to a loss of the gains made in terms of air quality, the Office called for a more immediate and effective implementation of Malta's regulatory framework on air pollution, including the National Air Quality Plan, especially in areas near schools and in residential and congested areas, through increased access to electric cars.<sup>iv</sup> Clean air includes freedom from noise pollution, which the Office called for sturdier efforts to control, especially around construction sites.

A clean air environment also requires the creation and protection of green lungs in urban areas, which can be achieved by protecting existing and planting new trees in urban areas and in schools.<sup>iv</sup> The pandemic has provided an incentive to children and their families to go out in rural areas. One hopes that such activities become a mainstay of family life beyond the pandemic. This underscores the importance of protecting the countryside from overdevelopment and illegal dumping of waste, and to remove illegal barriers to access to the countryside.

There is little awareness among the public and policymakers around the problem of light pollution in Malta. It is ironic that while children in Malta have such powerful technologies at their disposal, they are hardly able to experience the magical beauty of a luminous starlit night sky.

be SMART  
**ONLINE!**

**Ahseb**

QABEL MA

*Tippostia*



## 7. ECONOMIC SECURITY

The pandemic battered the national and international economies, reducing the purchasing power of many families with children. This chapter looks at how the Office responded to this crisis in terms of the income, home ownership and the fight to break the cycle of poverty in economically vulnerable families with children.

### INCOME

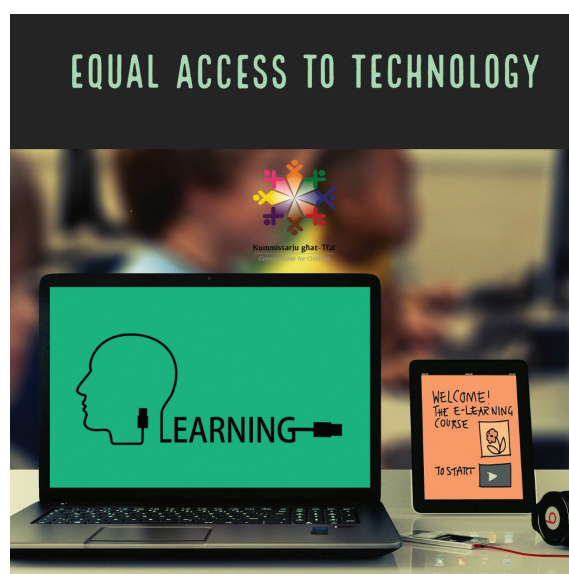
The pandemic caused many families with children to abruptly lose or experience a drastic reduction in their income sources as a result of job or business loss, or by breadwinners being forced to relinquish paid work to stay at home with children. The sheer scale of the economic crisis triggered by the pandemic compounded the financial woes of families, who found it very hard to find new jobs or to diversify their income streams in any other way. The Office raised awareness of the financial difficulties faced by many parents and families and of how these difficulties were directly or indirectly rebounding on children.<sup>vi</sup>

Those families that were better off before the pandemic were able to tap into their savings to make ends meet. To ease the economic hardships of these families and others who were economically more vulnerable, the Government set up a scheme to support employers in paying wages to their workers thus keeping them in employment.<sup>xxvi</sup> This also allowed the lowest earners to continue receiving a number of work-related benefits that were in place before the pandemic, such as the tax refunds and in-work benefits that had been introduced in the years prior to the pandemic.<sup>iv</sup>

The wage supplement scheme was articulated on the basis of economic not social criteria, meaning that the eligibility and scale of income support were linked to the economic sector of work rather than to the social situation, especially the number and needs of dependent children, of workers. Hence differently from the increases in child-related benefits, such as children's allowance, targeting the most vulnerable children, such as those with rare illnesses and foster children,<sup>iv</sup> the scheme may have underserved many children, especially those with special needs. The Commissioner warned that there had been a substantial increase in the number of children on Scheme 9, a benefit scheme for students at risk of poverty.<sup>xvii</sup>

### HOUSING

In economically difficult times such as during the pandemic, home ownership provides economic peace of mind to families who would otherwise need to pay rent and risk homelessness. The initiatives to make home ownership, in terms of affordable housing, accessible to more families, especially those with children,<sup>iv</sup> take on greater significance in the pandemic. It is hoped that this will speed up the implementation of plans to publish a White Paper on affordable housing<sup>iv</sup> and other similar initiatives.





## BREAKING THE CYCLE OF POVERTY

Schools are a hub of holistic support for children who are in or at risk of poverty. The fact that these children are likely to lack the technical means to participate in remote learning was highlighted by Federica in the *13th European Forum on the Rights of the Child*, who spoke through personal experience of children she knew and warned that the backlog that was created in these children's learning may never be fully overcome. Fortunately, in Malta the Government stepped in to provide the technical infrastructure for remote learning free of charge to those children and families who did not have it.<sup>xxvii</sup> However, further support is required to ensure that children have the necessary digital skills to be able to benefit from remote learning.

The risk that due to the closure of schools these children would stop receiving non-educational forms of support that were provided through schools, such as free lunches, was highlighted by ENOC, which called on governments to continue providing this much needed support. It is hoped that these measures, together with others that were implemented before the pandemic, such as the removal of SEC exam fees,<sup>iv</sup> will help make education more accessible to economically disadvantaged children and help them to escape the cycle of poverty.

In the midst of the firefighting response to the pandemic, the *13th European Forum on the Rights of the Child* expressed the hope that the Next Generation EU recovery funds now being made available to boost the economy would be used to address the root structural causes of social inequality. These funds would reinforce the EU's commitment to introducing a European Child Guarantee, about which the Office submitted feedback to the European Social Network on the importance of providing high-quality services to vulnerable children and families, including after care for children leaving care.

Ultimately, success in helping children escape the risk or cycle of poverty would corroborate the point agreed on by the participants in the *13th European Forum on the Rights of the Child* that social protection should not be seen as a cost but as an investment.

## 8. JUSTICE

The pandemic caused delays and bottlenecks in the administration of justice and implementation of child-friendly reforms in the justice system. This chapter looks at the Office's activity that was conducive to a better justice system for children who are involved in divorce/separation agreements and children who are victims or perpetrators of crime.

### CHILDREN INVOLVED IN DIVORCE/SEPARATION AGREEMENTS

An in-court divorce or separation agreement typically involves a lot of legal wrangling between the two parties, including over the care, custody and maintenance for the children. Even after such agreements are reached, they are not always respected, not only due to the confinement measures related to the pandemic. With the participation of the Head of Office, the Lanzarote Committee set up a new Steering Committee to establish, within the framework of the Council of Europe's guidelines on child-friendly justice, what enforcement measures should kick in when agreements concerning the care and custody of children are violated. A landmark ruling by the courts in Malta that should enhance observance of care, custody and maintenance agreements for the benefit of the children involved saw a father who had failed to honour his maintenance agreement over many years being made to pay arrears amounting to tens of thousands of euros.<sup>xxviii</sup>

### CHILD VICTIMS OF CRIME

One way to prevent child abuse is to bar persons who are proven or alleged to have abused children from having contact with children, particularly in their professional capacity. In the past, the Office had elucidated this recommendation by calling for the Protection of Minors (Registration) Act to be extended to employers and to those living and working in Malta who were previously convicted for child abuse crimes abroad, and for the law to be applied automatically, that is without judicial discretion, to all those who are found guilty of a crime against children. However, in a context where all kinds of services for children have shifted online, strengthening the law in this way may not suffice to prevent recidivism among child abusers, who may find it easier to come into contact with and groom children.

The pandemic did not hamper police or administrative investigations into alleged cases of child abuse, such as those reportedly committed by members of the Catholic clergy, for the examination of which the Office called for an independent and impartial commission of inquiry.<sup>iv</sup> However, the closure of the courts of law slowed down the process leading to the possible criminal prosecution of those established by investigations as having allegedly perpetrated child abuse and to the eventual conviction of those found guilty. The judicial impasse created by the pandemic also raised the risk of cases of sex crimes and other serious offences committed against children becoming time-barred, for which the Office called for the removal of prescription on all such cases where children are victims.<sup>xxix</sup>

The Office agrees with the calls and proposals made by the Chamber of Advocates for legal, procedural and logistical changes that would allow judicial processes to be performed remotely and electronically<sup>xxx</sup>, as this would not only speed up the course of justice for the benefit of children involved in court cases but would also make the justice system more child-friendly, especially when children need to be heard in connection with criminal cases.

The digitisation of court procedures does not detract from the need to set up bespoke child-friendly structures where child crime victims and witnesses can undergo interrogation, testimony and rehabilitation. To this end, the Office called for the full operationalisation of the Children's House concept in terms of providing the structure with adequate human, technical and financial resources and requiring courts to make use of it in cases involving children.<sup>iv</sup>

## CHILD PERPETRATORS OF CRIME

The right to child-friendly justice applies equally to children who are alleged to have committed a crime. This includes the right of children to not face prosecution if they are below the age of criminal responsibility, as prescribed by Article 40(3) of the Convention. In its feedback on a Council of Europe document concerning the repatriation of children from war and conflict zones, the Office applied this principle to children who have committed war crimes, especially in view of the forcible indoctrination and radicalisation they would have been subjected to.

Children who commit a crime also have a right to be tried in the Juvenile Court, which is more child-friendly in terms of its procedures and environment. The Office called for the removal of legal and procedural barriers to this court, which is currently denied to child defendants above the age of sixteen and to children co-accused with persons above this age.<sup>iv</sup> By the end of the year, Malta had amended its Criminal Code in transposition of the EU Directive 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, which guarantees the right of child defendants to be informed and heard in a child-friendly way.<sup>xxxi</sup>



Especially in a situation of limited access to the courts due to the pandemic, the Office's call for non-judicial measures, such as diversion, mediation and counselling, for children accused of criminal offences, be they below or above the legal age of criminal responsibility,<sup>iv</sup> may help these children avoid the uncertainty related to the timeframe and outcome of a judicial process and plan their future sooner, more surely and serenely.

With the social isolation of those serving a custodial sentence exacerbated by the pandemic, it becomes more urgent for convicted children to be served non-custodial sentences, such as probation or community service, and, where these are not viable, for the children to be detained for

the shortest possible period of time, subject to regular review with a view to the withdrawal of detention, in compliance with international standards (including with regard to access to education and health services), and separately from adult inmates.<sup>iv</sup>

## 9. CELEBRATING DIVERSITY, ENDING DISCRIMINATION

Article 1 of the Convention defines a child in the simplest, broadest and most inclusive way as any person under the age of 18. Yet there is a deep-rooted tendency in the thought and conduct of people to consider other qualities than just age, such as race, sexual and gender orientation and ability, as equally inherent to childhood. The result of this insidious and atavistic mindset is that anything that differs from this mental template of a child is seen as a deviation from the norm, that can be at best tolerated but hardly ever accepted as normal and unproblematic. This can manifest in a reluctance to reach out socially, in the provision of a service or in the formulation or implementation of a policy to children who are different.

It is no wonder then that Article 1 is immediately followed by the article of the Convention that proscribes any form of discrimination against children in the recognition of their rights on the basis of any characteristic of the child or the child's family. To favour the implementation of Article 2, the Office called for a comprehensive strategy addressing all forms of discrimination that includes awareness-raising and educational programmes targeting children, families, and the general public.<sup>iv</sup>

At first glance, the social isolation brought about by the pandemic may seem to have sheltered children who are seen as different from discrimination. Yet, at the outset of the pandemic, ENOC had warned that the public health situation would aggravate the conditions of the most vulnerable groups.<sup>vii</sup> In fact, the pandemic exacerbated discrimination by reducing opportunities for meaningful interaction between diverse children and families and further marginalising minority children. The Office's call for fresh efforts to promote the meaningful and empowered participation of children in vulnerable and marginalized situations so that their views are heard and considered in all matters affecting them<sup>iv</sup> can be seen as an attempt to bring those children whom the pandemic has pushed further to the margins of society to the very centre of public attention.



This chapter describes the activity of the Office in relation to three groups of children who are vulnerable to discrimination, namely migrant children, children with disability, and LGBTIQ+ children.

### MIGRANT CHILDREN

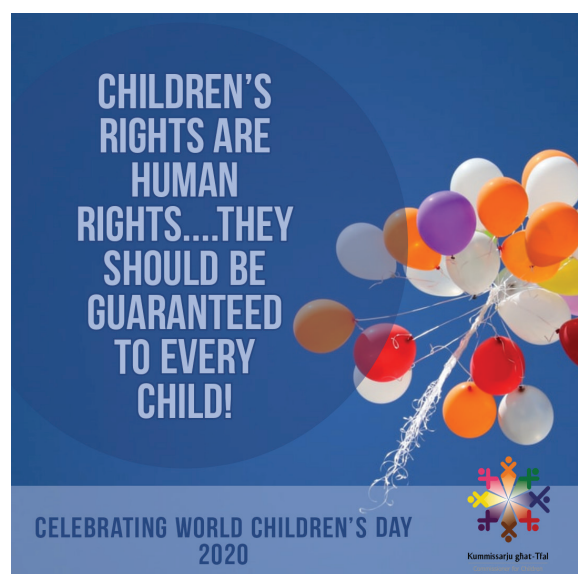
Xenophobia is built on the perception of foreign children and their families as outsiders (*barranin*). This perception is much stronger in an insular context like Malta's and in relation to third-country nationals whose physiognomy and culture is more apparently different to ours. Furthermore, third-country nationals who come to Malta irregularly and en masse, with great risk to their lives, are more vulnerable to being and feeling immediately repudiated by the local authorities and populace. The Office called for asylum-seeking migrant children



and their families to not be left stranded, with the risk of perishing at sea by being given undelayed authorisation for disembarkation, offered assistance and granted the right to seek asylum or to reunite with their families.<sup>iv</sup> In an appeal on its social media platforms, the Office called on all political actors concerned, both national and EU, to cooperate on a humanitarian level to ensure that the health and safety of migrants is guaranteed. The Office also called on the Government to ensure that search and rescue operations on newly arrived irregular migrants are conducted in a non-criminalizing manner.<sup>iv</sup>

### *Legal status*

The most basic requisite for migrant children and their families to avoid being returned to unsafe countries of origin and to enjoy an optimal level of wellbeing in Malta is that they have legal certainty of their status. The Office called for the very existence of undocumented migrant children to be legally recognised through their immediate birth registration, in line



with Article 7 of the Convention.<sup>iv</sup> Secondly, since a key factor in the granting of any protection status and concrete rights to these children and their families is their nationality, the Office called for stronger efforts to establish the nationality of children with undetermined citizenship, to develop an effective and efficient statehood determination procedure, and for a firm commitment to accede to and ratify as soon as possible a number of international conventions relating to statelessness, such as the Convention relating to the Status of Stateless Persons, of 1954, and the Convention on the Reduction of Statelessness, of 1961.<sup>iv</sup> Another state of legal and existential limbo is faced by migrant children and families who do not qualify for any form of international protection but are not repatriated. The Office called for

the administrative status of temporary humanitarian protection and the rights and benefits attached to it that have been granted to these migrants to be enshrined in national law.

Legal certainty of status, though necessary, is not sufficient to guarantee migrant families with children the right to live in Malta. After a number of third-country nationals working legally in Malta appealed the deportation order on their children, whose needs could not be adequately met through their parents' aggregate income, the authorities rashly and insensitively ordered the appellants to leave the country as soon as possible. This move was condemned by the Office as a cynical exploitation of the public health emergency to criminalise these migrant families by ordering them to do something they could not do owing to the lockdown on overseas travel to and from Malta. The Office called on the authorities to withdraw these latest deportation orders.

In a broad sense, missteps like these on the part of the authorities result from Malta's failure to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which the Office called on Government to remedy at the earliest.<sup>iv</sup> A framework like that provided by this Convention might have enabled the authorities to guarantee the rights of child migrants to be with their families.

### *Identifying and supporting vulnerabilities*

Irrespective of their status and even before this is determined, newly arrived migrants need to be assessed for any vulnerabilities they may have and given the necessary support to ease their plight. For vulnerabilities of age, the Office called for a fairer, more efficient, holistic, humane and children's rights-based age-assessment procedure, and for border officials processing new arrivals to be better trained to deal with child migrants in a way that is sensitive to their needs and respectful of their rights.<sup>iv</sup> The Office also called for increased efforts to ensure that child migrants spend no time in detention or accommodation centres for adult asylum seekers, and that together with their families they are immediately transferred out of the Initial Reception Facility into more spacious, private and child-friendly open centres.<sup>iv</sup> The importance of the latter call was highlighted by the decision of immigration and public health authorities to impose a lockdown on migrants in open centres in order to stem transmission of COVID-19 within and to outside the centres. Open centres thus became closed centres in which child migrants and their families were being detained. This fell foul of the statement by ENOC that condemned detention as posing a risk to the health of migrants and staff, but also as an illegal deprivation of liberty and a violation of various children's rights protected by international law.<sup>vii</sup>

In terms of vulnerabilities related to the social and health condition of migrants, the Office called for newly arrived unaccompanied or separated children to be immediately and fully assisted to reunite with their families through the development of a framework for ensuring that family reunification is in the best interests of children and providing the necessary psychosocial and economic support to facilitate the process.<sup>iv</sup> The Office also condemned the aforesaid actions of the authorities as running counter to the right to reunification of migrant families. Where family reunification is not viable, the Office called on child protection authorities to ensure an independent and adequately resourced guardianship system.<sup>iv</sup> Mindful of the psychological traumas experienced by many child migrants in their country of origin and/or during the perilous migratory journey, the Office called for child and adolescent mental health services and programmes to be made more available and accessible to these children.<sup>iv</sup>

In terms of vulnerability of child migrants to criminal acts and exploitation, the Office called for increased efforts to combat early and forced marriage, female genital mutilation and child trafficking, including in the context of travel and tourism. To this end, the Office highlighted the need to raise stronger awareness of the harmful effects of these phenomena on the physical and mental health and wellbeing of children; to enhance training and improve mechanisms and procedures to better identify, refer, protect and rehabilitate victims; and to ensure that perpetrators are promptly prosecuted and sanctioned.<sup>iv</sup>

### *Promoting integration*

Following the granting of legal status and the provision of support to address identified vulnerabilities, a third stage in child migrants' process towards the realisation of their rights is their integration in society. For various reasons, this stage of the process may happen through the participation of child migrants and their families in resettlement programmes, which the Office called on the Government to give greater permanence and sustainability to.<sup>iv</sup>

For those children in whose best interests it is to stay in Malta, the Office welcomed efforts made particularly in the education sector towards expanding schools that host a large migrant population and in the extension of the Migrant Learners' Unit hub, which works to facilitate the transition and adaptation of migrant children to the local educational curriculum, to secondary school students.<sup>iv</sup> The Office called for these efforts to be sustained in magnitude and time in order to harness the power of education as a vehicle for the integration of migrant communities.<sup>iv</sup> While the Unit works to develop language prowess in English and Maltese in

migrant children, the delicacy of a court hearing of a non-English or non-Maltese speaking child calls for interpreter-mediated hearings. This was the subject of a conference that the Task Manager participated in.

Efforts like these to integrate migrants were overshadowed by the momentous international backlash against the increased discrimination faced by people of colour that was epitomised by the killing of George Floyd by a police officer in the US. It was against this backdrop that the Commissioner published an opinion piece<sup>xxxii</sup> denouncing the reality of racism in Malta, where a black migrant had been killed for no reason allegedly by two military personnel a few years before, and where the study, *'A Passage to Malta, a Research Study on the Health and Wellbeing of Foreign Children in Malta'*, which the Office had commissioned a few years earlier to explore the wellbeing of migrant children in Malta, had found a small but significant minority of children to harbour anti-immigrant feelings. The pandemic may have given fresh impetus to these feelings as certain migrants may have been stigmatised as having brought the virus to Malta.

The Office called out the political class for fomenting and reflecting grassroots hostility towards migrants by framing the migration phenomenon as a burden rather than as a possible resource and opportunity. It also appealed to all persons in authority to set the right example to children by making sure their words and actions conveyed respect and inclusion towards all minorities. However, it would be wrong to pin the undeniable problem of racism in Malta exclusively on our political leaders. The education sector clearly needs to do more to inoculate the minds of children against racism and xenophobia. The weak emphasis placed on world history as an academic discipline in our educational curriculum is one reason why ignorance of other cultures that is at the heart of anti-immigrant sentiment is so rife in our country.

## CHILDREN WITH DISABILITY

Discrimination against people with disability has its roots in the perception of them as being unable to contribute to society. This perception can have catastrophic consequences for the development of children with disability, who are less likely to be and feel stimulated to learn and explore new things than are able-bodied children. The Office called for increased efforts to promote a positive image of and combat the stigmatisation of and prejudice against children with disability through awareness-raising campaigns aimed at Government officials, the public and families.<sup>iv</sup> To this end, staff members of the Office took part in a Disability Equality Training session organised by the Commission for the Rights of Persons with Disability (CRPD).

A key element of a more positive image of children with disability lies in thinking of and referring to them not as disabled but as differently abled. This means that their abilities require different or additional mediums to express themselves. Children who are blind need Braille or audio-books to read; children who are deaf can communicate through sign language and children who have a loss of function in their lower limbs can use wheelchairs or prosthetic legs to move around. Hence, for differently abled children to lead normal constructive lives as full members of society, these and other instruments should be made available and accessible to them by law. The Office welcomed the setting up of an enforcement section within the Commission for the Rights of Persons with Disability to ensure that the rights and interests of disabled persons and their families are safeguarded.<sup>iv</sup>

Powerful tools as laws and enforcement bodies and mechanisms are for guaranteeing the rights of differently abled children, they were largely impotent against the pandemic, which denied these children access to the specialised support services and structures they need to express and develop their abilities. This was highlighted in the ENOC General Meeting where participants agreed that children with a disability were the ones that were suffering the most from the pandemic in that their wellbeing and mental health depended on support

services which could not be adequately provided remotely even with the best efforts of the children's parents to bridge the gap. The Office raised awareness of the fact that children with disabilities were hardly able to engage remotely with therapeutic services.<sup>vi</sup> The participants in the ENOC General Meeting also underscored the fact that, on a social level, differently abled children faced greater risk of isolation and loneliness. Even when schools reopened, children with visual or hearing impairments were left in the lurch as their teachers who would provide help were redeployed to cover extra classes due to COVID-19 bubbles.<sup>xxxiii</sup>

The 2020 edition of the Safer Internet Forum, organized by Insafe on behalf of the European Commission, took place online with the theme of *Digital (dis)advantage: creating an inclusive world for children and young people online*. The forum had a particular focus on the challenges and opportunities that children with diverse disabilities encounter when accessing and using the digital environment. In preparation for this forum, four members of the Maltese youth panel were supported by the Task Manager to join a group of young people from different European countries. The young people shared their ideas and experiences during the forum and also created videos regarding various topics. Two of the young people have now become youth ambassadors and will be contributing to the work carried out by Insafe.



The particular importance of schools in the lives and development of differently abled children that has been highlighted by the pandemic points to two key conclusions. The first is that more needs to be done to make schools more responsive to and inclusive of the needs of all differently abled children, including children with different intellectual or psychosocial abilities, at all levels of education, including early childhood care and education. This can be achieved through better training of and higher occupational standards for educational staff and by providing better facilities for differently abled children, such as multi-sensory rooms.<sup>iv</sup>

The second conclusion that can be drawn from the added difficulties faced by differently abled children in the course of the pandemic is that no stone should be left unturned in providing specialised support to these children at home. Initiatives like 'Sens-ability', the scheme launched to enhance wellbeing for children with autism by creating a sensory room within their home, and the various forms of additional financial assistance to parents of disabled children,<sup>iv</sup> are important steps in this direction.

Further to these initiatives, discussions should be held to explore the logistics of how these children can receive in-person specialised educational support at home to be able to follow and thrive with remote learning without, in any way, putting their health and that of their educators at risk, or, as happened in France, by giving them priority when reopening schools.<sup>v</sup> In terms of the rehabilitation of children with disability, safe ways should be found to avoid closure of therapeutic services for differently abled children during an emergency like the pandemic.

## LGBTIQ+ CHILDREN

The worst kind of discrimination is one that denies the existence of particular differences as legitimate expressions of human identity. Until recently, differences of gender diversity were hardly recognised at law. The Commissioner highlighted the recently enacted law that allows gender diverse children to align their biological gender with their inner gender in official documents.<sup>iii</sup>



Despite these significant developments, popular attitudes towards children of different sexual orientation and gender identity, referred to by the well-known initialism LGBTIQ+, are still far from accepting, whilst homophobia, biphobia and transphobia are still widespread in our society. The state of play in Malta with regards to these discriminations and the work done to counter them was explored by the Support Officer, who took part in a conference called *'The Road to LGBTIQ Equality: Progress and Challenges'*, organised by the Human Rights Directorate within the Ministry responsible for equality.

The basis of all these phobias and the discriminations which they produce is the idea that gender identities and sexual orientations other than those that are traceable to visible biological characteristics are not natural, hence at best they are cultural fads, or, at worst, mental disorders. Unlike racism, which is virtually dead as a political or pseudo-scientific creed, this intolerant non-accepting ideology is still strong in the conscious and unconscious minds of people of all levels of education and social extraction.

Among these people are, unfortunately, a number of parents whose children come out as being homosexual or gender diverse or refrain from coming out until they reach majority for fear of being shunned and rejected by their parents and families, or who simply lack the peace of mind to discover who they truly are in terms of their sexual orientation and gender identity. In their recommendations to ENOC, ENYA called for efforts to educate parents by preparing them for a possible coming out of their children such that they would react inclusively and non-judgmentally towards their children. It is disconcerting that the need to reach out to parents in this way is not addressed in the Positive Parenting Policy and strategy, especially in the context of social isolation where LGBTIQ+ children and youths are forced to endure prolonged exposure to unaccepting family members, which exacerbates rates of domestic violence and physical and emotional abuse, as well as damage to mental health.

The effect of weak efforts to combat discrimination against LGBTIQ+ children within families is compounded by the cessation or reduction of efforts to do this within schools as a result of the latter's closure during the pandemic. It is clear that, when shifting to remote learning, many schools did not prioritise those subjects as part of which children are educated on differences in gender identity and sexual orientation.

This is not to say that before schools closed there was sufficient emphasis on LGBTIQ+ issues in compulsory education. The young activists and advisors of ENYA called for a stronger presence of these issues in sex education and across subjects, including religious studies, from a young age, before stereotypes regarding sexual orientation and gender identity are formed in children's minds. The network further suggested that a school's ethos in favour of the full inclusion and acceptance of LGBTIQ+ students should shine through the conduct and teaching of all educational staff, including those who may hold conservative views on these issues. Beyond the school setting, ENYA called for the 'normalisation' of LGBTIQ+ children through a more diverse representation in the media, such as by including sex or gender diverse characters in blockbuster movies.

In our brave but necessary quest to eradicate discrimination against sex and gender diversity, we must not lose sight of the need to help LGBTIQ+ children cope with the discrimination, hostility and insensitivity that they are encountering. The Office called for the effective investigation of and redress for incidents of surgical and other medical treatment of intersex children without informed consent.<sup>iv</sup> ENYA appealed to governments to dedicate more resources to providing more and better healthcare and support, such as professionally manned helplines, to LGBTIQ+ children, and to fighting bullying targeting sex and gender diverse children.

# CONCLUSION

The flight and fight response to the emergence of the pandemic was natural as much as it was necessary for the health and wellbeing of children and their families. What was more avoidable was the way in which as a society we were caught on the wrong foot, devoid of a proper and thorough contingency plan of how the essential elements of life could be preserved even while we lived almost hermetically sheltered from the pandemic. The result of this lack of preparedness beyond the strictly health-related management of the pandemic was a veritable hiatus in the provision of basic services, notably education, health and social welfare, which harmed children, more so those who are most vulnerable among them.

In a sense, the early realisation of the danger posed to the development of children by our furious flight from the pandemic triggered a fighting response that saw the education sector rallying to set up a workable online learning system to enable children to continue their schooling from home. The efforts made in this direction were laudable and attest to the unstinting dedication of all those working with and for children in our country. Yet, our response could have been so much better and quicker had we focused our efforts, long before the pandemic, on developing a plan for the emergency provision of education, healthcare and other fundamental services to children, which plan would have been actionable upon the outbreak of the pandemic. As the Lanzarote Committee said, the increased risk of children to sexual exploitation and abuse should not be an inevitable consequence of the pandemic, but preventing and addressing this risk should be an integral part of the plan to control the pandemic.

Historians have taught us that this was not the first pandemic in modern history. Epidemiologists are warning that it will not be the last. So, while we continue our flight from and fight against the COVID-19 pandemic, let us also ready ourselves for future emergencies with a view to ensuring the safety of and the least disruption to the lives of children. The hope of the Office of the Commissioner for Children is that the foregoing description and analysis of the activity of the Office in the first year of the present pandemic can provide some valuable insights into how we can make children's rights future and pandemic-proof.

<sup>i</sup> Annual Report 2019, Office of the Commissioner for Children

<https://tfal.org.mt/en/publications/PublishingImages/Pages/Annual-Reports/CFC%20AR%202019%20Final.pdf>

<sup>ii</sup> 'It-tfal għandhom drittijiet. Imma dawn xi drittijiet huma?', Suzanne Garcia Inbernon, Newsbook, April 15 2020, <https://newsbook.com.mt/it-tfal-għandhom-drittijiet-imma-dawn-xi-drittijiet-huma/>

<sup>iii</sup> Speech delivered by the Commissioner for Children, Ms Pauline Miceli, on 4 September 2020 in a soiree held in Great Siege Square, Valletta to commemorate Victory Day

<sup>iv</sup> From Rights to Reality – An Interim Report (2018-2020) on the Implementation of the National Children's Policy – Office of the Commissioner <https://tfal.org.mt/en/publications/PublishingImages/Pages/Recommendations/Children%27s%20Policy%20Report%202020%20-%20online%20copy.pdf>

<sup>v</sup> 'Ombudspersons and Commissioners for Children's Challenges and Responses to Covid-19', ENOC-UNICEF <https://tfal.org.mt/en/publications/PublishingImages/Pages/Recommendations/ENOC-UNICEF-COVID-19-survey-updated-synthesis-report-FV.pdf>

<sup>vi</sup> 'How have children been affected by the COVID-19 pandemic?', by Pauline Miceli, Commissioner for Children, published in The Times of Malta on 16 July 2020

<https://timesofmalta.com/articles/view/how-have-children-been-affected-by-the-covid-19-pandemic.805743>

<sup>vii</sup> European Network of Ombudspersons for Children (ENOC) ENOC Bureau Statement "Children's rights in the context of the COVID-19 outbreak", 1 April 2020

<https://tfal.org.mt/en/publications/PublishingImages/Pages/Recommendations/ENOC%20Bureau%20statement%20on%20CR%20in%20the%20context%20of%20the%20COVID-19%20outbreak%20FV.pdf>

<sup>viii</sup> '13 per cent of non-EU foreigners live in overcrowded houses', Times Of Malta, March 1 2019

<https://timesofmalta.com/articles/view/13-of-foreigners-from-outside-eu-live-in-overcrowded-houses.703269>

<sup>ix</sup> 'Substantial increase' in couples seeking separation during lockdown, Times Of Malta, June 8 2020 <https://timesofmalta.com/articles/view/substantial-increase-in-couples-seeking-separation.797118>

<sup>x</sup> 'Children's wellbeing in light of COVID-19', Press Statement issued by the Office of the Commissioner for Children, 23 March 2020

<sup>xi</sup> One in five Maltese students believes cocaine, crack are easy to obtain, study shows, November 12 2020, maltatoday <https://www.maltatoday.com.mt/news/national/105864/one-in-five-maltese-students-believes-cocaine-crack-are-easy-to-obtain-study-shows#.YIFeMZAzbIU>

<sup>xii</sup> EU approves Pfizer-BioNTech vaccine, Times of Malta December 21 2020, <https://timesofmalta.com/articles/view/eu-regulator-approves-pfizer-biontech-vaccine.840425>

<sup>xiii</sup> 'Coronavirus: Schools, childcare centres, university to shut down for a week', Times Of Malta, March 12 2020 <https://timesofmalta.com/articles/view/coronavirus-schools-childcare-centres-university-to-shut-down-for-a.777521>

<sup>xiv</sup> PRESS RELEASE BY THE MINISTRY FOR EDUCATION AND EMPLOYMENT Working group announces first two initiatives in light of school closures, March 13 2020 <https://www.gov.mt/en/Government/DOI/Press%20Releases/Pages/2020/March/13/pr200483.aspx>

<sup>xv</sup> 'Concerns brought to the attention of the Office by the Council for Children and parents with regards to children's right to education', published on 29 October 2020

<sup>xvi</sup> Government to give €4.5 million to independent schools to cover Covid-19 expenses, November 18 2020, The Malta Independent <https://www.independent.com.mt/articles/2020-11-18/local-news/Government-to-give-4-5-million-to-independent-schools-to-cover-Covid-19-expenses-6736228761>

<sup>xvii</sup> 'Was Sweden Right?' Malta's Child Commissioner Gives Shout-Out To Much-Maligned School Model, Lovin Malta, September 29 2020

<sup>xviii</sup> 'Children's Commissioner Warns Of Exploitation If Compulsory School Attendance Is Waivered', Lovin Malta, September 9 2020 <https://lovinmalta.com/news/childrens-commissioner-warns-of-exploitation-if-compulsory-school-attendance-is-waivered/>

<sup>xix</sup> Not sending kids to school a greater risk, Interview with Pauline Miceli, Maltatoday, September 15 2020 <https://www.maltatoday.com.mt/news/interview/104706/not-sending-kids-to-school-a-greater-risk-pauline-miceli#.YHRB0OgzblV>

<sup>xx</sup> New think tank on future of education in Malta set up, MUT laments teachers not included, May 13 2020, maltatoday [https://www.maltatoday.com.mt/news/national/102323/watch\\_new\\_think\\_tank\\_on\\_future\\_of\\_education\\_in\\_malta\\_set\\_up\\_mut\\_lament\\_teachers\\_not\\_included#.YIFmzAZbIU](https://www.maltatoday.com.mt/news/national/102323/watch_new_think_tank_on_future_of_education_in_malta_set_up_mut_lament_teachers_not_included#.YIFmzAZbIU)

<sup>xxi</sup> MFA PRESIDENT: NEW REGULATIONS WILL STRENGTHEN THE GAME, June 10 2020, maltafootball.com, <https://www.maltafootball.com/2020/06/10/mfa-president-new-regulations-will-strengthen-the-game/>

<sup>xxii</sup> 'Younger children taking indecent selfies on the rise – police', Times Of Malta, November 23 2020 <https://timesofmalta.com/articles/view/younger-children-taking-indecent-selfies-on-the-rise-police.833758>

<sup>xxiii</sup> ACT No. LVI of 2020 <https://www.parlament.mt/media/109737/act-lvi-broadcasting-amendment-act.pdf>

<sup>xxiv</sup> [EU strategy to fight child sexual abuse \(europa.eu\)](https://ec.europa.eu/education/eu-strategy-to-fight-child-sexual-abuse)

<sup>xxv</sup> Air pollution reduced by half due to less traffic during pandemic June 5 2020, tvn.com.mt, <https://www.tvn.com.mt/en/news/air-pollution-reduced-by-half-due-to-less-traffic-during-pandemic/>

<sup>xxvi</sup> 'Wage Supplement — March – June, Malta Enterprise

<https://covid19.maltaenterprise.com/employee-wage-support/>

<sup>xxvii</sup> Government to provide internet connection, laptops to students who lack technological resources, April 1, 2020, The Malta Independent,

<https://www.independent.com.mt/articles/2020-04-01/local-news/Government-to-provide-internet-connection-laptops-to-students-who-lack-technological-resources-6736221509>

<sup>xxviii</sup> 'Dad must pay 20 years' alimony in landmark judgment', Times Of Malta, November 1 2020

<sup>xxix</sup> Child sex crimes should not be time-barred – children's commissioner, Times Of Malta, August 20 2020

[Child sex crimes should not be time-barred – children's commissioner \(timesofmalta.com\)](https://timesofmalta.com/articles/view/child-sex-crimes-should-not-be-time-barred-childrens-commissioner.799386)

<sup>xxx</sup> 'Court delays are nothing compared to what they used to be, but there is a long way to go', The Malta Independent October 11, 2020 <https://www.independent.com.mt/articles/2020-10-11/local-news/Court-delays-are-nothing-compared-to-what-they-used-to-be-but-there-is-a-long-way-to-go-6736227690>

<sup>xxxi</sup> ACT No. XVIII of 2020, <https://legislation.mt/eli/act/2020/18/eng/pdf>

<sup>xxxii</sup> 'Racism is still alive' Pauline Miceli, Commissioner for Children, Times Of Malta June 19 2020 <https://timesofmalta.com/articles/view/racism-is-still-alive-pauline-miceli.799386>

<sup>xxxiii</sup> Support for children with disabilities cut over COVID-19, commissioner, October 7, 2020, Time of Malta, <https://timesofmalta.com/articles/view/support-for-children-with-disabilities-cut-over-covid-19-commissioner.822859>

<sup>xxxiv</sup> 'Statement by the Lanzarote Committee Chair and Vice-Chairpersons on stepping up protection of children against sexual exploitation and abuse in times of the COVID-19 pandemic' [https://tfal.org.mt/en/publications/PublishingImages/Pages/Recommendations/COVID%2019%20LC%20statement\\_EN%20final.docx.pdf](https://tfal.org.mt/en/publications/PublishingImages/Pages/Recommendations/COVID%2019%20LC%20statement_EN%20final.docx.pdf)











Kummissarju għat-Tfal  
Commissioner for Children

Office of the Commissioner for Children  
16/18, Tower Promenade, St. Lucija.  
(+356) 2148 5180  
cfc@gov.mt

[www.tfal.org.mt](http://www.tfal.org.mt)