



Kummissarju għat-Tfal
Commissioner for Children

Office of the Commissioner for Children

Annual Report 2021

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

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CONTENTS

Message from the Commissioner	5
Children's Rights (Background)	7
Annual Report 2021 (Introduction)	7
Children's Rights Catalysts	8
Children's Rights in General.....	10
Right to Care	15
Right to Health	17
Right to Education.....	19
Right to Economic Security	21
Right to Play, Leisure & Culture	23
Right to Protection from Abuse.....	25
Right to Protection from Psychotropic Drugs.....	30
Right to Child-Friendly Justice.....	31
Right to Protection from Abduction and Other Forms of Slavery	32
Conclusion.....	33



MESSAGE FROM THE COMMISSIONER



It is often said that the only thing that is permanent in this world is change. Change happens not only constantly but also in fits and starts. Since the turn of the millennium, the internet has changed the way we learn, work, play, trade and communicate, until in 2020 the pandemic accelerated this change.

The present generation of children in Malta does not know a world without internet. This means that their behaviour and outlook on the world has been shaped by the internet's limitless possibilities and horizons in a way which we adults find it hard to understand. This is why, as discussed in this report, the Committee on the Rights of the Child felt the need to remind Malta and the other 195 States Party to the Convention that the rights of children apply no less in the virtual world than they do in the 'real' world. This is also why I strongly believe that despite the many risks posed by the internet to the safety and well-being of children, all those who have authority to influence change for children need to constantly listen to them. By doing so, adults will be in a much better position to provide for their needs and protect them from harm. The work carried out by my Office and other stakeholders that is described in this report bears out this approach.

Much as they are absorbed in the virtual world of the digital environment, children are not indifferent to the physical world of our urban and natural environments. When children log out of the virtual world and step out into the physical world, they often find that they are much less free and able to express themselves. The problem is not that the physical environment, with its various amenities for children, such as schools and playgrounds, is not designed for children. It's that it is not designed by children, who thus find it is not sensitive enough to their needs.

The solution even here is to allow children to participate in the planning and management of our urban and natural environments so that they can find as much joy and fulfilment offline as they experience online. Reading this report, one finds that the Office together with its partners has been working hard to address the disengagement of children from the physical world.

I would like to thank my predecessor, Pauline Miceli, on whose legacy I hope to build in the course of my tenure so as to make our country more child-friendly and child-led.

ANTOINETTE VASSALLO
Commissioner for Children



CHILDREN'S RIGHTS (BACKGROUND)

WHY DO CHILDREN NEED RIGHTS?

Children naturally depend on adults for their needs. Adults sometimes don't do enough to help children. This means that many children are not as happy and fulfilled as they should be.

In 1990 Malta ratified the United Nations Convention on the Rights of the Child. Rights help to make sure that children receive whatever they need to grow and develop.

WHAT RIGHTS DO CHILDREN HAVE?

Children have the same rights as adults have. These rights are written in the Constitution of Malta¹, the European Convention on Human Rights², the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights³.

Children have other rights as well. The Convention on the Rights of the Child gives children the right to be cared for and to be guided in their decisions. Children have a right not to be hurt by those who care for them. Children also have a right to speak their minds about any decision that concerns them. None of these rights is more important than the rest.

HOW DO CHILDREN GAIN THEIR RIGHTS?

After ratifying the Convention, Malta also ratified the Optional Protocol on the Involvement of Children in Armed Conflict in 2002, and the Optional Protocol on the Sale of Children, Child Prostitution and Child

Pornography in 2010. Every few years, Malta needs to report to the Committee on the Rights of the Child what it has done to guarantee children their rights.

Broadly speaking, children's rights are achieved in three steps:

- Legislation
- Awareness-raising
- Policymaking based on research

To help climb these steps, Maltaⁱ set up the Office of the Commissioner for Children in 2003.

CAN CHILDREN LOSE THEIR RIGHTS?

Since 2020, the Covid-19 pandemic has made it harder than ever for children in Malta to enjoy their rights. The vaccine improved the situation but as the virus became more contagious, children continued to suffer even in 2021.

While Malta is fighting against the pandemic, it is allowed to pursue children's rights less vigorously⁴. However, in 2020 the Committee on the Rights of the Child called on Malta and all other States Party to the Convention to strive to minimise the impact of anti-Covid-19 measures on children.

ANNUAL REPORT 2021 (INTRODUCTION)

This report outlines what the Commissioner for Children and her Office did for children and their right to better care, their right to better education, their right to better health etc.. In this report, the Office of the Commissioner for Children also recommends what more can be done for children to enjoy their rights more fully.

1 Adopted in 1964

2 Ratified in 1967

3 Both of which were ratified in 1990

4 Article 4 of the International Covenant on Civil and Political Rights and Article 15 of the European Convention on Human Rights

CHILDREN'S RIGHTS CATALYSTS

NATIONAL CHILDREN'S RIGHTS CATALYSTS

Commissioner for Children

Legal framework

As a member state of the Council of Europe, Malta was called upon to develop and strengthen its National Human Rights Institutionsⁱⁱ by making them more effective, pluralist and independent. Since 2003, when Malta set up the Office of the Commissioner for Children, there has been much talk about but little action towards strengthening this institution.

Unlike other Commissions or Commissioners, the Commissioner for Children does not have a legal personality. In her feedback to the Director General for Social Policy, the Commissioner said that because of this her Office was unable to apply for funds, particularly EU funds, autonomously. This, the Commissioner said, limited her Office's capacity to make "the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alikeⁱⁱⁱ". The dependence of the Office's funding on Government tends to undermine the independence of the Office as established by its very own law^{iv}. The lack of legal personality also does not allow the Office to enter into contracts, begin legal proceedings on behalf of children and/or provide legal representation to children before a court of justice.

The Commissioner for Children Act fails to give a structure to the Office and the working conditions of its staff. This provides challenges and should be addressed to ensure continuity between successive Commissioners, and to act as a go-between for children seeking

advice or redress for alleged breaches of their rights.

The Office thus calls on Parliament to strengthen the power, independence and structure of this Office by updating the Commissioner for Children Act in light of the Paris Principles and the recommendation by the Council of Europe. In so doing, Parliament should follow the model of the bill it passed amending the Equal Opportunities (Persons with Disability) Act. This has strengthened the structure and functions of the Commission for the Rights of Persons with Disability (CRPD) by increasing its capacity to carry out investigations, compliance and enforcement, and provide redress.

Operations

The Office operated on an annual budget of €220,000. The staff complement totalled 8 members of staff, including the Commissioner, Ms Pauline Miceli, who was at the end of her second and final term of office. This complement was augmented by a small group of students who carried out logistical work for the Office as part of their summer work placements. In line with public health measures, the Office worked remotely for a few months using digital means to communicate and collaborate with its partners and various other stakeholders.

The Office strengthened its internal child participation structures by co-opting two new young members to the Council for Children, an advisory body to the Commissioner that is made up of children and representatives from various ministries. These two new members were Yevgeny Spiteri and Jeremy Perez, whose contributions in terms of insight into the needs of children are discussed throughout this report.

The Office uses various means, such as publications, media participation, focus groups, school visits, and media/social media

campaigns, to provide “public education and information designed to promote an understanding of the rights of children”⁵. The Office also launched a revamped website with a new livery and structure as well as a version of the website in Maltese in order to make the site attractive, easier to navigate and more accessible to all. The Office also kept up its presence on social media with regular original and linked posts. In many of the Office’s meetings with and presentation to stakeholders, such as the Local Councils Association, the Office explained its various responsibilities and functions.

A positive sign of public awareness of the role of the Office was given by Michela Ciappara, an 8-year-old girl who expressed the desire to serve as Commissioner for Children in response to ‘X’tixtieq issir la tikber?’ (‘What do you want to be when you grow up?’), which was the theme of an artistic contest for primary school children organised by Malta’s Public Service. The Office met with the aspiring Commissioner, acquainting her with the role and functions of the Office and hearing from her about issues facing children.



Michela Ciappara with Ms Pauline Miceli and Ms Suzanne Garcia Imbernon

More signs of public awareness of and trust in the Office came through in the Office’s rich and varied casework. This was related

mostly to children’s right to education, which reflects the disruptions children continued to experience in their education as a result of the pandemic.

A Department for Children?

The Office welcomes the move by the Ministry for Children’s Rights to appoint a focal person responsible for children’s rights. This should be seen as a first step towards eventually setting up a Department or Directorate for Children that has the capacity to coordinate efforts to advance and mainstream children’s rights across national policy and steer the implementation of the National Children’s Policy. Such an entity should be similar to the Directorate for Disability Issues, set up by means of the UNCRPD Act, which is set to act as the national focal point for matters related to the implementation of the Convention on the Rights of Persons with Disability.

Voluntary organisations

The Office supported voluntary organisations which are working to promote child participation by meeting and discussing possible avenues of collaboration with the newly formed organisation ‘Voice for Children and Young People’.

INTERNATIONAL CHILDREN’S RIGHTS CATALYSTS

European Network of Ombudspersons for Children (ENOC)

The Task Manager was part of a working group that was tasked with formulating a set of standards, values and sanctions to guide and regulate the conduct of all members of ENOC. Ms Garcia Imbernon presented the draft standards and moderated discussions on the draft values and sanctions at the ENOC Spring Seminar, which was also attended by the Commissioner. The three rulesets were approved and adopted by the ENOC General Assembly.

5 Article 11(a), Commissioner for Children Act

Eurochild

As a full member of this Europe-wide network of organisations that work with and for children, the Office was represented in the General Assembly and in the Extraordinary General Assembly by the Policy Officer. The latter event saw the adoption of a comprehensive package of revised governance rules and a new code of ethics for the network.

Lanzarote Committee⁶

The Head of Office, Dr Lorna Muscat, was chosen to form part^v of the Bureau of the Lanzarote Committee, of which she has been a member for a number of years.

CHILDREN'S RIGHTS IN GENERAL

CONVENTION ON THE RIGHTS OF THE CHILD

Incorporation

Incorporation means that a Convention becomes part of national law. In 1987, Malta incorporated the European Convention on Human Rights⁷. Malta should also incorporate the Convention on the Rights of the Child so that children can seek justice if their rights are broken.

With the help of the Office, the Government has been working to incorporate the Convention. The Office heard that a law to incorporate the Convention was presented in Parliament. Since all children's rights are equally important, the Office hopes that the whole Convention, not just parts of it, will be incorporated.

Children and adults with disability enjoy special rights under the United Nations Convention on the Rights of Persons with Disabilities. In 2021, the Parliament of Malta incorporated this Convention⁸.

3rd Optional Protocol

Malta signed the Optional Protocol on a Communications Procedure in 2012 but has not yet ratified it. The Office renews its call on Government to work towards the aim of ratifying and implementing the 3rd Optional Protocol to the Convention on a Communications Procedure in order to give children a voice in the highest international children's rights forum.

The disability sector has not only ratified the protocol to the UNCRPD that establishes a complaints mechanism, but children with disability have been given an independent national complaints mechanism thanks to the passage into law of the United Nations Convention on the Rights of Persons with Disabilities Act^{vi} and the amendments to the Equal Opportunities (Persons with Disability) Act^{vii}.

Implementation

The Office is constantly monitoring what the Government is doing to implement the Convention. The Commissioner was glad to note in her meeting with the Director General for Research, Policy and Operations Division within the Children's Rights Ministry that Government was on track to implementing the Concluding Observations & Recommendations by the Committee on the Rights by Malta's next reporting cycle in 2024.

6 Committee of the Parties to the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse

7 European Convention Act

8 United Nations Convention on the Rights of Persons with Disabilities Act

In 2017, Malta adopted its first ever National Children's Policy. In 2019, the Office published its first interim progress report. As part of a focus group among members of Insafe, the European Network of Safer Internet Centres, the Task Manager highlighted the unique input of children, who were extensively consulted in the drafting of the interim report on the implementation National Children's Policy so as to monitor its implementation. The Commissioner presented the report to the Minister for Children's Rights. The Commissioner called for a strategy with concrete, measurable targets, actions and timeframes. She also recommended setting up a steering body for a fuller and faster implementation of the Policy. The National Children's Policy also serves to hold together policies and strategies that are narrower in scope, such as the National Strategic Policy for Positive Parenting. It would be good to see other strategic policies that focus on other children's rights, such as play and leisure, or on subgroups of children, such as adolescents.

To fund the implementation of the Convention and the Policy, the Office called for European Social Funds+ and European Regional Development Funds to be used to better meet the needs of very young children, LGBTIQ+ children and children suffering from mental health problems.

Rights in the digital world

The Convention was written when the internet had barely been invented. To better align children's rights with the online world, the Committee on the Rights of the Child adopted General Comment No.25 on children's rights in relation to the digital environment. Members of the Office celebrated this important step forward with many other colleagues across Europe in an online meeting organised by the 5Rights Foundation.

SURVIVAL AND DEVELOPMENT

The year saw the tabling of a bill to decriminalise abortion^{viii}. Although the Office agrees that the criminalisation of women who out of despair and lack of support seek and obtain an abortion is wrong, the Office believes that the rights of the unborn child should be better protected at law.

AGE STATUS

The Office called for changes to make the age-verification process for undocumented migrants fairer and faster. The Office recommended that the process be used only where necessary, that it have adequate resources to run independently, sensitively and without excessive delays, and that where it fails to ascertain the age of migrants, the latter are assumed to be minors.

NATIONALITY

Children born in Malta to irregular migrants can end up stateless, acquiring neither their parents' nor Maltese nationality. This was one of the issues the Commissioner and Task Manager discussed with Parliamentary Secretary for Citizenship and Communities, the Hon. Mr Alex Muscat. The Office calls on the Government to ratify the 1961 Convention on the Reduction of Statelessness.

The Office called for irregular migrant children who land in Malta unaccompanied to be immediately granted a legal form of temporary humanitarian protection.

DISCRIMINATION

Acceptance of individual differences was at the heart of two events. The first was a virtual storytelling session and sock-puppet making workshop supported by the Office around the story of 'Ferdinand the Bull', who would rather smell flowers than fight like his fellow

bulls. The second was the Annual Conference organised by the National Commission for the Promotion of Equality, which the Office's Support Officer, Ms Anna Maria Debono, attended online.

The Migrant Women Association of Malta told the Office that most hesitate to seek information about children's rights in Malta out of fear of losing their children. To facilitate the integration of migrant families with children who had recently settled in Malta, the Task Manager quoted the Convention and the study 'A Passage to Malta – The Health and Well-Being of Foreign Children in Malta' to a group of students following the 'I Belong' programme. This Migrant Integration programme is run by the Department of Inclusion and Access to Learning within the University of Malta. This programme is offered to non-EU nationals who wish to obtain Long Term Residency in Malta.

IMPACT OF THE PANDEMIC

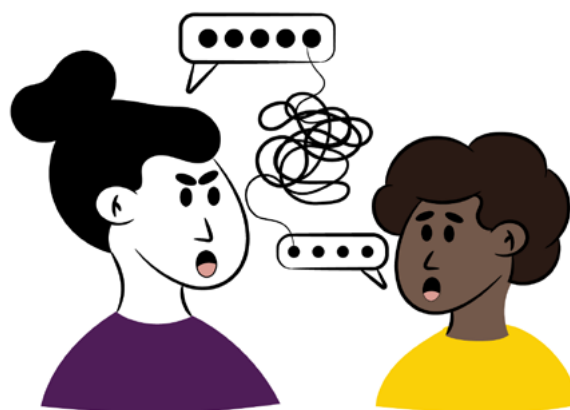
In an article published in *Il-Familja*⁹, the Task Manager raised awareness on how the needs of children had not been met fully and their voices not adequately listened to during the pandemic. This does not mean that the situation of children before the pandemic was not challenging, as the Policy Officer heard in a showcasing session entitled 'Promoting children's rights in diverse national political contexts: from national elections to hostile environments' that was delivered as part of Eurochild's Members' Day.

The Commissioner and the Task Manager took part in the 25th Annual Conference of ENOC. They heard how the research, 'Covid-19 and Children's Rights: Learning

for the Future'^{ix} had shown that emergency measures adopted to fight the pandemic set many children, especially the more vulnerable, back in their enjoyment of many of their rights. To make sure future pandemics or other emergencies do not hit children so badly, the Position Statement by ENOC, which was adopted at the General Assembly, insisted that emergency measures should be "necessary, proportionate, non-discriminatory and time-limited", and subject to regular review.

The findings of the research conducted by ENOC highlight a failure on the part of public health authorities to adequately consider the views of children and child experts in the design and implementation of the emergency measures that were rolled out with detrimental effects on children. This includes, as highlighted by ENYA (The European Network of Young Advisors), a lack of clear child-friendly information on the content and justification of the measures.

ENYA 2021 BETTER COMMUNICATION FROM AUTHORITIES



9 A quarterly magazine issued by the Ministry for Children's Rights

When authorities do not listen, children must make their voices heard even louder. The Office helped children do this by taking on the role of General Coordinator of the European Network of Young Advisors (ENYA) 2021 project: “Let’s Talk About the Impact of COVID-19 on Children’s Rights.” With the co-ordination and support of the Task Manager, seventeen ENOC member countries engaged in national discussions with young people between the ages of 13 and 17 on the impact of COVID-19 restrictions on Children’s rights. The Office was also responsible for organising the ENYA Forum. For obvious reasons, the forum was held online and brought together thirty-three children from seventeen European countries and regions discussed the impact that Covid-19 was having on their rights since the start of the pandemic the year before. The young advisors shared their thoughts on how the pandemic had affected their rights to family, education, health, economic security, protection from abuse, play and leisure, participation, their freedom to seek information, and, more importantly, converged on 47 recommendations^{xi} on how to ease the impact of the pandemic on their rights and exploit any opportunities that had arisen from it. The presentation of these proposals by young representatives of ENYA at the ENOC Annual Conference fed into the work of ENOC to promote the rights of children across Europe.



Together with other ENYA participants and thanks to the support of the Office, Angelo Graham from Malta got the chance to share his experiences about the impact of Covid-19 on children by forming part of the panel of a workshop chaired by ENOC that was part of the Fundamental Rights Forum organised by the Fundamental Rights Agency.

The Commissioner and Task Manager also met with the Steering Committee of Malta’s National Post-Pandemic Strategy to discuss how to set Malta back on track in the implementation of the Convention. The Committee was presented with the recommendations made by ENYA. The Policy Officer took part in the Eurochild Members’ Day where he learned about how an organisation like the Office could use EU momentum, including momentum from the EU’s Child Rights Strategy^{xii}, to advocate for children’s rights at national level.

CLIMATE CHANGE

Like the internet, climate change rose to public attention after the adoption of the Convention. Even today, despite having the potential to cause, as the Vice-President of the European Parliament Frans Timmermans warned, future generations to wage war over food and water shortages^{xiii}, and strong child activism on the issue, climate change still has a weak presence on the radar of children’s rights discourse and action.

Conscious of this and the fact that the problem of climate change requires global action, a majority of members of the European Network of Ombudspersons for Children (ENOC), including the Office, voted for climate justice as the priority theme for the work to be carried out by ENOC throughout 2022.

WORLD CHILDREN'S DAY

Despite the trials of the pandemic, children and young people today are more likely to believe that the world is becoming a better place than older generations. "Reimagine a Better Future for Every Child." was the message chosen by UNICEF to celebrate World Children's Day. To mark this day, the Office issued a press statement to remind all stakeholders of their primary responsibility towards children. Organised by the Institute for Education, the Commissioner and Task Manager gave a lecture to educators whom they urged to focus on identifying and meeting the different and changing needs of children. Another lecture focusing on building and maintaining healthy relationships with children is planned for 2022.



To help children reimagine a better life for themselves, the Office collaborated with UNICEF to produce a Maltese version of the child-friendly poster of the Convention. It then distributed copies of the poster in Maltese and English to school children in Malta as part of the celebration of World Children's Day. The Office also purchased and distributed a number of reading books to middle school libraries across Malta so

as to promote literacy in schools. A rights-themed game produced by the Office was also distributed to children.



To celebrate World Children's Day, the Office encouraged all schools to involve children in organising special activities. Over 70 schools organised different activities to mark this day. In its meeting with the Local Councils Association, the Office encouraged local councils to mark this day by organising activities like the closing of roads to vehicular traffic so that children can play freely.

RIGHT TO CARE

POSITIVE PARENTING

In an attempt to gain more insight in the impact of COVID-19 on children, the Office held various meetings with a number of stakeholders. An increase in separation anxiety and challenging behaviour among children as a result of being confined at home was noted. A rise in demand for support by foreign residents, many of whom had lost their jobs was also reported. The Office heard how various entities had done their best to keep services afloat despite the prevailing restrictions by resorting to online means and prioritising the services targeting the most vulnerable clients.

As a member of the Task Force for the implementation of the Positive Parenting Strategy, the Commissioner presented a progress report to the Minister for the Family, Children's Rights and Social Solidarity, Hon. Dr Michael Falzon. The Task Force continued raising awareness by using social media to air interviews with members of the task force, heads of entities working with parents and families as well as some of the most popular influencers on the meaning and value of positive parenting,

In a series of online sessions called 'Breaking the News', the Commissioner and other members of the Task Force helped professionals discuss how to communicate empathically and sensitively to new parents that their child will be disabled or severely sick. Parents who had lived through the birth of their disabled child recounted their experience and expressed how they would have liked the news to be broken to them differently. The Task Force held a press event to mark the end of the series.

The Support Officer served as a member of the Film Classification Board, whose task is to help parents or guardians guide children as to which movies they should or shouldn't watch alone by assigning age-ratings to all movies released in Malta. The Task Manager, Ms Suzanne Garcia Imbernon, penned an article with the title 'A Child's Voice – Listen to it!' for *Il-Familja* in which she stressed the special importance of listening to in order to understand the worries and frustrations of children during the pandemic.

PARENTAL ALIENATION & SEPARATION

The Office's advocacy on parental alienation in 2020 bore fruit with the setting up of a technical committee to research, raise awareness and propose legal and policy recommendations on how to address parental alienation to the Family and Justice Ministries^{xiv}.

The committee, also made up of the Commissioner for Children underwent a six-week online training programme delivered by Judge Emeritus Marcus Philip from Israel, who has many years of experience dealing with parental alienation. The Committee commissioned a survey which showed inter alia that the vast majority of people are unaware^{xv} of what parental alienation is. In response to these findings, awareness-raising initiatives and an in-depth research study were planned.

The importance given to the subject of parental alienation in Malta is in stark contrast with the European Parliament's call on Member States "not to recognise parental alienation syndrome in their judicial practice and law and to discourage or even to prohibit its use in court proceedings^{xvi}". This call disregards the many real cases of parental alienation which can victimise equally the female and the male parent and in either case the child. The Office looks forward to

legislative and policy measures to address parental alienation, including by promoting co-parenting as the best arrangement for children and divorced parents.

The Office welcomes the setting up of an appropriate, non-stigmatising, purpose-designed family room outside the precincts of the correctional facility^{xvii}. The Office is concerned about reports that prison inmates are being denied seeing their children as a form of punishment for insubordinate behaviour^{xviii} and calls for policies that disallow this very harmful practice to children.

The Office met with officials from Identity Malta to discuss its concerns about third-country nationals working in Malta being reunited with their families and children in Malta being blocked or undone by delayed or denied renewal of residence permits. This was due to third-country nationals being deemed to have insufficient funds to offer their children a decent standard of living in Malta. However, weeks later a court decision forced Identity Malta to revise its income threshold downwards^{xix} thus allowing scores of children to be reunited with or avert separation from their foreign parents in Malta.

The Office appealed to the authorities to enable the immediate repatriation of a large group of Italian children who had come to Malta to study English but who due to a positive case of Covid-19 in their midst had gone into mandatory quarantine. The Commissioner wrote to the Superintendent of Public Health to ask if the students' isolation was regulated by a child-friendly protocol. The students were eventually allowed to safely return home.

ALTERNATIVE CARE

As long as it is organised according to modern and child rights-based standards

of care¹⁰, residential out-of-home care is not just a fallback for failed or unavailable foster care placements but is a model of care that can work for children. This was the basic message conveyed through 'A Safe Place, A Positive Choice', an online meeting organized jointly by the Children's Rights Ministry and St Joseph Home and attended by the Commissioner and Task Manager.

The Commissioner called on the Minister for Children's Rights to set up and task a technical committee with charting a pathway towards the professionalisation of front-line work in residential out-of-home care in Malta. At the end of the year, the committee was appointed with the Commissioner as its chairperson. The committee's Terms of Reference call for a stocktake of the current workforce and the adoption of a social pedagogical model of care on the basis of which a system is costed and designed to train front-line workers to acquire the necessary professional skills; to recognise their professional status; to set their job descriptions and child-to-carer ratios; and to assess practices in light of their impact on and the feedback from children receiving care, including aftercare.

The Office met with the Children in Need Foundation to discuss and support plans the foundation's plans to set up a pilot project with Fondazzjoni Sebħ for the provision of free psychotherapy to children in care.

UNACCOMPANIED MINORS

The Office met with a number of stakeholders¹¹ to discuss why unaccompanied minor asylum seekers (UMAS) arriving in Malta¹²

10 Set by the United Nations Guidelines for the Alternative Care of Children and the Council of Europe Recommendation Rec(2005) 5 on the Rights of Children Living in Residential Institutions

11 Aditus Foundation, AWAS, Child Protection, IOM, JRS, KOPIN, Malta Police Force, Migrants' Commission, Red Cross and UNHCR

12 <https://tfal.gov.mt/wp-content/uploads/2021/11/Recommendations-UMAS-MT.pdf>

were not being issued Protection Orders¹³, resulting in failed access to basic services, such as education, employment and family reunification. The problem was identified in the application of the strict standard of proof¹⁴ of a Criminal Court by the Juvenile Court, which was hence disregarding the outcomes of the age-assessment procedures. The Office and other stakeholders thus recommended amendments to the law to the responsible Minister to give the Juvenile Court a civil remit, or, alternatively, transfer responsibility to the Voluntary Jurisdiction Section of the Civil Court.

In a meeting with Minister for the Family, Children's Rights and Social Solidarity, Hon. Dr Michael Falzon, the Commissioner and the other stakeholders discussed a bill amending the Minor Protection (Alternative Care) Act that had just been tabled in Parliament¹⁵ giving the Juvenile Court "civil competence" and "civil jurisdiction"¹⁶.

The Office called for the procedures to verify if a migrant is a minor and unaccompanied should be laid down in law. An independent entity should act as tutor to unaccompanied minors as soon as their presence in Malta is registered. Furthermore, for UMAS to enter the alternative care pathway as quickly, smoothly and safely as possible, the Office recommended training border and law enforcement staff to interview UMAS in a child-friendly manner. The Office called for UMAS to be provided with additional pedagogical or psycho-social support together with access to legal representation and a complaints mechanism or appeals procedure that is free, child-friendly as well as

linguistically and culturally mediated. Finally, as the Office pointed out in its feedback on a draft opinion on the Recommendation by the Parliamentary Assembly of the Council of Europe on "Effective guardianship for unaccompanied and separated migrant children", the availability of foster care placements needs to be increased.

RIGHT TO HEALTH

PHYSICAL HEALTH

Air quality & nutrition

The Environment and Resources Authority (ERA), in collaboration with the Ministry for Environment, Climate Change and Planning (MECP), asked the Office among many other stakeholders for feedback on the content of an Air Quality Plan that was being drawn up in accordance with the EU's Ambient Air Quality Directive. Since the main focus of the plan was air pollution caused by road transport activities, the Office recommended the implementation of measures designed to reduce motorised transport, such as increased use of public transport, car-pooling, remote working arrangements and pedestrianisation of heavily polluted urban areas. Apart from improving air quality, the Office said that some of these measures would have positive knock-on effects on children, such as remote working allowing children to spend more time with their parents and pedestrianisation enabling children to get more exercise by walking to and from school.

In its meeting with the Office, the Migrant Women Association of Malta expressed concern regarding the lack of facilities for the care of babies and the lack of access to a kitchen within open centres where parents can cook for their children.

13 As provided by the Minor Protection (Alternative Care) Act (Chap 602, Laws of Malta)

14 Which required minority to be proven beyond reasonable doubt.

15 <https://www.parlament.mt/media/111545/bill-206-harsien-alternattiv.pdf>

16 Article 14 of Minor Protection (Alternative Care) Act & Article 3(2)(a) of Juvenile Court Act

Road safety

To protect children from road safety hazards, the Malta Road Safety Council, which includes the Office, represented by the Project Officer, Mr Glen Gauci, lobbied for regulation to protect users of bicycles and electrified scooters, many of whom are minors.

The Office collaborated with the Council in delivering copies of the child-friendly activity book about road safety 'Fit-Triq ma' Kinu' to children attending St. Benild's School, Sliema. The Council collaborated with local music group The Travellers to launch an aggressive traditional and social media campaign on the dangers of drink driving. It also awarded free first aid courses to young people and young mothers to raise awareness about first aid and the role of the Council.

MENTAL HEALTH

Impact of the pandemic

The Office was informed that there had been an increase in anxiety in families due to loss of employment, overtime and homelessness. The Migrant Women Association of Malta told the Office that living conditions at open centres were fuelling problems of poor mental health among migrant children. To make children more aware of how they can prevent and seek help for mental health issues, the Office distributed a leaflet called 'Let's Talk about Mental Health' among children on World Children's Day.

ENYA 2021 TAKING CARE OF YOUR MENTAL HEALTH



Increases in gaming addictions as a result of children staying at home had also increased, according to stakeholders working in the field. To address this problem, the BeSmartOnline! project launched a 'Digital Detox Challenge' with prizes to be won by those who meet the challenge^{xx}.



Psycho-sexual health

In the absence of an adequate sexual education, children may well look for answers to their questions about sex in the wrong places, such as pornographic sites, to the detriment of their sexual and emotional health. For this reason, the Office endorses calls^{xxi} for Government to prioritise sexual health by publishing and implementing an updated cross-sectoral health strategy with a clear focus on sex education as an integral part of compulsory education.

Mental health services

The Office met with the Malta Association of Play Therapists to discuss the role of play therapy services in government, health and education settings, and offered its full support towards making this form of therapy more widely known and practised by organisations working with children.

The Office is pleased to note the efforts made to promote the independence of children with a mental disability^{xxii}, including those living in

the remotest regions of Malta^{xxiii}. The Office also welcomes the publication of Malta's first ever National Autism Strategy^{xxiv}. Although the strategy adopts a multi-sectoral approach and a whole-life perspective, it does not address the need to guarantee the continued access of children with autism to therapeutic programmes even in public emergencies^{xxv}. The Office calls on Government to increase the provision of these vital services so that children with autism and other mental disabilities can catch up on lost time and therapy, and to include mental health in the increased investment in remote paediatric therapy and care^{xxvi}.



Participation

An amendment to the Health Act extended or clarified the right of children of or older than 16 years of age to seek, accept or refuse medical treatment or advice without parental knowledge or consent (if they were deemed by the medical practitioner to have sufficient understanding to make an informed decision) to include psychiatric treatment and counselling^{xxvii}. The Office calls for this right

to be strengthened further by including a provision that requires medical practitioners to impart information directly to their young patients in an age-appropriate manner, even when they are accompanied by their parents or legal guardians.

RIGHT TO EDUCATION

REVISED EDUCATION ACT

In its Position Paper on the revised Education Act, the Office welcomed the fact that the right to education had been extended to all children residing in Malta. The Office called for school closures to be subject to a thorough, transparent and holistic risk-assessment and to require an actionable emergency preparedness plan so that schools could easily switch to remote learning. The Office welcomed the fact that making early childhood education available had become a State obligation but called for an obligation to make early education accessible so that young children would not miss out on education due to public health restrictions¹⁷.

The Office welcomed the decision not to raise the minimum school leaving age, as some stakeholders had been suggesting¹⁸, arguing, as did independent educational experts¹⁹, that without serious efforts to improve the quality of education, a higher school-leaving age would simply prolong and increase the difficulties of children who do not continue their education. For this reason, the Office welcomed the provision for a new independent education regulator, and

17 <https://timesofmalta.com/articles/view/childcare-centres-fill-up-as-covid-19-restrictions-limit-numbers.894697>

18 <https://timesofmalta.com/articles/view/increase-compulsory-education-by-two-years-businesses-demand.895738>

19 <https://timesofmalta.com/articles/view/reform-maltas-education-system-experts-insist.896569?fbclid=IwAR0nknNwaowxkLFMUvZeG8v-8TbsNuG8IGDeYXrY-AQOAJQTdsJ7spRjPQ0>

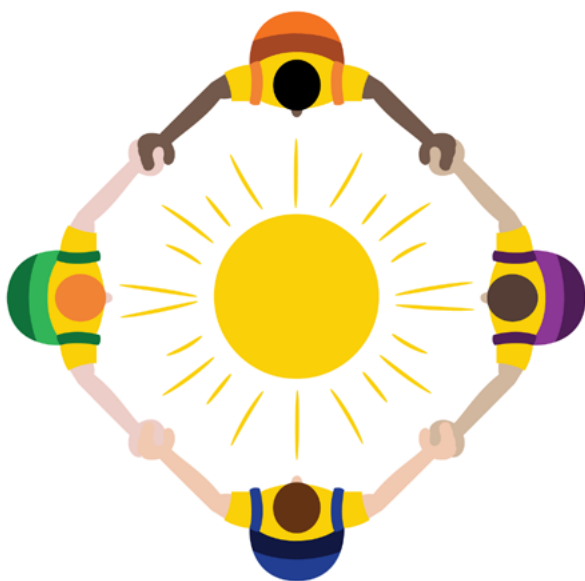
the requirement for those providing home schooling to possess a teaching warrant. On the latter point, the Office warned that children who were not able to go to school could end up being denied their right to education.

The Office was pleased with the requirement to consult with children “through student centred approaches for the purposes of school development planning”. The Office expressed its disappointment that the obligation “to conduct a student impact assessment before introducing new policies or educational initiatives” had been removed from the revised law.

REOPENING OF SCHOOLS

While schools were closed for over a month, the Office published a press release in which it reminded stakeholders that it was up to the public health authorities to decide whether schools should reopen after the Easter recess.

ENYA 2021 IN-PERSON SCHOOLS AND THEIR VITAL ROLE IN CHARACTER BUILDING



In response to a court judgment upholding an industrial dispute by the teachers’ unions, the Office issued two strongly worded press releases in which it called out teachers’ unions

for disregarding the best interest of children by leaving a number of primary school children teacherless for almost a month. The Office also criticised the court judgment for failing to protect the right of children to education. To break the stalemate, the Office called on all stakeholders to collaborate and shoulder their responsibilities towards children.

REMOTE LEARNING

The Office commends the efforts by Government to facilitate access of disadvantaged students to remote learning, including the assistance given to parents to help them connect their children with their teachers. These efforts should be inclusive of irregular migrant children living in open centres, who, according to the Migrant Women Association Malta, faced problems of limited internet access and technical support. More so, these efforts should not be rolled out only in an emergency but should be part of every child’s educational entitlement. Hence, the Office calls for the extension of the one-tablet-per-child scheme until the end of compulsory schooling. Also, as recommended by ENYA, efforts to train educators on the technical and pedagogical aspects of remote teaching need to be intensified.

ENYA 2021 THE DIGITAL DIVIDE



Despite the fact that online schooling can never replace the classroom experience, the Office stressed in the said press statement that remote learning should be held up to the same quality standards as learning that happens in class. At the same time, the access of children, especially those with learning difficulties or disability, must be supported. To this end, the Commissioner and Task Manager visited the Embrace Diversity Organisation, which works to impart valuable life-skills to children with a disability. The Office welcomes the initiative by the Education Department, in collaboration with Aġenzija Appoġġ, to organise summer revision courses for students with learning difficulties^{xxviii}.

HIGHER EDUCATION

The Office also welcomes the safety measures adopted by the health and education authorities to allow children to sit for their end of secondary and post-secondary school exams^{xxix}. Through its Task Manager and Project Officer, the Office also participated in the consultation on 2030 Further and Higher Education Strategy for Malta, which aims to attract and retain more children in higher education. The Office participated in the consultation on the draft Early Leaving from Education and Training strategy, which aims to reduce Malta's high rate of children who abandon their educational pathway upon completing compulsory schooling (16.7% of all children in 2020^{xxx}). In addition to the measures proposed in the strategy, the Office recommended working to raise awareness among parents of the economic and cultural value of education; to make education less stressful for children; to discourage early entry into the job market by setting higher occupational standards across all economic sectors; and to improve the quality of early childhood education. Regarding the latter proposal, the Task Manager also took part in a discussion on the main priorities and

principles of the National Policy Framework for Early Children Education and Care.

PARTICIPATION

The Commissioner was invited by the Chairperson of the National Board for Compulsory Education to attend a meeting of the Board to discuss how the 'Council of Europe Handbook on children's participation for professionals working for and with children^{xxxi}' could be used to mainstream child participation in the education sector. The meeting led to a recommendation to the Minister for Education, who duly accepted it, to include children on the Board for Compulsory Education in order to enable children's voices to be heard on matters pertaining to their education. The Office nominated and supported four young people to attend the Board meetings.

The Office also supported a number of young people in participating in the drafting and eventual launch of the Physical Education Strategy. The youngsters expressed the need to widen the offer of sport disciplines from the narrow emphasis on football, especially for boys. During a meeting of the Council for Children, a young Council member spoke of the need to create more awareness on healthy eating and physical exercise and to ensure that children with a disability are included in P.E. lessons.

RIGHT TO ECONOMIC SECURITY

POVERTY & SOCIAL EXCLUSION

The adoption by the European Council of a Recommendation to establish a Child Guarantee for children at risk of poverty or social exclusion to a set of key services, namely early childhood education and care,

education, healthcare, nutrition and housing, gave a stronger push to the right of children to economic security. This was celebrated in a virtual conference called 'Child Guarantee – Equal Chance for Every Child' which was hosted by the Portuguese Presidency of the EU and attended by the Commissioner and the Support Officer.

Since one of the major factors in children's risk of poverty and social exclusion is low labour intensity within their families, ENYA recommended making the schedules of child day care services longer and more flexible. The Office thus welcomes the extension of free childcare services to evenings and weekends for people working shifts.

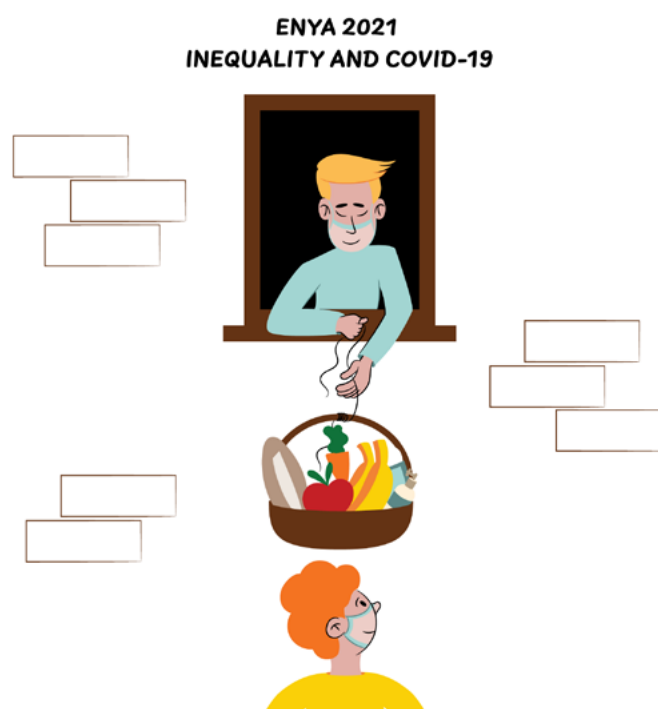
The Ministry consulted with the Office on the priority areas and groups for Malta's National Action Plan with respect to a Child Guarantee for children at risk of poverty or social exclusion, the rate of which in 2021 stood at 22.6%^{xxxii}. In its response, the Office emphasised the need to promote the participation of children in need in the formulation of the plan.

In respect of the groups identified by the Ministry as being especially at risk of poverty or social exclusion, the Office inter alia called for the following actions: homeless shelters that accept unaccompanied minors; a better implementation of the Policy on Inclusive Education in Schools, including early education and development centres; more specialised healthcare for children with mental health issues; co-parenting for children in precarious family situations; strengthening of the foster care system; and better integration of migrant children in the education system. About the latter group, the Office was told by the Migrant Women Association Malta that their parents, especially mothers, were finding it increasingly difficult to find work and sometimes stopped receiving their allowance even before they found a job.

The Office also identified children who are victims or perpetrators of crime as being particularly at risk of poverty or social exclusion. The Office also called for a national strategy against all forms of discrimination to promote the economic security and social inclusion of children who are at greater risk of poverty or social exclusion.

Even with the Child Guarantee, the safety net of the welfare state is likely to not be tight enough to save all children from the risk of poverty or social exclusion. As explained to the Office one reason why families in need did not receive food boxes fast enough, was the need to draw up a holistic plan for them not to depend on the State.

The Office met with administrators of the Foodbank Lifeline Foundation to get a firsthand account of how the foundation was giving families in need a lifeline by providing free food during the six-week waiting time for free food from the State. The Office learned that since the start of the pandemic more families were requesting assistance for longer. Fortunately, the foundation had seen more donations of free food by private individuals and organisations.



MIGRANT CHILDREN

Malta has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which would contribute enhancing the economic security of the scores of migrant children living in Malta, particularly irregular migrant children. The Office thus renews its call on Government to make Malta a State Party to this Convention.

RIGHT TO PLAY, LEISURE & CULTURE

TELEVISION

The Office called out an online news outlet for depicting TV shows that normalise and trivialise violence, notably the so-called squid games that are very popular on online TV platforms, in a positive light. Overseas, some states have banned this kind of show^{xxxiii}.

SPORTS

One of the children's rights badly impacted by the pandemic was sports, as establishments for sports activities were forced to close^{xxxiv}. As a result of such closure, seven in ten children, according to a survey, stopped practising sports, with negative effects on their physical and mental health.

Since children can experience harm even from practising sports, Parliament passed the Sports Governance and Integrity Act^{xxxv} which among other things aims to ensure the protection and safeguarding of children who practise sports in a formal manner by providing for the establishment of the Authority for Integrity in Maltese Sport. The Office looks forward to this Authority being set up and starting to operate.

The Task Manager delivered a presentation to students reading for a degree in physical education on the importance of a child-rights approach to doing sports with children. To this end, Ms Garcia Imbernon explored the six Children's Rights in Sport Principles^{xxxvi} by UNICEF which all sport organisations, educational institutions and coaches are expected to implement in their work with children.

PLAY

The Office appealed to local councils to keep public playgrounds open after some councils had unilaterally decided to close them. ENYA recommended efforts to adapt play formats and spaces to the pandemic to avoid such closures. To increase the availability of public spaces for play, one of the young members of the Council for Children suggested making school grounds accessible to the community after school hours and reusing the area freed up by the demolition of abandoned buildings.

The Office welcomes national projects^{xxxvii} to create more open spaces^{xxxviii} and calls on Government to embark on similar projects in areas, such as open centres, which, as the Migrant Women Association of Malta told the Office, lack such spaces. The Office also calls on national and local governments to earmark and develop more age-appropriate public outdoor spaces for adolescents.

ENYA 2021
LETTING YOUNG PEOPLE LIVE THEIR LIFE



The Office welcomes the publication in 2021 of the revised National Standard regarding the safety, accessibility and play value of public playgrounds²⁰. The Malta Competition and Consumer Affairs Authority consulted the Office on how to train local councils to implement the new standard. The Office calls for these and similar standards to become mandatory by setting up an authority to regulate the safety of all play establishments for children.

PARTICIPATION

As the Office said in its meeting with the Local Councils Association, a good place to start involving children in the management of local urban environments is to make all information issued by local councils child-friendly.



The Commissioner for Children and Task Manager delivering a presentation during a meeting with members of the Local Councils' Association

The Commissioner went one step further when launching the Research Study on Child-friendly Towns and Villages, which the Office conducted in collaboration with the Centre for Resilience and Socio-Emotional Health within the University of Malta and the Environment and Resources Authority (ERA), by underlining the importance of eliciting the views of children in order to design urban environments that cater for their needs. As

a way of doing this, the Office encouraged and offered its expertise to local councils to create a shadow children's council to discuss and present proposals for the locality.



The Office led by example when, in collaboration with the Faculty for the built environment within the University of Malta, it organised an exploratory walkabout for children around the streets of Hamrun to discuss how this densely built Maltese town can become more child-friendly. The Office also presented the outcomes of the first phase of the study, where over a thousand children aged 8-16 answered a questionnaire about how responsive their town or village was to their rights to play, be healthy and participate.

The study found that children felt that traffic and construction interfered with their ability to play and socialise in local public spaces. Children said they wanted more and better spaces where they can do sports and physical activity. Children also want planning authorities to hear their views and concerns. The Office and its partners in the project showed they were listening to children's concerns when they called on Local Councils to appoint focal points to coordinate child-friendly initiatives like pedestrianisation projects, recreational parks and better

²⁰ SM3500:2020 Public Playgrounds – Requirements for Public Playgrounds Safety, Accessibility, Play-Value and Their Management

regulation of building activity, while keeping an open channel of communication with children.

On a national level, the researchers recommended setting up a multi-sectoral inter-agency working group to coordinate the implementation of recommendations from this and future phases of the study. This working group would also develop national indicators of child-friendly towns and villages and a child-friendly quality label to promote child-friendly practices in local urban planning and management.

RIGHT TO PROTECTION FROM ABUSE

MONITORING ABUSE

Data obtained by the Office shows that in 2020, especially in the lockdown period, cases of neglect, maltreatment and sexual abuse of children and domestic violence had increased significantly. This was due to the additional pressures of home schooling, loss of employment or reduction of working hours, the effects of the social restrictions on family members' mental health, limited contact with extended family and other factors.

ENYA 2021
WHEN HOME IS NOT A SAFE SPACE



As highlighted by young members of the Council for Children, the tendency of children to use the internet unsafely got stronger. A recent study²¹ revealed that the pandemic has forced 8 out of every 10 children aged 7-16 to increase the time they spend online, exposing them more heavily to the risk of sexual abuse. This was confirmed at meetings of the Lanzarote Committee, attended by the Head of Office, where the finding by the Internet Watch Foundation of a staggering 77% rise in child 'self-generated' sexual material was reported. Overuse of the internet also led to poor mental health, with 15% of children aged 7-16 reporting having thoughts of harming themselves.

PREVENTING ABUSE

Legal measures

The Office welcomes the amendments to the Criminal Code that have extended jail terms for various sexual offences against minors, such as rape for which the jail term has increased from 3-9 years to 6-12 years, and by a further two degrees if the victim is a minor.

The Office calls for the Protection of Minors (Registration) Act^{xxxix} to be amended so that the placement of convicted child offenders on the Register is automatic or is waived only in very exceptional cases. In their meeting, the Office and the Lisa Marie Foundation agreed on the fact that the legal and administrative process for accessing the Register was too difficult and needed to be simplified.

When commenting on the incident of a minor caught on camera wielding a firearm used for hunting, the Office called for amendments to be made to the Arms Act to prohibit the participation of minors in hunting expeditions^{xl}.

²¹ <https://timesofmalta.com/articles/view/15-of-older-students-consider-self-harm-is-online-isolation-to-blame.9017>



The Commissioner for Children and staff during a meeting with the Lisa Marie Foundation

The Office welcomes the amendments to the Criminal Code that make the act of grooming for abuse punishable even when it does not lead to abusers physically meeting their potential victims.

Technological measures

In a meeting coordinated and moderated by Rethink, a data-driven organisation that seeks to create value through social innovation, the Office heard from Dr Rachell O'Connell, a leading expert on online child safety, about a child age verification and parental consent technology service developed and set to be trialled in Malta by her Malta-registered company, TrustElevate. Dr O'Connell expressed her confidence in the ability of this technology to safeguard children's safety online and in its applicability on an industrial scale in that it would enable business to comply with article 8²² of the General Data Protection Regulation (GDPR), which provides a legal guarantee of the safety of children when they are online. She

22 This article states that:

- In relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least 16 years old. Where the child is below the age of 16 years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child.
- The controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of parental responsibility over the child, taking into consideration available technology.

also spoke of her company's ongoing work on the development of an easy-to-use Child Rights Impact Assessment tool that is able to inform and influence the design of products and services targeting children and young people by assessing the relevant features, associated risks, and possible risk mitigation strategies to deploy in the design of such products and services.

In order to collect more such good practices on combating child online sexual abuse, the Office coordinated the administration of a questionnaire on online sexual abuse by the WeProtect Global Alliance to local stakeholders, and, in collaboration with FSWS and the Cyber-crime Unit, the compilation of the information from answered questionnaires.

The Office advised Government that it was in the best interest of children for the Draft Declaration by the Council of Europe 'Children's rights in the digital environment' to be approved. However, the Office warned that the use of Artificial Intelligence could be detrimental to children, particularly when their data was used for advertising and marketing purposes to target them directly without their knowledge.

Social pedagogical measures

In a press statement, the Office used the theme of the European Day on the Protection of Children against Sexual Exploitation and Sexual Abuse, "Make the circle of trust safe for children", to raise awareness on the fact that most acts of child sexual abuse are committed by people whom children know, trust and love.

To make children more aware of their rights with respect to their own bodies, the Office distributed copies of the Council of Europe publication Kiko and the Hand to all children in Kinder 2 attending State, Church and Independent schools. The book contains an

insert for parents to help children identify and address early signs of sexual abuse. The Council of Europe also launched a Train the Trainers manual for professionals working with children to prevent, detect and report suspected cases of sexual abuse in a child-friendly manner.



In another press statement, the Office used the theme of Safer Internet Day, *Together for a Better Internet*, to call on all stakeholders to unite to protect children from the dangers they increasingly faced online. ENYA called for the involvement of a wide array of influential figures, such as journalists, streamers and musicians. In comments to the press, the Commissioner stressed the necessity that children rediscover their social and physical outlets to the offline world.

Together with Aġenzija Appoġġ, the Directorate for Learning and Assessment Programmes within the Ministry for Education and the Cyber Crime Unit within the Malta Police Force, the Office started the sixth cycle of BeSmartOnline!. The Office continued its work to coordinate child participation as well as to carry out awareness raising initiatives as part of the project. Malta's Safer Internet Centre launched a toolkit for Middle and

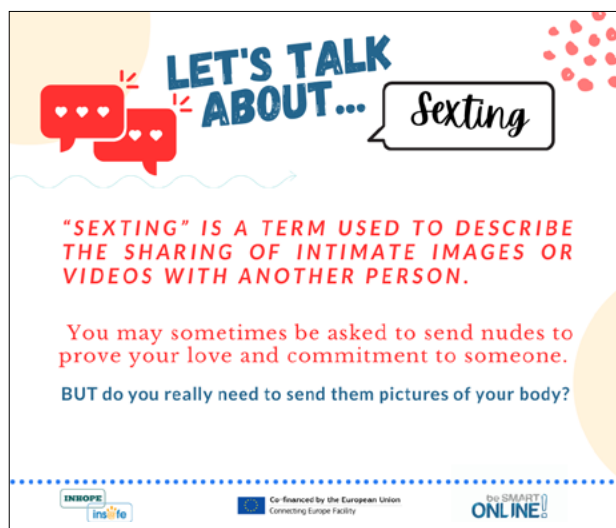
Secondary schools with various lesson plans and resources to support PSCD educators on topics such as digital footprint, body image and balanced use.

With the support of BeSmartOnline!, the Office commissioned a translation to Maltese of the 'KIKO and the Manymes', which is a story book for children about the importance of protecting their privacy through a proper use of photos online. Copies of the book, which was launched by the Commissioner and the Minister for Children's Rights, will be distributed to children aged 4-7. The Office also supported the production of 'The Angry Wolf', a big book about the smart use of the internet for children aged 6-7.



The Office, together with its BeSmartOnline partners produced and showed a video about the risks and benefits of the digital environment to children attending Skolasajf. With the Institute for Education, the Office planned to deliver a lecture to empower educators to help children act wisely and safely when using this most powerful digital medium. Through a series of posts on the BeSmartOnline! social media platforms, the Office disseminated a leaflet warning children about the dangers of sexting. The

Task Manager attended a training session organised by Insafe on the risks posed by the sexualisation of children on the internet.



The Task Manager presented the structures, processes and outcomes of recent and prospective child participation activity coordinated by the Office to the Advisory Board of BeSmartOnline!. In this and other presentations, the Task Manager highlighted the importance of child participation by quoting Save the Children in describing children as “experts of their own lives”.

PURSuing ABUSE

Legal measures

In comments to the press, the Commissioner hailed the entry into force of the law of mandatory reporting²³ of possible or likely cases of child abuse by professionals as fundamental in combating child abuse. The Commissioner stressed the need to educate lay persons about the importance of reporting child abuse. In its press statement marking European Day on the Protection of Children

23 Article 9(2) of the Minor Protection (Alternative Care) Act, which sets the legal obligation of mandatory reporting on “any professional who has knowledge of an act causing or which may cause significant harm on a minor as defined in sub-article (4) or which constitutes a criminal offense on a minor”, who “shall immediately report to the Director (Protection of Minors) or the Executive Police”, came into effect on the 9th of March, 2021.

against Sexual Exploitation and Sexual Abuse, the Office called all those who have knowledge of any act of child abuse to report immediately. The Office calls on Parliament to legislate to make reporting of child abuse by non-professionals mandatory, while introducing the necessary legal safeguards against malicious reporting.



The Office welcomes the extension of the prescription period for cases of child abuse by five years²⁴. However, given that it can take many years for victims of child abuse to pluck up the courage to file a report against their abusers, especially if the latter were part of their circle of trust, the Office calls for prescription to be removed from cases of child abuse.

One of the issues discussed during meetings of the Lanzarote Committee, which were attended by the Head of Office, Dr Lorna Muscat, was the adoption by the Council of Europe of the 2nd Additional Protocol to the Budapest Convention on enhanced cooperation and disclosure of electronic

24 To Article 208B(6) of the Criminal Code which raises the victim's age from which the period within which child abuse can be reported starts from 18 to 23 years,

evidence. The Office calls on Government to sign, ratify and implement this Convention at the earliest opportunity.

In a post on the Office's social media, the Commissioner used the words 'abusive' and 'illegal' to describe the behaviour of an adult caught on camera allowing and exercising insufficient oversight over the use of a gun by a child whom he was accompanying on a hunting expedition.²⁵ The Office elaborated on this post in a press statement in which it said that this incident was in clear breach of the Arms Act, which allows minors of a certain age to use arms for target shooting but not for hunting, and that the child, even if he was old enough to be held criminally responsible for his actions, was a victim of the adult's criminal behaviour.

Social measures

The Office, represented by the Support Officer, was a participant in a stakeholder meeting that was held as part of FEM-UnitED^{xli}, a project that aims to create evidence for collaborative policy change to prevent femicide. In a round table on sexual violence organised by the Department of Gender and Sexualities within the Faculty for Social Wellbeing, in collaboration with the Women's Rights' Foundation, the Task Manager spoke of the need to raise awareness in children from a very young age about the realities of sexual abuse and to support children to report abuse.

Avoiding overkill

Building on the amendment passed in 2018 that lowered the legal minimum age of sexual consent to 16 years, the Office welcomes the new provision that lowers the punishment for defilement of minors by one or two degrees when sexual relations between minors are consensual and non-abusive. However, the Office believes that consensual sex between

minors should never be criminalised, but that its risks should be addressed through education and appropriate services. The Office thus renews^{xlii} its call for the decriminalisation of consensual non-abusive sexual activity between minors.

The Office believes that technologies that limit children's access to potentially harmful content or social networks are very useful and effective tools to combat child abuse. However, their use must be measured so that they do not interfere with children's fundamental rights to seek information, as per Article 17 of the Convention.

CHILD PARTICIPATION

The Task Manager organised and moderated a consultation with a group of young people aged 12-16 who called for equal access to digital devices, skills and information; relaxed rules against the use of personal devices in schools; increased training for educators and children to enhance their digital skills; and a single online platform where children can access educational tools and resources. To counter the risks from overuse of the internet, the children recommended intensifying efforts to sensitise children to these risks.

On behalf of Insafe and as part of the consultation for the European Commission on how to make Europe's *Digital Decade* fit and safe for children and young people, the Office held two consultation meetings with children in Malta aged 9-13. The consultation explored children's patterns of use of the internet, with older children coming out as making a more social use of the digital medium than younger children, who said they would go online mostly to play games and do schoolwork. The children also shared their perceptions and worries about the risks they faced online, with younger children showing concern about generic risks like unwanted ads and violent or hateful content, and older

25 <https://www.facebook.com/Comm4Children/photos/a.10152627512144455/10159359105769455/?type=3>

children expressing fear of personal abuse such as through theft or misuse of sensitive personal information.

Based on this feedback, the Office elicited recommendations from the children on what should be done to make the digital world a better place for them. The children proposed various measures aimed at arming children with the knowledge they need to keep themselves safe, such as by raising awareness on the risks of social media from a young age, promoting an online/offline balance and instilling empathy in children to prevent bullying. Other suggestions by the children called for safety by design measures, such as verification mechanisms on social media to remove fake accounts, blocking of ads that are not age-appropriate, and a child-friendly social media app for under 13-year-olds.

To involve children in Malta more closely in the concerted effort at EU level to consult with children on issues of internet use and safety, the Office supported the participation of four young people in the Safer Internet Forum as members of the Better Internet for Kids Youth Panel, and the role of two young people as youth ambassadors for Insafe. Owing to the impossibility for the second year in a row of holding the popular annual live-in course for older children, Rights4u, the Office worked on redesigning the course into a digital leadership programme with a view to holding the first edition of the programme in 2023.

In order to share ideas and good practices and discuss challenges faced, the Task Manager held monthly meetings with other Youth Participation coordinators from across the Insafe network.

RIGHT TO PROTECTION FROM PSYCHOTROPIC DRUGS

CANNABIS

In a press statement, the Office warned that the new Authority on the Responsible Use of Cannabis Act could harm children and youths as a result of weak or weakly implemented safeguards in the law. Specifically, the Office argued that the law did not protect minors from indirect exposure to cannabis, be it physical exposure through cannabis smoke leaking from where cannabis is being consumed or psychological exposure through undisposed traces of cannabis that has been consumed. The Office also expressed its disagreement with the fact that failure to implement the safeguards regarding the use and storage of cannabis within the home was not a criminal offence but punishable only with a fine.

The Office aired its concern and that of numerous stakeholders^{xliii} working on the ground that the legalisation of drugs could lead to looser attitudes to drug use, increased availability and affordability of drugs, and more widespread use of drugs even among children. This concern highlights the need to be vigilant and monitor the effect of the new law on drug use and attitudes thereto.

DRUGS POLICY

The Office welcomes the launch of a campaign on drug awareness²⁶ and the establishment of a therapeutic centre specifically and only for adolescents who suffer from drug addiction^{xliv}. However, in its press statement about the cannabis law, the

26 The campaign “We are here to help you and not to judge you” targets youths, parents, and educators and aims to break the vicious cycle of and leading to drug use and addiction.

Office called on Government to publish an updated National Drugs Policy in order to ensure that children are sufficiently protected in terms of awareness and law enforcement from exposure to psychotropic drugs.

RIGHT TO CHILD-FRIENDLY JUSTICE

CHILDREN WHO ARE VICTIMS OF CRIME

The Office agrees that electronic monitoring instead of imprisonment of convicts, as proposed in a White Paper^{xlv}, should not apply for crimes against children even if these are minor.

CHILDREN IN CONFLICT WITH THE LAW

In its feedback on a draft Recommendation by the Council of Europe Committee on Counter-Terrorism on measures aimed at protecting children against radicalisation for the purpose of terrorism, the Office underlined the importance of listening to children whose social exclusion puts them at risk of radicalisation.

In comments to the press on why the Children's House was not yet operational, the Office said that regulations governing the use of this child-friendly structure where minors can testify in criminal proceedings were being drawn up^{xlvi}. The Office was informed that Juvenile Court sittings were being held not at the officially designated venue in St Venera^{xlvii}, but at the main building of the courts of justice in Valletta. The Office calls on the Minister for Justice to ensure that until such time as the Children's House is up and running, all Juvenile Court sittings should take place away from the main courts in Valletta in order to render the experience of children in the justice system less intimidating and stigmatising.

Amendments passed by Parliament to the Juvenile Court Act have addressed two long-standing concerns of the Office regarding the jurisdiction of the Juvenile Court. Thanks to the 2021 amendments, cases involving minors of 17 years of age are now being heard before the Juvenile Court, thus meeting one of the urgent recommendations the Office made in relation to unaccompanied minor asylum seekers (UMAS). The amended Juvenile Court Act grants the Juvenile Court the power to decide whether to hear criminal cases where one or more of the two or more co-accused persons is/are (a) minor(s), and to separate the proceedings so that the minor in the case is tried before the Juvenile Court.

Sitting down for an interview with the People for Change Foundation that was conducted in the context of a research project with the EU's Fundamental Rights Agency, the Commissioner gave her take on the procedural safeguards that are or should be in place in Malta's legal and judicial system to guarantee the rights of children who are suspects or accused persons in criminal proceedings. The Commissioner wrote to the Police Commissioner to ensure that the rights of a 14-year-old who was accused of stabbing two individuals were respected and protected. In comments to the press^{xlviii}, the Commissioner also called on the Government to invest in a stronger juvenile justice system with more specialised services. This call was echoed by ENYA, who called for better support services at school, through health care and local communities for children who commit violence.

Where children are the offenders, the Office believes that electronic monitoring instead of imprisonment, as proposed in a White Paper^{xlix}, would be too invasive and that other alternatives to detention, such as restorative justice measures, should be pursued. The Office calls on the Government to prioritise work towards the full implementation of

Malta's juvenile justice framework so that children who break the law can benefit from a more child-friendly model of justice.

The Commissioner participated in two transnational workshops that were organised as part of the CADRE project. Through these workshops, the Commissioner gained a better understanding of child-friendly and child-rights-based alternatives to administrative detention for irregular migrant children and the avenues available for children to challenge the decision or the placement itself.

CHILDREN OF PERSONS IN CONFLICT WITH THE LAW

The Office published a press statement in which it said that the sentencing of two Turkish women with children to a jail term for travelling with forged documents was in breach of Article 9 of the UN Convention on the Rights of the Child, which clearly states that children should not be separated from their parents. The Office also said that other forms of sentencing, that would not require the children to be separated from their mothers, could and should have been explored. The Office again quoted Article 9 of the Convention when calling on the authorities to ensure that the children maintained personal relations as well as private, direct and meaningful contact with their parents.

The Commissioner reiterated these points in a missive to the Chief Justice where she also stressed the fact that the children were particularly vulnerable as they had no family ties in Malta other than with their mothers, and that without their mothers' protection in Malta the children faced linguistic and cultural barriers. The Commissioner called on the Chief Justice to sensitise all magistrates and judges to the needs, vulnerabilities and rights of children by providing appropriate training.

CHILDREN INVOLVED IN CIVIL PROCEEDINGS

The Office calls for amendments to the Civil Code so that the child's right to be heard is no longer at the discretion of the Court but at the discretion of the child him/herself. This would allow children to ask, through a child advocate who should be automatically appointed by the Court to represent their best interests, to be heard.

RIGHT TO PROTECTION FROM ABDUCTION AND OTHER FORMS OF SLAVERY

CHILD ABDUCTION

The Office welcomes the amendment to the Criminal Code that makes the act of removing or retaining a child outside Malta in breach of a care order or a court order punishable with a jail term of between 13 months and 3 years¹. The Office hopes that this will not only bring justice to cases of parental child abduction but will also spare the children the trauma of being abducted.

A conference organised by Save the Children and attended by the Commissioner and the Support Officer saw young people who had been victims of international child abduction present the results of research into what they thought was child-friendly and child-sensitive practice by the professionals who were involved in their abduction process. These findings were fed into a good practice guide for professionals working in the field of international child abduction and to a group of such professionals that formed the panel for the conference.

The Office calls for technologies that track children's whereabouts^{li} to be used with discretion to ensure that they do not violate the right of children to their privacy, even from their parents or guardians. It is important to ensure that all those who have children in their care in the course of their work are aware of their legal and moral responsibility towards the children.

FORCED MARRIAGE

Parliament has so far failed to heed the Office's call to raise the legal age of marriage to 18. The Office reiterated this call as part of its feedback to Government on a questionnaire by the United Nations on 'Contemporary forms of slavery, including its causes and consequences', and raised the alarm on instances in Malta of children under 16 being promised for arranged marriages by their parents.

CONCLUSION

Starting from their birth cry, children develop their ability to make their voices heard as they grow. This does not mean that those who care for them are more attuned and receptive to their views. On the contrary, adults tend to be dismissive of what children think, leading children to lose confidence in and connection with themselves.

It is clear from this report that a lot is being done to give children back their right to make their voices heard by those who take decisions on their behalf. However, it is equally clear that much more needs to be done to mainstream child participation in the everyday lives of children so that they can make the most of the opportunity to express their views at select pivotal points in their lives, such as in court, in a healthcare setting, or at the polls.

It is especially true in the care and education of children. In care, we need to break away from a traditional paradigm of obedience that imposes parental authority on the child into a new paradigm of dialogue that fosters a positive and trusting relationship between the parent and the child. In education, there is the need to move away from a model of teaching that feeds children a stale diet of pre-packaged information towards a model that develops children's curiosity and cognition by constantly prompting them to think critically about what they are taught.

It is only in this way that children can realise their full potential as unique human beings. This is also the only way that as a country we can move forward and meet the formidable challenges that a rapidly and radically changing world is placing on our path.

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