

Report to the Oireachtas Joint Committee on Foreign Affairs and
Joint Committee on European Affairs

June 2008

Report to the Oireachtas Joint Committee on Foreign Affairs and
Joint Committee on European Affairs

June 2008

Published by Ombudsman for Children's Office

© Ombudsman for Children's Office

ISBN 978-1-907074-08-0

List of contents

1.	Introduction	(1-4)	4
2.	International Networks	(5-18)	5
3.	Council of Europe	(19-30)	8
4.	EU Activities	(31-35)	11
5.	UNICEF	(36-39)	12
6.	UN Committee on the Rights of the Child	(40-46)	13

1. Introduction

1. Section 7(f) of the Ombudsman for Children Act, 2002 provides that the Ombudsman shall exchange information and cooperate with the Ombudsman for Children (by whatever name called) of other States and Section 13(7) of the 2002 Act further provides that the Ombudsman for Children may from time to time cause to be laid before the Oireachtas, such reports with respect to functions of her Office as she thinks fit.
2. As an independent statutory body, my Office is accountable to and has a direct reporting relationship with the Oireachtas. In addition to my annual reports, I have submitted reports on specific issues to Oireachtas Committees such as the Joint Committee on Health and Children, the Joint Committee on Child Protection and the Joint Committee on Education and Science.
3. This report has been prepared in accordance with Section 13(7) of the 2002 Act to inform the Oireachtas, through the Joint Committee on Foreign Affairs and the Joint Committee on European Affairs, of my activities under Section 7(f) of the Act. It outlines my Office's interaction with international networks and organisations working in the field of children's rights and highlights a number of developments that may be of interest to Committee members.
4. Although the annual reports on the work of my Office laid before the Oireachtas make reference to this function, I felt that it would be useful to give a more detailed description of my activities in this area and also to submit this report directly to the Oireachtas Committees most relevant to the issues discussed.

2. International Networks

5. The number of independent human rights institutions for children worldwide has multiplied over the last 10 years. The key role played by such institutions in the implementation of the UN Convention on the Rights of the Child (CRC) has been recognised by the United Nations for over a decade. Support was given to the establishment of such bodies in: the Vienna Declaration and Programme of Action of the World Conference on Human Rights (1993); the Paris Principles on national institutions for the promotion and protection of human rights adopted by the UN General Assembly (1993); the UN Special Session on Children (2002); and the mid-term review of UN Special Session which took place in December last year. Moreover, the UN Committee on the Rights of the Child has expressly recommended the establishment of such organisations. At present, there are independent children's rights institutions in over 40 countries around the world.
6. The institutions have different names – most commonly Ombudsman or Commissioner for Children – but they all share a common purpose which is to promote the effective implementation of the UN Convention on the Rights of the Child. When these institutions come together, they can share learning and best practice with a view to making them more effective in seeking to advance the rights of children and young people.
7. My Office plays an active role in a number of such networks, as outlined below.

ENOC

8. The European Network of Ombudspersons for Children (ENOC) brings together independent offices which have been established in Council of Europe member states to promote the rights of the child. I was elected by the members of ENOC to be the Chairperson of the Network for the period September 2008 – September 2009.
9. ENOC was established in 1997 by the then 10 Ombudspersons for Children in Europe and its membership has since grown to 34 members from 24 States. The revised statutes of the Network were adopted in Dublin in 2006.

10. The role of the network is to facilitate the promotion and protection of children's rights, as formulated in the UN Convention on the Rights of the Child, across Europe. Its objectives include facilitating information exchange between members and other regional groups and supporting the development of new children's rights institutions.
11. In addition to providing a forum for the exchange of best practice, information and expertise, ENOC undertakes international level initiatives aimed at promoting the full implementation of the UN Convention on the Rights of the Child. These include active support for the establishment of a UN Special Representative on Violence Against Children and activities aimed at promoting the speedy implementation of the new UN Convention on the Rights of Persons with Disabilities. ENOC produces joint position papers on a wide variety of issues which have in the past included violence against children, juvenile justice and separated children seeking asylum.
12. The Network's annual conference will be hosted by my Office in Dublin Castle in September of this year. The conference will be opened by President Mary McAleese and addressed by high level representatives from both the Council of Europe and the UN Committee on the Rights of the Child. The theme for the event will be the implementation of the UN Convention on the Rights of the Child, with a focus on learning about effective strategies used by members in their respective jurisdictions to encourage compliance with the Convention.
13. ENOC also participates in a range of international fora and its status is recognised by the Council of Europe, EU and UN agencies. In my capacity as Chairperson of the Network, one of my tasks is to represent the Network at fora such as those mentioned above.

Global Network

14. My Office has been active in efforts to establish a global network of independent human rights institutions for children. The first global meeting of such institutions took place in May 2002 at the time of the UN Special Session on Children. I addressed the second meeting of the group during the mid-term review of the UN Special Session which took place in December 2007. On both occasions, the institutions present and regional bodies to which they belong called on states to implement the recommendations contained in the outcome document of the UN Special Session entitled "A World Fit for Children" and to respect their obligations under the UN Convention on the Rights of the Child.
15. UNICEF is keen to support networking between human rights institutions for children at the global level and, following on from these two successful meetings, wants to assist in the establishment of a more formal network. It is envisaged that the network will bring together existing regional bodies such as ENOC.

BINOCC

16. The British and Irish Network of Ombudsmen and Children's Commissioners (BINOCC) brings together the Ombudsman for Children's Office in Ireland with the four Commissioners for Children and Young People in the United Kingdom.
17. BINOCC was established in August 2005 and the Ombudsman and Commissioners meet a number of times every year to share information and promote good practice in advancing the rights of children and young people. The members of BINOCC also work together on collaborative projects when suitable issues or areas are identified.
18. Given the commonality of issues arising in the UK and Ireland, the network is a very useful forum for the exchange of best practice, knowledge and information on new UK initiatives which may be considered in the Irish context.

3. Council of Europe

Transversal Children's Rights Programme

19. The Council of Europe has undertaken a three year programme on children's rights entitled "Building a Europe for and with Children" on foot of a decision made at the Third Summit of Heads of State and Government of the Council of Europe (Warsaw 2005).
20. The programme's main objective is to help all decision makers and stakeholders concerned to design and implement national strategies for the protection of children's rights and the prevention of violence against children. It is one of the Council of Europe's transversal projects which means that the programme relies on the pooled resources of both the relevant Council of Europe bodies and institutions and its outside partners to obtain sustainable results. The thematic areas covered by the programme include the social, legal, educational and health dimensions relevant to vindicating children's rights and protecting children from various forms of violence.
21. As part of this programme, I have been invited by the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, to deliver the keynote address at a Council of Europe conference in Stockholm on 10 September 2008 on the theme of the best interests of the child.

Commissioner for Human Rights Country Visit

22. In November 2007, Commissioner Hammarberg conducted a country visit to Ireland and his report was published on 30 April 2008.
23. During the course of his visit, I met with Commissioner Hammarberg and outlined some of the OCO's principal concerns regarding children's rights in Ireland, including the need for a constitutional amendment on the rights of the child. Commissioner Hammarberg supported calls to strengthen the protection of children's rights in the Constitution both in his country report and in a letter to me which was appended to my submission to the Oireachtas Committee on the Constitutional Amendment on Children of February 2008.

Committee on the Prevention of Torture (CPT)

24. The Council of Europe Committee on the Prevention of Torture undertook its most recent country visit to Ireland in 2006 and published its report on 10 October 2007.
25. I expressed a number of concerns to the CPT regarding the detention of young people in St Patrick's Institution and in particular the fact that the investigatory mandate of my Office does not extend to St Patrick's Institution. These concerns were echoed in the final report of the CPT and I visited St Patrick's Institution on foot of the publication of that report.

European Social Charter

26. The European Committee on Social Rights monitors the implementation of the European Social Charter and also has the power to examine complaints regarding violations of the rights set out in the Charter.
27. Ireland was found to be in violation of Article 17 of the Charter (children's right to social, economic and legal protection) on 8 December 2004 because it did not have a complete ban on corporal punishment in place. Following that decision by the European Committee on Social Rights, I issued a statement calling on the Government to ensure compliance with the Committee's ruling.
28. It should also be noted that the European Convention on Human Rights was given further effect in Irish law with the passing of the European Convention on Human Rights Act, 2003 and that the Act requires all organs of State to carry out their functions in a manner that is compatible with the State's obligations under the Convention.

Interaction with ENOC

29. In my capacity as incoming Chairperson of ENOC, I also attended a meeting in February 2008 in Strasbourg with other members of ENOC and representatives of the Council of Europe to discuss the interaction between the Council and national human rights institutions.
30. ENOC has applied for consultative status with the Council of Europe and the Council has also agreed to provide office space for secretarial staff to support the Network.

4. EU Activities

31. As Chair of ENOC, my Office has an important role in engaging with the new institutions being developed to promote the rights of the child at European level.
32. The European Commission adopted a Communication entitled Towards an EU Strategy on the Rights of the Child on 4 July 2006 in order to establish a comprehensive EU strategy to effectively promote and safeguard the rights of the child in the European Union's internal and external policies and to support Member States' efforts in this field.
33. The European Forum on the Rights of the Child was launched following the adoption of that Communication. The role of the Forum is to advise and assist the Commission and other European Institutions, in particular as regards mainstreaming of children's rights, and exchange information and good practice. I am a member of the Forum and of the Steering Group on the Forum in my capacity as incoming Chairperson of ENOC. I attended the first meeting of the Forum in Berlin in June 2007 and the meeting of the Steering Group in April 2008.
34. More generally, children's issues have been accorded a higher priority in the work of the European Union over the last number of years as evidenced by European Parliament Resolution 2007/2093(INI) on the EU Strategy on the rights of the child, the identification of children's rights as a priority area for the European Commission in its strategic objectives 2005-2009, and the European Council's Conclusions of March 2006 on child poverty. It should be noted that the Charter of Fundamental Rights also includes specific provisions relating to the rights of the child.
35. In addition, the issue of children's rights was chosen as one of the principal areas of work in the first Multi-Annual Framework of the newly established EU Fundamental Rights Agency on 28 February 2008 by the Justice and Home Affairs Council of the European Union, on the proposal of the European Commission and after consulting with the European Parliament.

5. UNICEF

36. I visited Turkey in April 2008 at the request of UNICEF and the Turkish Bar Council to raise awareness of children's rights issues and to encourage the Turkish Parliament to consider the establishment of a national children's rights institution in Turkey. I also addressed a conference which dealt with both of these themes.
37. During the course of my visit, I outlined the process which led to the establishment of the Ombudsman for Children's Office in Ireland, its functions and its activities to date. I met with young people from orphanages and institutional settings, Ministers of Government, parliamentarians, representatives of NGOs, and the Deputy Head of the Irish Mission in Ankara.
38. Although there were some commonalities between the children's issues raised in Turkey and Ireland (such as having your voice heard, play, education, and children in care), the context is clearly very different in both countries, as is the scale of the human rights challenges faced. The particular difficulties which became apparent during my visit included the relative weakness of civil society and the lack of a meaningful relationship between Turkish NGOs and the Parliament.
39. UNICEF also organised a meeting I attended regarding the proposed EU Guidelines on the rights of the child in Florence in July 2007.

6. UN Committee on the Rights of the Child

40. My Office has had the opportunity to engage directly with the UN Committee on the Rights of the Child over the last number of years in relation to the implementation of the UN Convention on the Rights of the Child in Ireland.
41. Ireland ratified the UN Convention on the Rights of the Child on 28 September 1992 and under the terms of the Convention, the State is obliged to report periodically on measures taken to implement the provisions of the Convention in Ireland.
42. The UN Committee on the Rights of the Child – the body charged with the examination of State Party reports under the Convention – seeks the assistance of national human rights institutions and NGOs working in the field of children’s rights when preparing for its periodic examination of reports submitted by States Parties. In order to aid the Committee in its work, such organisations prepare shadow reports outlining their principal concerns regarding the implementation of the CRC in a given jurisdiction.
43. This Office had an active role in this process prior to the examination of Ireland’s most recent report in September 2006. In addition to preparing an independent report to the Committee, I invited two members of the UN Committee to Ireland a number of months before the State Party examination. During their visit they met with representatives of statutory bodies, NGOs and with young people themselves to gain a fuller understanding of the issues contained in Ireland’s report. My Office was also represented at a pre-sessional meeting with the UN Committee to discuss in greater detail the contents of the shadow report.
44. A similar process took place prior to the examination of Ireland’s initial report under the Optional Protocol to the CRC on the involvement of children in armed conflict, which was examined on 23 January 2008.
45. This Office continues to monitor the State’s compliance with the Convention and in particular the recommendations made by the UN Committee (known as Concluding Observations) to improve the implementation of the provisions of the CRC. My Office will undertake more detailed follow-up work focused on the Concluding Observations at the mid-term point between the previous reporting cycle and the next one.

46. In addition, ENOC is advocating for the adoption of a new Optional Protocol to the CRC which would give the UN Committee on the Rights of the Child the competence to hear complaints regarding violations of the Convention.

