

Peer review on Children's rights in Croatia

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Introductory remarks

For the first time in the accession process of new member states to the EU, a peer review mission on children's rights was conducted in Croatia.

As children's rights touch on every possible life aspect of children and young people, it was not possible to make an exhaustive review on all children's rights issues. The outlined focus was on children's rights in institutions and educational settings, with specific attention for the violence problem.

Within the given time, only the Zagreb area was visited, so the given remarks cannot always be automatically transferred to all other institutions in the country. It is therefore important to also consider other relevant reports, such as the comments of the UN Committee on the Rights of the Child¹, the reports of the CPT², of the Children's Ombudsman³ and other relevant documents.

The whole working visit was prepared and programmed by the services of the Ministry of Justice. They did an excellent job on giving us an insight on both the policymaking level and the fieldwork, which resulted in an interesting and revealing combination of interviews with relevant actors and an opportunity to get an introduction to the formulated policies as well as the efforts done in practice. The writer of this report explicitly wants to thank all the people involved, both from the Croatian government as from the EU, in making this visit possible.

Visited ministries, NGO's and organisations

- The Ministry of Family, Veterans' Affairs and Intergenerational Solidarity (Directorate for Family)
- The Ministry of Health and Social Care (Social Care directorate)
- The Ministry of Science, Education and Sports
- The ombudsman for Children
- The Ombudsman for Persons with Disabilities
- The Social Welfare Centre of Dubrava (Zagreb municipality)
- Juvenile Court

¹ For the most recent comments, 2004, see <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/442/92/PDF/G0444292.pdf?OpenElement>

² E.g. Turopolje, <http://www.cpt.coe.int/documents/hrv/2001-04-inf-eng.pdf>

³ All annual reports, as well as some English summaries can be found on www.dijete.hr

- F.K. Frankopan primary school
- Gornja Bistra clinic
- The Policlinica for child protection and the telephone helpline ('Brave telephone', Hrabri telefon)
- The Nazorova home for children without adequate parental care
- The Slava Raskaj centre for education and care
- The reformatory for juveniles in Turopolje

We also had brief meetings with Unicef and some NGO's: Children First, A Small Step, Igra and the NGO network, the Coordination of Associations for Children.

General children's rights policies and legal framework

In the 2010 EU Progress report, the following brief paragraph is dedicated to the situation on children's rights in Croatia:

"There has been limited progress with children's rights. The Ombudsman for Children became more active in promoting and protecting children's rights, dealing with 2,217 new cases in 2009, predominantly on family violence and violence against children. Cases of violence in educational institutions continue to occur and are not properly addressed by the relevant authorities. Shortcomings in the judicial and social welfare systems, combined with the lack of programmes for prevention of violence, are continuing to have a negative impact on exercising children's rights. The Ombudsperson for Children lacks appropriate office space and staff to carry out its mandate. There was only a marginal budget increase in 2010.

There has been some progress on advancing the social inclusion of socially vulnerable groups and/or persons with disabilities. The capacity of the Office of the Ombudsman for Persons with Disabilities is being strengthened but needs to

continue, notably in view of extending representation in the regions. There is, however, a lack of information on social welfare, health care and pension insurance rights and entitlements. Criteria for establishment of entitlements are not equally applied and legislation regulating specific rights is fragmented. The transition from institutional care to community-based care services has progressed slowly. Public awareness of the rights of persons with disabilities remains low, especially in rural areas, and there are not enough campaigns against prejudice and stereotypes. Regulations ensuring physical access for persons with disabilities have been passed.

Children with developmental difficulties remain generally excluded from educational institutions. There is insufficient support in the form of access, transport and teaching assistants....".⁴

Another important source of children's rights information is the government's report (every 5 years) to the UN Committee on the Rights of the Child. Given the backlog in the work of this Committee, the 3rd and 4th Croatian report have been combined⁵, but these have not yet been reviewed by the Committee. Based on the given information in these state reports and on so-called shadow reports by NGO's and ombudsmen, the Committee formulates Concluding Observations, in which the most important points of concern and progress activities are mentioned. Unfortunately, the last observations date back to oct. 2004.

Based on the information gathered during the peer review and in the mentioned periodic report on children's rights, it becomes clear that the Croatian legislator has definitely worked hard in order to align national legislation with international standards such as the Convention of the Rights of the Child.⁶ Several new acts were drafted and voted on many issues affecting children and young people, such as: family law (violence, child support, divorce...), education, violence, discrimination, social welfare, juvenile justice, asylum, road safety, legal assistance, media, drug abuse, youth councils and many more.

The political awareness on children's rights seems to have increased and this is also translated in the many different policy plans, strategies and protocols that have been drafted. Just to name a few:

- The National Strategy of protection against Family Violence 2011-2016 and the rules of procedure
- National plan of Activities for the Rights and Interests of Children 2006-2012
- National Strategy of Prevention of Behavioural Disorders of Children and Youth 2009-2013
- National Youth program 2009-2013
- Joint memorandum on Social Inclusion of the republic of Croatia 2007

⁴ Croatia 2010 PROGRESS REPORT, accompanying the COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL, Enlargement Strategy and Main Challenges 2010-2011, EN (COM(2010) 660), p. 7. Further referred to as the Progress report.

⁵ The third and fourth periodic report under article 44, 1, b on the Convention of the Rights of the Child. Further referred to as the Periodic report on children's rights.

⁶ More information can be gathered out of the short reports sent in to the EU services by the ministries.

- Rules of procedure in cases of Violence among Children and Youth (2004) and in case of Family Violence (2005, amended in 2006)
- The National Pedagogical standards for Pre-school Education, Primary and Secondary school Education Systems (2008)
- The National Programme for Roma (2003)
- The Master plan of Deinstitutionalisation and Transformation of Social Welfare Institutions in the Republic of Croatia (2011-2018)
- The Standards of Quality of Social welfare Services (2008-2009)
- The rules of procedure in cases of violence among children and youth (2004).

It is however rather difficult to impossible to review the actual state of play of the implementation of all these plans and strategies. Given several remarks on the lack of funds and resources, careful review on this is advisable.⁷

Ministry of Family, Veteran's Affairs and Intergenerational Solidarity

The Ministry of Family, Veteran's Affairs and Intergenerational Solidarity has been very active in policymaking in the area of family and children's rights issues. As stated above several new laws, policy plans and strategies have been drafted which now need to be carefully implemented. As was said by the Ministry, changing a law can be fairly simple compared to changing organisations, guaranteeing the necessary budgets, investing in training, changing the mindset of both professionals and the general public.

High on the agenda are issues such as the fight against (domestic) violence, the long duration of divorce proceedings, decreasing the placement of children, developing a new system of family support services, establishing youth advisory centres.

New legislation on domestic violence is only one step that has been taken: sanctioning is only one possible reaction. More work needs to be done with the families, with the perpetrator and more support needs to be given to the victims. Campaigning work, based on Council of Europe initiatives, such as the campaign against corporal punishment⁸ or the one against sexual abuse⁹ ('One in five') need to change the current ideas on disciplining children and promote intolerance for violence in its worst forms.

Support for positive parenting needs to be further developed, in areas such as family allowances, improving working conditions of parents, early childhood education, early intervention programmes and positive methods of child rearing. The Ministry notices that families prosper better in areas where there are more supportive

⁷ During the visit, it was clear that the ministries are quite positive about the new legislation and policy plans, while ombudsmen and NGO's are a bit more sceptical as to the effects or the full implementation of these policies.

⁸ http://www.coe.int/t/dg3/children/corporalpunishment/default_en.asp

⁹ http://www.coe.int/t/DG3/children/1in5/default_en.asp

services: especially the situation of mothers seems to be a major factor in the wellbeing of all family members.

New legislation on positive parenting support is planned and about 19 new family support centres (with approximately 80 experts involved) have been established; more are needed all over the country. These centres need to work on an outreach base and they need to earn some trust, since Croatian families do not seem to contact the centres themselves. These centres are supposed to function as advisory centres for young parents, on the parent-child relationship etc.

Protecting the family unit seems to be a priority. Croatia has a (too?) low fertility rate, a low immigration rate, an ageing population and many young people emigrate.

These are challenges that require policies on the long term, including improving socio-economical living conditions (housing, family allowances, women at work...).

The strategies on family violence have proven to be effective: more experts were educated, there is a better cooperation between ministries, public awareness of the problem seems to have increased.

Ministry of Health and Social Care

The Ministry of Health and Social Care is responsible for the Social Welfare Centres all over Croatia and for both proactive and reactive work on children's rights issues.

The Social Welfare Centres are the front office to protect the rights and interest of children in cases of violence, divorce, lack of parental care, disability, social deprivation etc.

A new law on care (the 2008 Foster Care act, not completely executed as of yet) strengthens their competence whenever the safety of a child is in danger. Gradual measures are possible, depending on whether the parents are willing to cooperate or not. The Social Welfare Centres can give a warning to the parents, monitor the parental care, and give practical support, customised to the specific needs and situation of the family. If there is no result or cooperation they take the case to court with the suggestion of what measures are required (placement, foster care, adoption...) and the centres will also do the follow-up of the taken measures, as well as an annual review.

The new law prohibits placement in institutions for children under the age of 7 (see below)

A strong link is noted between families at risk and juvenile delinquency. The Social Welfare Centres have invested in an 'expert treatment' programme in cooperation with schools. In this programme, children in high-risk families are screened around the age of 8-9 and can participate, with the parents, in an education programme, building on social skills, non-violent communication etc. In general, the trend seems to be to involve parents more in the interventions and add their perspective to the 'professional view' on the case.

In cases of high-conflict divorce, both the social welfare and the legal system are involved. The problem is that it is the rights of the adults that are the main focus, not those of the children involved. Mediation in these cases is being developed as a new service and practised by specifically trained experts.

Besides the non-compulsory mediation, there is also a system of obligatory conciliation in every divorce proceeding where children and young people are involved. In this conciliation attempt, the Social Welfare Centre will draft a report for the court advising the court on issues like the custody of the child, child maintenance arrangements, the possible need for psychological intervention or other support measures and they do this assessment with a focus on the child's best interest. Here too, it should be noted that remarks were made on the very long duration of divorce procedures, which negatively affect the children.

From the annual summary of the Children's Ombudsman¹⁰: This year, we continued to encounter the huge problem of relinquishing personal responsibility and transferring blame to others. This is true of individuals: parents, teachers, social workers and other experts, and even children themselves. However, we are particularly concerned when institutions behave in this way. Complaints submitted to the Office of the Ombudsperson for Children in 2010 indicate that the system for protecting children's rights in Croatia is not functioning in a consistent, uniform manner, and is often inefficient. In addition, there are many problems in implementing current regulations and documents. Although children and families are a special concern of the state, we have noted that institutions, and the system as a whole, are unable to respond to some life situations, and for this reason, children are unable to exercise their rights. Violation of children's rights in the area of family relationship rights and the right to protection from violence are most painful for them, and it was precisely these violations that were the most numerous in 2010 too. In this respect, the nub of the problem seems to be the tardiness of institutions in issuing decisions and their inefficiency in implementing them and acknowledging their lack of power to act to prevent violence against children and to address manipulative behaviour on the part of parents. The lengthiness of court proceedings and tardy reactions to risk situations directly harm children's welfare, in terms of matters of vital importance, such as maintenance, living with parents, the right to have both parents present in their (children's) lives, the right to live within the family, and the right to protection from violence. The inefficiency of the system lends itself to the neglect of children's needs, ignoring decisions rendered and the manipulation of children's rights. General prevention does not work properly, and tolerating or failing to sanction parental neglect and emotional or psychological abuse of children by the state and society leads to children being unprotected, demonstrating the lack of power of these institutions.

¹⁰ For all annual reports and summaries, see www.dijete.hr

Ministry of Science, Education and Sports

The Ministry of education is responsible for with 5 groups in the education system:

- preschool education, which is not compulsory, (6 months to 7 years of age). There are about 700 kindergartens in 848 facilities, attended by 64% of all children in Croatia (152.632 in 2010-2011). Remarkable is the fact that already in kindergarten, work is being done with the children on human and children's rights issues, by means of play, creative work, role-playing.
- compulsory elementary school, (6-7 to 15 years of age). The law sets out the national curriculum for the 964 elementary schools¹¹ and currently some 346.350 students are enrolled.
- secondary school, not compulsory (15 to 18 years of age). About 165.000 students are in secondary education within the 430 schools. Unfortunately, this number seems to be decreasing. There is a drop-out rate of 9%.
- higher education and
- life long learning (the last 2 categories not covered in this report).

One of the aims of education in school institutions is to „educate students in accordance with the general values and the values of civilization, human rights and children's rights, enable them for a life in a multi cultural world, to respect differences and be tolerant, and for active and responsible participation in democratic development of the society.”¹²

The mentioned values and aims should be contained in the fundamental education and everyday school and social life. Teachers, educators and expert associates are obliged to act according to those values at all educational levels, fields and school subjects, school and extra curriculum activities.

A peculiar and positive aspect of Croatian education, is the presence of several support functions (some on bachelor level) in schools. School teams do not only consist of teachers but also of pedagogues, psychologists, nurses and ‘defektologs’, special need teachers.

Special or additional programmes are organised for children with special needs. Some can attend regular schools and follow an adapted programme or attend special classes, others enjoy home schooling and there is also a programme for hospitalised children.

From the annual summary of the Children's Ombudsman: Unsuitable, unethical acts on the part of individual kindergarten teachers, primary school teachers and principals are not recognised and sanctioned, which adds to the violation of children's rights, as well as the rights and reputations of other

¹¹ 843 schools offer the general programme, 1 school has a combination of the general and an international programme, 19 schools offer education for children with disabilities and 90 schools have an artistic programme.

¹² Act on Primary and Secondary Education (2008).

educational workers, who are dedicated in their work with children. Therefore we think it essential to issue licenses and conduct evaluations, along with strengthening the capacities of inspectional and educational monitoring services. Unfortunately, some children are still being educated in ramshackle school buildings, are forced to walk along major roads to get to school, do not have sports halls at school or lack basic teaching equipment, and in order to address these problems, state aid is vital. Many more children with developmental problems are being denied the right to integrated education within the regular education system, due to excessive numbers in kindergarten groups or classes, the unregulated positions of classroom assistants, or architectural, staffing or other obstacles. It is unacceptable for children to leave school due to these barriers, or for them to be separated from their families and sent to special institutions. Since the state has accepted and promotes the principle of equal opportunities and inclusion for children with developmental problems, in line with international conventions and national strategic and legal documents, the state must invest more effort in the consistent application of such regulations, as well as guarantee sufficient funding. In addition, it is necessary to ensure that services are provided in as even a way as possible, and that the number of experts needed to help children with developmental problems is increased, in all areas of Croatia.

The Ministry of Science, Education and Sports is trying to improve the Croatian educational system and the efficiency of education, and stop socially unacceptable behaviour. All types of violence in educational institutions are being systematically monitored and by implementing a number of measures, the consequences of violence should be rectified or eliminated.

Prevention projects for peer violence are set up in all primary and secondary schools and there are specific obligatory proceedings to be used for different types of unacceptable behaviour¹³. In these cases a support system is activated, including the family, Social Welfare Centres and if necessary the police, depending on the circumstances of the case. This way, students get the chance to continue their schooling while getting obligatory treatment (In most cases a measure of warning or serious warning is taken; exceptionally the student will be expelled.). Several schools are involved in other projects like the Unicef project “Stop the violence” or the Luka Ritz award for the promotion of tolerance and violence-free schools. Several actions have been taken on this issue: awareness raising, media campaigns, civic education programmes, support for students who are victims of violence, training of teachers. All schools have to develop their own prevention programme co-financed by the Ministry. 67 special ‘crisis teams’ of specialised consultants and mental health care professionals are appointed to support schools in cases of severe violence.

¹³ These programmes are linked to the above-mentioned National programme on measures of prevention of Violence and the National Youth programme and to e.g. the “Guidelines for Identification of Various Factors and Risky behaviour of Pupils, and their Monitoring and Elimination in the Educational System” (sept. 2011).

Violence in schools seems to be increasing (or better reported and documented?) and data on incidents have been collected annually from all schools. Special efforts are undertaken to change school culture by better support for human resources (strengthening school teams, adding experts...), new cultures of teaching focussing on positive values of tolerance and better communication as well as by investing in teacher's training. Next to all this, more work is done on the preventive side: development of a specific website for school teams with information on preventive action schemes, expert opinions, recommendations of the children's ombudsman etc. Meanwhile, the pedagogical inspection is competent to deal with cases of violence by teachers.

From the annual summary of the Children's Ombudsman: Due to the lack of preventive measures, peer violence has become a particularly serious problem in educational institutions, in which the staff are frequently unable to recognise the tell-tale signs on time, and in children's homes, where it flourishes due to inadequately structured educational work, insufficient differentiation between forms of treatment and a lack of co-ordination between intervention and children's needs.

Major players in the field of children's rights

The Ombudsman for Children

The Children's Ombudsman office was established in 2003, based on the Concluding Observations of the UN Committee on the Rights of the Child in response to Croatia's report on children's rights¹⁴. The office has the overall function to protect, promote and monitor children's rights in Croatia and does so in close cooperation with the relevant governmental departments, NGO's, academics and other relevant organisations.¹⁵

First only based in Zagreb, the office expanded with 3 regional offices throughout the country in 2007 (in Split, Osijek and Rijeka) in order to better serve all Croatia's children and young people and to become more accessible. The whole office is aimed at serving the interests of children and young people as good as possible, and is organised in a child friendly way, on the level of staff recruitment as well as in the design and furniture of the office spaces. At this moment, the Zagreb office has a staff of 19 (administrative staff and advisors) and 6 advisors are employed in the regional offices.

According to the law¹⁶, the independent ombudsman has several tasks and competences:

¹⁴ For more info see www.dijete.hr

¹⁵ Summaries of the annual reports can be found on <http://www.dijete.hr/en/reportsdoc/reports-of-the-ombudsman-for-children.html>

¹⁶ The law of may 29th 2003 on the Ombudsman for Children is considered to be a very good example, meeting most of the quality criteria as set in the ENOC standards (see www.ombudsnet.org)

- monitoring legislation on children's rights on its conformity with the Convention of the Rights of the Child,
- informing the general public, children and adults, on children's rights,
- receive and investigate complaints on children's rights violations (with a broad range of investigative powers¹⁷),
- making recommendations to the legislator,
- reporting cases of violence and abuse to the General Attorney.

The Ombudsman for Children reports to parliament in annual reports and, when deemed necessary, in special reports on certain issues.

Participation of children and young people has always been a major working point and since 2008, the Ombudsman also has an advisory board of young people. This consists of 25 children and young people between the age of 9-18.

Over the years, most complaints dealt with violence in all its forms and with problematic family relations (bad communication between parents and children, disputed divorces etc.). In the 2010 summary, for example, we can find the following areas of concern (not exhaustive):

- no significant decrease of violence against children and young people, even an increase in cases on violence in educational settings, and insufficient support services for victims,
- no sufficient recognition of the child's best interest by several competent bodies,
- regular tardiness and inefficiency of Social Welfare Centres and courts,
- lack of foster parents and long lasting institutional placement (average is 4 years!),
- shortage of premises and staff to allow preschool education for more children,
- occurrence of unethical and violent behaviour by educational staff, which remains unsanctioned,
- no systematic children's rights education,
- no adequate responses to juvenile delinquency, no pre-trial detention separated from adults, insufficient investment in alternative sanctions
- in general there is not enough monitoring on how well the many policy plans on children's rights are being implemented and there is not a high level of cooperation and coordination between the different competent bodies.

The Ombudsman for Children also has an advisory role towards parliament and government. However not all recommendations are always taken into consideration in the broad law-making process.

and in the General Comment nr. 2 of the Convention of the Rights of the Child Committee (<http://www2.ohchr.org/english/bodies/crc/comments.htm>)

¹⁷ The Croatian Ombudsman for Children receives complaints on children's rights violations and has extended powers to investigate these. All institutions and public services must cooperate with the ombudsman and have to answer to all requests; if not, the ombudsman can report this to the competent bodies or even the government.

In 2011, after many years of univocal governmental support, a new law was voted (Oct. 26th 2011) in order to merge all ombudsman offices (Children, Disabilities and Gender Equality) within the office of the People's Ombudsman¹⁸. Apparently, this gave rise to heated debate. Both Unicef Croatia and the coalition of children's rights NGO's are against this merger¹⁹. The Children's Ombudsman, as well as the Ombudsman for Persons with Disabilities are also against this merge. The timing of this initiative may be considered rather remarkable given the fact that the Children's Ombudsman was evaluated very positively only recently (2009)²⁰.

The main concerns on this merger are:

- There could very well be a negative effect on the independence of the specific ombudsmen and on their power to set their own agenda and govern their own budgets.
- Since the different ombudsmen may judge complaints in a different way, there is a possible conflict of jurisdiction or judgment on the merits of complaints. It is unclear whose judgment will have to prevail. Especially in cases of family conflict, the larger part of the complaints in the office of the Children's Ombudsman, the demands and the interests of parents can strongly differ if not conflict with those of the children. Judging the concrete content of each involved person's rights at stake can differ from the taken perspective.
- It is unclear how a specific budget for the specific ombudsmen will be guaranteed (Will the People's Ombudsman decide on how the budget will be divided and spent?)
- The Children's Ombudsman has invested quite a lot in the accessibility, the child friendly character and visibility of the office, as well as the child friendly working attitude of the staff. The question is whether this shall remain the case when the office is part of the larger People's Ombudsman office? Will children and young people still feel comfortable enough to contact their ombudsman? There is also the risk that the regional offices of the Ombudsman for Children will be transformed in more general offices, making them less accessible and welcoming to children and young people.
- On a more abstract level, the question could be raised what message such a merger can send out to the general public. Are children's rights no longer relevant enough to have a specific independent watchdog?
- As of yet, there is no view on how this merger will or could be practically arranged and what the practical consequences (staff, housing, agenda-setting...) will be for the different involved offices.

Some of the major arguments in favour of the merger are:

- The merger, as planned, would not entail a weaker position but, on the contrary, it can strengthen the specific ombudsmen's positions.

¹⁸ As this report focuses on children's rights, we focus on the Ombudsman for Children. However, the same comments on the merging of the ombudsoffices apply to the other ombudsmen as well.

¹⁹ A procedure at the Constitutional Court may be initiated to challenge this new law.

²⁰ See the report 'Evaluation of the institution of the ombudsperson for children' on www.dijete.hr

- The law contains better regulations on the appointment procedure and the criteria. It will no longer be the government who suggests the candidates, but the People's Ombudsman.
- The new rules on immunity give a better protection.
- There will be no change in the powers and mandate of the specific ombudsmen, who will work as deputies of the People's Ombudsman.
- On the international level the ombudsman's office will be able to represent itself (e.g. before the UN Committee on the Rights of the Child).
- The parliament will have to take the recommendations into account more than it is the case now.

The Ministry of Justice pointed out that this initiative is a good thing for all offices involved, but that this law may have had an unfortunate timing. At this point, it is unclear how the new government will proceed on this.

The EU Progress report noted that "The role and effectiveness of the People's Ombudsman is being increased. However staffing is still insufficient. Greater attention needs to be paid to the Ombudsman's recommendations to further enhance his role as an institutional counterweight defending the rights of citizens and combating maladministration." This does however, not imply that strengthening the office of the People's Ombudsman should be done through such a merging operation.

The Ombudsman for Persons with Disabilities

Although this ombudsman is not specifically working on children's rights as such, she also deals with children's rights for children and young people with disabilities.²¹

The main issues in the complaints here are: lack of access and support in mainstream schools, lack of permanent assistance where needed and accessibility problems on different levels (not only physically).

The UN Convention on the Rights of Persons with Disabilities came into force in 2007 but has not really been implemented as of yet.

Even though the law states that children with disabilities should get priority, there have been several complaints on explicit refusal of children to enter kindergarten. The ombudsman is trying to get more positive work done here by offering training and support to schools and learning them how to work with children with disabilities. The major aim is to evolve towards a general system of inclusive education, but this is difficult because of financial and organisational problems, as well as because of the different views on inclusive education. Prejudices seem to be alive and well. A major change of the mindset is needed just as much as supportive policies. The 2008 legislation on primary and secondary education opened the door for inclusion but the necessary bylaws have not yet been voted in 2011.

Improvement in the area of inclusive education or in family support is mostly depending on ad hoc projects, efforts by NGO's or self-organisation by parents. Also

²¹ In complaint procedures these children can choose to contact either the Ombudsman for Children or the one for People with Disabilities.

within the new policy of deinstitutionalisation, the Ombudsman for Persons with Disabilities is worried that many children with disabilities will remain in institutions by lack of support for the parents. Only some funding is available for so-called 'nursing' parents for severe cases of disability.

In this ombudsman office there is also a strong objection against the plans to merge all offices with the People's Ombudsman. They fear that the specific accessibility of the office will be lost and they are not at all convinced of the added value of such a merger.

Social Welfare Centre

The Social Welfare Centres play a major role in protecting the child's rights and best interests.²²

They intervene on several occasions of family problems or conflicts, such as high conflict divorce and the problematic consequences on the child, (suspicion of) child abuse, neglect, domestic violence of which children are both victim or witness, poverty, need for support...

The focus is always on the child and the centre will try to convince parents to pay more attention to the child's needs instead of their own.

The centre in Dubrava²³ (Zagreb area) notes that a new trend now is that they work more with the children than with the parents, in order to relieve stress from children. The actual treatment or therapy, when needed, is offered by other professionals and associated organisations. Trained psychologists will talk with the children, give the opportunity for children to express their views on the matter at stake.

In cases of divorce or family conflicts (the majority of the workload) the Social Welfare Centres will operate towards reconciliation and/or mediation, will look for solutions that do not harm the children, will work on preserving the child's right to keep in touch with both parents and try to avoid the child being manipulated by one parent against the other.

Cases of violence are either reported to the police (sexual violence), or the centre will intervene in the family by either working with the family or taking the child out of the family when this is necessary for the child's physical or emotional integrity or safety. Young children under 3 will preferably be placed with relatives or foster families. When a placement is needed, this should be for the shortest time possible and focused on the possible return to the family. When parents agree on the placement, no court decision is needed. The children cannot veto the placement but the centre will try to explain the reasons for the placement and how it will proceed concretely.

²² According to the Ministry, the centres have very extended competences and have about 130 intervention measures at their disposal.

²³ In this area for example, the centre has about 100 monitoring cases on a population of 100.000 a year.

When there is no agreement, the court will decide what measure needs to be taken in the child's best interest. These decisions are reviewed annually.

The centres have a broad mandate and can take measures of different nature, such as:

- material and/or financial support (allowances),
- warning parents and lead them towards pedagogically sound educational practice,
- parent education programmes,
- violence prevention in schools,
- monitoring parental care,
- home visits (also unannounced),
- recommendations to courts,
- follow-up on placement of children...

The primary task is to screen the situation and check which rights of the child could be violated. For example, according to the periodic report on children's rights²⁴, the number of warnings to parents has increased and several projects on positive parenting were organised in cooperation with Unicef.

The centres are informed on occurring problems by parents in need for support, by police, by schools, doctors or other services, but seldom directly by children or young people themselves.

Juvenile court²⁵

There is specific legislation on the Juvenile's Court and proceedings for young people in conflict with the law. In every of the 21 municipal courts there is a juvenile Court, dealing only with penal proceedings. Civil cases involving children are dealt with in special chambers of the municipal courts. The law provides in different categories of sanctions for different crimes and misdemeanours and the juvenile courts only deal with the more serious offences by minors; there is no separate court for misdemeanours.

The Minimum Age of Criminal responsibility in Croatia is 14. Under this age, children are referred to the Social Welfare Centres, while report on the facts is sent to the prosecutor's office. These centres offer an individualised approach and depending on the child's context and the seriousness of the case, they can decide to place the child or offer family support or therapy.

There is a split system for youngsters from 14 to 16 years old and those between 16 and 18.

²⁴ The periodic report on children's rights, par. 139-143.

²⁵ This information was provided by Mrs. Lana Peto Kujundzic, Judge for children and young people in the Zagreb county court. More general information on this issue, can be found in the periodic report on children's rights, par. 303-326.

Young people up to 16 cannot be sent to prison, but only to open or closed institutions for re-educative measures²⁶. Pre-trial detention can only last 1 month (with one extension of 1 month possible).

Juveniles between 16 and 18 can be sent to a special juvenile prison (1 for the whole of Croatia) for a maximum of 5 years for more severe crimes or accumulated offences. The detention time for these minors is set on half the terms that are in the law for adults. This rarely happens (1,5% of all judgments. At this moment 25 are imprisoned, of which 24 are over the age of 18). The juvenile judge is also in charge of supervision this detention sentence.

40% of the cases are dealt with and settled on prosecutor level with measures like warnings, apologizing, alternative sanctions or mediation with the victim.

60% is referred to juvenile court. Since Sept. 2011 a new law is being executed, with some improvements in the system.

For acts, leading up to 3 years of imprisonment, a state appointed lawyer is provided.

The investigation is now done by the prosecutor, like in adult criminal law, and no longer by the same juvenile judge who will do the sentencing. Half of these cases also end on the prosecutor's level whenever the juvenile agrees to some kind of alternative sentence (community service or other alternative measure)²⁷. Of all cases that do go to trial, about 80% ends in judgments of a non-institutional nature: prohibition orders, obligatory schooling programmes, counselling or therapy, anger management courses or psychological support. All of these measures are under close follow-up of the court. The other 20% result in either in institutional placement or detention in a reformatory for juveniles (disciplinary centres), but still with the possibility to continue schooling. Some juveniles are also allowed alternative detention schemes where they only spend nights or weekends in the centre. Both the institutions and the reformatory are not considered to be ideal places for juveniles: the young people live in rather bad conditions, they live in large groups of convicted peers, where they seem to learn more about crime from each other and accumulate bad behaviour.

The juvenile judge is supported by a social pedagogue, trained in criminal law and criminology, who prepares the case, talk with the juveniles and their parents and gives a recommendation to the judge.

Specific areas of improvement are a.o.: better and more systematic victim support, more training for judges, more resources for juvenile courts. The Council of Europe guidelines on child friendly justice²⁸ should be implemented as well. Some improvement has been made in the treatment of victims (video recorded testimony).

²⁶ In the experience of young people, all these interventions may be felt like detention, no matter what it is officially called. In prison systems however there is a cell regime and not really any re-educative programme available.

²⁷ The juvenile judge does agree that all these alternative measures have a possible risk of so-called 'net widening': juvenile being drawn into the system a lot quicker and for actions that would formerly would not have been prosecuted.

²⁸ See http://www.coe.int/t/dghl/standardsetting/childjustice/Guidelines%20on%20child-friendly%20justice%20and%20their%20explanatory%20memorandum%20_4_.pdf

From the annual summary of the Children's Ombudsman: Although we are concerned at the rise of violence in society, we are even more concerned by the attitude of adults towards young offenders, accompanied by a general desire for tough punishment. It is indisputable that young offenders should bear the consequences of their unacceptable behaviour, but we should not forget that they are still children, and they should not be punished as harshly as adult offenders. Young offenders who display violent behaviour are a product of society and its toleration of violence in all forms, therefore, along with appropriate punishment and reform efforts, the most effective form of suppressing all forms of socially unacceptable behaviour is through comprehensive prevention.

The tardiness of individual courts leads to a low level of effectiveness in the judicial system in cases dealing with children's rights. The protection of child victims and witnesses is insufficient and inefficient. It takes too long to pronounce sanctions on juvenile offenders, during court proceedings, in spite of the legal obligation to render swift decisions. We are also concerned by the lack of appropriate accommodation capacities for child detainees in preparatory proceedings, which should ensure they are held in separate facilities from adult offenders. The application of alternative measures and sanctions is inadequate, due to insufficient staffing and programme capacities, and the system for dealing with children once they leave the penal system is insufficiently developed.

NGO's²⁹

We had a short meeting with some NGO's working on children's rights and noted the following remarks and concerns:

- Efforts in favour of children's rights are being made by several ministries (new laws, policy plans...) but not all plans can be implemented enough.
- Cooperation with civil society is improving towards more mutual respect.
- There is a form of segregation of Serbian children in schools in the Vukovar area and separate schools are organised under the umbrella of 'freedom of education'.
- There is a lack of health education, including education on sexuality and relations.
- There is no systemic civic education or children's rights education. It is mostly depending on some teachers, ad hoc projects or activities.
- Not all children can attend kindergarten or preschool programmes. This is not compulsory education and only 58% of young children attend.
- The decade for Roma put the Roma on the agenda but has certainly not solved all their problems. Education and social integration is still an issue for

²⁹ At the time of drafting this report, I had not received the NGO report on children's rights in Croatia for the Committee, which will provide overall information on certain problematic issues. The Committee values these so-called shadow-reports and can also use the provided information when questioning the member state on the progress, or lack thereof, in children's rights policies. These reports usually are a rich source of information.

Roma children. Roma children are overrepresented in youth care and institutions and underrepresented in early childhood education.

- In family conflicts, the best interest of the child is not at the centre of attention: court proceedings last way too long, there are problems with child allowance payments and many discussions on custody issues without specific support for the children involved,
- There are several violence prevention programmes but there is no monitoring on the implementation of these programmes.

We also visited the NGO IGRA, which works with young people coming out of residential care. These are very vulnerable young adults who can turn to Igra to improve their network and their work attitudes, work on their life skills or get counselling.

From the annual summary of the Children's Ombudsman: In this time of economic crisis, the need for greater involvement in achieving measures and programmes aimed at socially vulnerable persons has been stressed. Data on poverty in Croatia, as confirmed by the World Bank, show there is an increase in the proportion of children living in poverty, and this is detrimental to their chances of survival and development, as well as being an obstacle to their achieving their full potential....

The threat to the rights of children who are members of national minorities is often connected with a lack of understanding and tolerance, which indicates the need for systematic democratic citizenship education, which would develop a culture of human rights and life in a multicultural society. Adults must be more responsible in providing positive examples to children, in terms of accepting and respecting differences.

Children in institutions³⁰

Several Acts and policy plans deal with children in institutions: the Family Act, the Social Welfare Act, the Juvenile Courts Act, in which the motivations, procedures and competent bodies in these cases are defined. A major role is given to the Social Welfare Centres that have extended and discretionary powers in deciding whether or not to place a child outside the family or advice such a placement to the court. The aims of the placement, as well as the regime during placement depend on both the placement decision, either by the Social Welfare Centre or the court, and the type of institution.

Croatia has institutions for children without (adequate) parental care, for children with developmental problems or disabilities and for children with behavioural problems³¹. Next to the residential care, there is also foster care.

³⁰ Information on this issue was not only gathered during the visits, but also in a report from the children's ombudsman that was submitted within the framework of a survey by ENOC (the European network of Ombudspersons for Children) on children's rights in institutions. For info on ENOC, see www.ombudsnet.org

³¹ Placement in the context of juvenile delinquency is described under 'children and justice'.

A multidisciplinary team at the Social Welfare Centre assesses the situation and the needs of the child, preferably in cooperation with the child and the parents, looking for the most appropriate type of placement. The Children's Ombudsman however, notes that 'due to the lack of capacity in certain institutions, or the lack of an appropriate form of placement, it often happens that children are placed in inappropriate institutions' (e.g. children with mental problems are placed in institutions for children without parental care, where the staff is insufficiently trained and prepared to care for these children). As a good practice the Children's Ombudsman mentions the so-called 'halfway houses' where young people, between 16 and 18 years old, can prepare for more independent living, while still enjoying the support from the institution's staff. She also praised the opportunities and access to free time activities and leisure. Furthermore, the Children's Ombudsman is concerned about the lack of preventive work, the lack of real and authentic participation of children and young people in the homes and the insufficient periodic review of placement decisions.

Important to notice is the Master plan for the Deinstitutionalisation and Transformation of Social Welfare Institutions (2011-2018) of the Ministry of Health and Social Welfare. The plan contains specific operational goals, aimed at reducing the amount of children in residential care settings in favour of more family-based placement, either by family preservation or reunification or by an increased use of foster care.

The periodic report on children's rights³² states that the ratio of institutional and extra-institutional placement is now 40-60% and that the placement in homes has been decreasing lately. (The plan is to move to a 19-81% ratio by 2016.)

The plan also contains the principle that children under 7 should no longer be placed in institutions, but an elaborated plan for foster care (with professional screening of foster families, with flexible forms of foster care...) seems to be lacking at the moment.³³

According to the Ministry of Health and Social Welfare foster parents are screened by the Social Welfare Centre and get several training sessions on the concept of foster care. More specialised training and more specific skills would be required for people who would foster a child with a disability, a severe trauma (of abuse and other violence) or specific behavioural problems. Different kinds of foster care (such as foster care combined with residential care or with weekend stays at home, crisis accommodation...) would become possible as well.

Campaigns are planned to find more foster families and are targeted at a younger, urban, higher educated families to become interested in fostering a child, since it has been mostly older people in the more rural areas who have been foster parents until now. A review of the subsidy system for foster care is also in the making.

Regarding children with (mental) disabilities it is noted that they often remain in institutions for too long, basically because their parents cannot take care of them or

³² The periodic report on children's rights, par. 153-158.

³³ This remark was made by the director of the Croatian Unicef office.

cannot offer the adequate education. (We have seen several of these severely disabled children in the hospital in Gornja Bistra.) New policies in this area will be aimed at better support for families, with support by a caretaker at home, and at a review of educational programmes, in order to allow more of these children to remain with their parents.

Gornja Bistra

The visit to the hospital for the chronically ill in Gornja Bistra was rather confrontational. The hospital takes care of children and young people with very severe disabilities. Their parents can either not take care of them appropriately or have left them there and never visit them again. The programme is merely focused on medical treatment and it is thanks to volunteer work that the children can enjoy some kind of entertainment, play and music. Some children are confined to stay in bed 24 hours a day, are tube fed and do not seem to enjoy much quality of life. The question is whether there is room for improvement towards a more inclusive approach for these children? Some 'defektologs' seem to be convinced that a lot more progress could be made with some of these children, if only the merely medical approach could be turned around.

Residential institution Nazorova

This institution looks after children without (adequate) parental care and is part of a group of 4 homes in the Zagreb area as well as some apartments for young adults for independent living.

Approximately 70 young children from different age groups, as well as 9 teenage mothers have found a temporary home here after referral by the Social Welfare Centre (or by the court). In spite of the deinstitutionalisation plan aimed at keeping all children under 7 out of institutional care, most children here are under the age of 7. Many of them stay here for a year or longer. Almost half of them will be adopted or move to foster care. About 40% will go back home after careful assessment by the Social Welfare Centre. Most children in this institution arrived in this home directly after birth, either because their mothers planned to give them up for adoption or they don't seem to care about them. Not much effort seems to be done in order to change the mothers' mind, or give them the necessary support to keep their children. During the child's placement, little or no work is being done with the parents, most of which are said to be drug addicts, too promiscuous, with no decent housing or jobs. However, some parents do come to visit their child, sometimes even daily. Daily life is organised in small groups according to age.

According to family law, when a lack of parental care is established during 3 months, proceedings have to be started to remove parental authority, after which adoption will be possible. Usually, it is only the youngest children who will be adopted. Older children either return to their families or will enter foster care. (Not all foster families however can deal with the problematic backgrounds or trauma of the children.) It

seems that domestic adoption is considered to be good solution. However, even though the Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption (The Hague, may 29th 1993)³⁴ does not apply to domestic adoption and has not yet been ratified in Croatia, the practice of moving on to adoption too hastily goes against the principle of adoption only being an ultimatum remedium, as stated in the Convention of the Rights of the Child (art. 20). It is also not clear whether or how much effort is actually being made to restore family ties or to find a less intrusive and definitive solution. (Research on adoption, especially with adoptees, has shown that adoption may not always be the best solution in the long run.)

The staff is multidisciplinary: social workers, psychologists, doctors, pedagogues... In the future more work will be done to prevent placement and to move towards foster care (see above). The expertise of the institution will be transferred into professional support of foster families and screening of the living context of the involved children.

Centre for Care and Education Slava Raskaj

This centre has a long tradition of specialised care and education for children with impaired hearing and speech and sometimes also more multiple disorders. The multidisciplinary team helps children with communication and life skills through different programmes and services, such as: early intervention and screening, day nursery, general and special education, home visits, speech therapy, counselling, logotherapy, music therapy, artistic workshops, sports and other services. Most of the students are behind in language development but most of them have an average intelligence. The programme offered is as much individualised as possible aimed at a positive affective, social and educational development. Progress has been made in the framework of deinstitutionalisation and fewer children are remaining in school day and night. Since then, the cooperation with and the involvement of the parents have strongly increased. The institution prides itself on the many projects that they run: media campaigns, a fashion project, employment projects, travels with the students and so forth. These projects help the children to feel good, included and respected and it builds their self-esteem. Inclusive education for these children remains problematic because of the lack of individual support, but mainstreaming towards general schools is still the aim.

Children and the justice system

Additionally to what was said by the juvenile judge, the Ministry of Health and Social Care also mentioned a special programme for children at risk. A clear link has been

³⁴ http://www.hcch.net/index_en.php?act=conventions.text&cid=69

noticed between juvenile delinquency and families at risk. The Social Welfare Centres have been investing in a programme of 'expert treatment' in coordination with schools. From the age of 8-9 years, children that have been screened as 'at risk' are offered an educational programme focussing on the development of social skills and communication, parallel to working with the parents when they agree. This type of early intervention is beneficial for families and offers better chances for children.

The Ombudsman for Children stated that there is quite a gap between good legislation and practice. Although the Juvenile Act has been improved towards more conformity with the principles of the Convention of the Rights of the Child, implementation remains rather problematic. As in civil cases, the proceedings last too long. From a pedagogical perspective, punishment long after the committed offences has little or no real effect. There is also a lack of sufficient staff for effective treatment and support, real expertise is often only found in the cities, and the treatment is not always adapted well enough to the particular case or child.

The reformatory in Turopolje, way outside the city of Zagreb, is an institution for boys between the age of 14 and 21. (There is another facility like this for girls in Pozega.) These placements, ordered by the juvenile judge, have a minimum duration of six months and may be prolonged up to a total of three years. Every six months, the court must review the placement and decide on its continuation or possible replacement with another type of re-educational measure.

In spite of some basic refurbishments, these young people stay in very old buildings with rather basic living and sanitary infrastructure. There will be more reconstructions in the near future which will make it possible to have the boys live in smaller age-based living groups. The director mentioned that the age difference is too big, which negatively affects the younger boys. 4 to 8 boys share a room with little or no privacy and barely any place to keep their own belongings.

They get some schooling within the institution (cooking, welding: only vocational education) or they can continue schooling outside. In their free time, they can do what they want but there isn't that much to do. There doesn't really seem to be a cultural programme or sports and during the visit there was no sign of any books or magazines to read in the sleeping and living area. They do have TV and some of them, depending on their behaviour can get the privilege to leave the premises to go out.

Family visits are allowed, friends only exceptionally after permission.

Some of the boys we interviewed shortly, stated that they were well informed about their rights, that they can always talk to their advisor about their worries and troubles and that there is also some kind of representative for the group to discuss issues with the director and the staff.

In the first month after their arrival, a specific diagnose is set and an individual treatment programme is designed for every boy. There is a system of privileges (A-B-C) which they all know with clear consequences for good and bad behaviour.

The boys remain in this institution for a period ranging from 6 months up to 3 years: when they go in, they don't know how long they will have to stay. It all depends on their cooperation and good behaviour, on which reports are drafted periodically, for

the juvenile judge who then decides on their release or on another measure of re-education or detention. The average stay is about 1,5 year.

Back in 1998, the CPT visited the institution³⁵. Although this report is not a recent one, some remarks remain valid, as an addition to our very short visit:

- *“Section 92 of the LJC provides that in the course of carrying out a re-educational measure, minors must be treated with respect, their physical, moral and intellectual development encouraged and their physical and psychological health protected. The CPT welcomes this provision, as well as the commitment expressed by the director of the Turopolje institution to a policy of zero-tolerance of ill-treatment of residents by staff. It is also noteworthy that the establishment’s house rules (section 65) emphasise the responsibility of staff to “behave humanely, reasonably and lawfully towards the minors, so as to positively influence the minors’ personal development”.*
- *“From its observations during the visit, the delegation formed a generally positive impression of relations between staff and inmates at the Turopolje institution. Most residents evaluated their relations with treatment staff (the “re-educators”) favourably, and considered that custodial staff treated them “fairly”. Certain residents remarked that the attitudes of custodial staff towards them had improved in recent times. Nonetheless, information gathered by the delegation would suggest that a sustained level of vigilance is necessary. In particular, allegations were heard to the effect that certain members of the custodial staff were still prone to strike (punches, kicks or blows with batons) inmates who misbehaved in one way or another.”*
- *“In the interest of the prevention of ill-treatment, it is also essential that custodial staff at the Turopolje institution be carefully chosen (and, more specifically, be persons capable of guiding and motivating young people) and receive appropriate training. In this regard, the CPT was concerned to learn that custodial staff at the Turopolje institution had received the same training as prison staff working in establishments for adult offenders. The head of the custodial staff had apparently organised some in-house training and had allocated officers deemed more “suitable” to posts in the accommodation units; however, there was no systematic training geared to enabling custodial officers to meet the specific challenges of working with young inmates. The CPT recommends that this lacuna be remedied.”*
- *“... However, a lack of regular maintenance had taken its toll on the building. The dilapidation was especially apparent as regards the sanitary facilities, which were in a very poor state of repair and without exception unhygienic, thereby rendering the air in the otherwise well-ventilated premises rather foul. The director informed the delegation that he had sought approval for the refurbishment of the premises.” (As mentioned before, some improvement has been made in the sanitary blocks, but the building is still in a rather bad shape in 2011.)*
- *“Residents are obliged to attend classes at the elementary education level (provided they have not already completed them). In this connection, it should be noted that the school premises and teaching material at the Turopolje*

³⁵ http://www.cpt.coe.int/documents/hrv/2001-04-inf-eng.htm#_Toc511204019

institution were of a good standard. In addition, the establishment offered certain types of vocational training at the secondary school level; current programmes available were food preparation/service and welding.”

- *“The health care facilities were entirely satisfactory (new and well-equipped surgery) and access to appropriate medication was guaranteed. Further, the medical files (an individual file for each patient) and registers were well-kept.”*
- *“To sum up, inmates at the institution were able to maintain satisfactory contact with the outside world.”*
- *“Inmates who committed disciplinary offences could be subject to a variety of sanctions - warnings, confiscation of wages, restriction of privileges, and up to 7 days of solitary confinement. In this context, a number of inmates interviewed alleged that the latter sanction was often applied for offences of a minor nature. The credibility of this allegation was reinforced by statistics supplied by the institution, which indicated that considerable reliance was being placed upon the disciplinary sanction of solitary confinement..”* Unfortunately, during our visit this element was not discussed.
- *“Far from evincing a high degree of satisfaction among inmates, a near-complete absence of written complaints in a place of deprivation of liberty is almost certainly a sign that, for whatever reason, inmates lack confidence in the complaints procedures concerned. In fact, some minors at Turopolje expressed a reluctance to make written complaints due to a perceived risk of reprisals (e.g. the restriction of privileges). Further, several minors stated that they rarely came into contact with the director and did not regard the possibility to complain to him as being genuinely open to them. Since 2003 they can also complain with the children’s ombudsman (see below).*
- *“Further, the CPT was concerned to learn that, without exception, all outgoing correspondence - including letters addressed to the juvenile council - were subject to the control (i.e. read by) the re-educators.”*

Information of the Children’s Ombudsman shows that few complaints are made on this reformatory, about 2 or 3 per year. Some complain about the sentence (on which the ombudsman has no competence), some about bullying and physical abuse by the judicial police. When investigated the answer is that they are trying to work on the issue of peer violence or that they often don’t get the information because juveniles are afraid to report. The Ombudsman, after a visit in 2011, also reported on issues like the very poor living facilities, the lack of time structure and decent education as well as the lack of skilled staff.

It seems that the situation has not improved all that much sine 1989....

Children and education

After the information received at the ministry, we had the opportunity to visit an elementary school in Zagreb, F.K. Frankopan. Specific features of this school are a.o. the large degree of student participation, experimental classes according to the Montessori and Freinet principles and the mainstreaming of students with some minor disabilities. The principles of the Convention of the Rights of the Child are

turned into school reality: teachers get children's rights training, special events are organised on nov. 20th, Roma children are welcome as any other child.... The school has precisely defined house rules that are formulated, discussed and changed, if necessary, after democratic debate with both staff, parents and students, who all have their own council in school. Communication and mutual respect seem to be key words, not only on paper but also in daily practice. A lot of work has been done on the issue of (peer) violence (ethical code of conduct, positive sanctioning, consequent reactions, a 'trust' box...)

As was said before, this is of course just one example. On the issue of inclusion of Roma children and their access to education, other sources are somewhat less positive. Omer Fisher, Amnesty International's researcher on Bosnia and Herzegovina, Croatia and Slovenia stated that "The barriers Romani children face in accessing education deprive them of the chance of fulfilling their true potential and perpetuate the marginalisation of Romani communities," said. "Tackling these barriers to education is the responsibility of governments." And "poverty, discrimination in schools, and the lack of truly inclusive and multicultural curricula prevent Romani children in ... Croatia ... from enjoying their right to education. With other NGO's Amnesty concludes that access to schools for Roma children is partial at best.³⁶

The ECtHR has also rendered a judgment on this issue³⁷ and the EU Progress report comments along the same lines: "As for the Roma minority, improvements in education, particularly in pre-school education have been made. Some infrastructure improvements to Roma settlements have continued. Problems remain, however, with participation by the Roma community in the education system, even when specific programmes are available. Segregation persists in some schools. Progress towards ensuring Roma children complete primary and secondary education has been modest."³⁸

Children and violence

As in most countries, legislation on the prohibition of all sorts of violence is very clear and tolerance towards violence is firmly decreasing. However, reality shows that all

³⁶ <http://www.crin.org/resources/infoDetail.asp?ID=11245>. As an example: Sometimes, children are segregated into "Roma only" groups or classes and are offered a reduced curriculum. Negative stereotypes about the Roma's "way of life" or attitude towards education are often used to explain poor school attendance and grades. Teachers at Macinec primary school in Croatia used the following arguments in a court submission to explain their decision to segregate Romani children: "Romani parents are frequently alcoholics, their children are prone to stealing, cursing and fighting, and as soon as the teachers turn their backs things go missing, usually insignificant and useless objects, but the important thing is to steal".

³⁷ The case of Orsus and others against Croatia (15766/03, dd March 16th 2010) <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=CROATIA%20%7C%20discrimination%2C%20%7C%20segregation%2C%20%7C%20Romani%2C%20%7C%20children%2C%20%7C%20education&sessionid=83768972&skin=hudoc-en>

³⁸ PROGRESS REPORT, p. 14.

too many children and young people still suffer from abuse and neglect, both in and outside their homes. The problem of child abuse, in all its forms, seems hard to battle and almost impossible to completely get rid of, in spite of stronger legislation (such as the Penal Code, the Act on Protection against Family Violence and more specific rules of procedure in cases of Family Violence)³⁹.

In addition to the information on the many policy plans, we also had the opportunity to visit a very interesting good practice in Zagreb, the Poliklinika Za Zastitu Djece Grada Zagreba, a child protection centre, where children and young people can find support and therapy in cases of trauma and abuse. The centre also specialises in cooperation with police and the prosecutor's office and in videotaped testimony. It is the only centre of this type in Croatia and they receive children from all over the country as well as from neighbouring states. It started as a small NGO with the telephone hotline, the 'Hrabri Telefon' (Brave telephone) and grew into a large, multidisciplinary centre (psychologists, psychiatrists, lawyer, nurses, social workers...).

They provide very professional and research based work. The centre does not only offer the necessary therapy but also invested in video-interviewing abused children in the context of criminal proceedings. The child can work with the same professional and well-trained staff member, gain some trust, and will have to tell his story only once. At the same time, the defence party and the judge can follow the interview and ask more questions, so that the rights of the defence are as protected as the rights of the victim. This is a more child friendly way of dealing with traumatised children than what is usually the case.

The Croatian law contains a rule on obligatory reporting of abuse for all professionals. This can sometimes be problematic: children and young people may know that there is a risk of the family being broken up, they could feel guilty about that, they don't always fully trust the centre because they know they have to report cases to the prosecutor...It is often a thin line to walk, being both the therapist and the reporting party. In cases of less severe violence, the centre will first try to work with the dysfunctional family system before reporting.

Working closely with victims of violence on a daily basis, the centre has a good view on new forms of violence emerging, such as cyber-bullying, sexual abuse among children and young people, high conflict divorce, manipulation by parents (who can even manipulate the social workers: training is necessary to learn how to deal with this)....

The centre also offers training to judges, social workers, police, doctors so that their professional approach gets more and more multiplied.

The city of Zagreb provides extra funds to the centre for a whole range of media activities: campaigns on different types of violence, awareness raising and training.

³⁹ The periodic report on children's rights, par. 165-178.

The Poliklinika also keeps a very extended database, a.o. for scientific research. For every case they keep track of 187 variables so that the issue of violence can be researched in detail.

The 'Brave telephone' started in 1997 with some volunteers for 3 hours a week. It has now grown into a specialised hotline for abuse and neglect, receiving about 10-15 calls a day, toll-free and open from 9 am to 20 pm⁴⁰. It is still operated by volunteers but they are trained and supervised. The helpline is open for all kinds of questions so that stigma is avoided.

From the annual summary of the Children's ombudsman: There continues to be a lack of systematic, comprehensive, timely concern for families at risk. The experts in social welfare centres and judges who make decisions about parent/child relationships are insufficiently trained in the ever more complex tasks facing them, and are overburdened by increasing case numbers. The result is a lack of involvement by social welfare centres in terms of protecting children's best interests, and failure to observe deadlines in making decisions regarding children.

Late reactions within the system often make it more difficult to ensure that alternative forms of care are found for children without appropriate parental care, and this affects detrimentally the length of time they spend in institutions. Since the process of deinstitutionalisation is very slow, it is necessary to improve the quality of accommodation provided and the expert services available to children who are still in institutional care. However, the final goal must be to deinstitutionalise children, by developing a system of support for biological and foster parents, and a more generous support to the system of alternative care.

Corporal punishment is still widely accepted within the family and outside it, as an "educational method", in spite of the many arguments which indicate its harmfulness. By tolerating this and other forms of violence in society, children are being sent the message that it is acceptable, and the consequence is increasingly serious forms of violence among increasingly younger children.

The Internet and the use of mobile phones have opened the door to new forms of violence against children, and these are on the increase. Neither children, parents, nor experts have developed the knowledge and skills necessary to prevent such forms of violence. Among experts in the area of education, however, there is a growing awareness of the importance of preventing each and every form of abuse, including electronic abuse, but it is necessary to increase efforts in order to make the good programmes of prevention to take hold, and to suppress Internet abuse by the implementation of effective measures.

⁴⁰ The Brave Telephone is a member of Child Helpline International and meets their criteria. See <http://www.childhelplineinternational.org/en>.

Overall assessment and Recommendations

In general it must be said that the attention for children's rights has increased quite a bit on the political level, which shows in the many policy plans and strategies. It remains unclear however, what the actual level of execution is and how relevant professionals, parents, children and young people are aware and involved in this. A lot of work has been done on issues of violence, social care and education, even when these efforts aren't evenly spread across the whole country (rural areas seem to be left behind at times) or all categories of children and young people (Roma children, children in poverty still fall between the cracks).

It is recommended to provide strong follow-up and attention to the following issues:

- Implementing the many policy plans on time is as important as drafting them. The necessary efforts need to be done to train administrations and professionals on children's rights issues, that are relevant in their line of work and the necessary budgets need to be made available, also (or even more so?) in times of economical crisis.
- Consider the risks, and attempt to reduce or, better even avoid, these of the merge of the separate ombudsmen offices into one office, especially on the issue of accessibility, the possible loss of visibility and the possible risk of conflicting jurisdictions and outcome of complaint reviews, due to different criteria used (e.g. human rights of adults/parents and those of children and young people).
- Review of the tasks, working methods and necessary multidisciplinary staff and resources of the social welfare centres. As it is now, there is too big a workload, the staff has too many responsibilities, cannot guarantee enough follow-up of family conflicts and, in general has too much discretionary powers. Investment in training, intervention and supervision, included by the court, seems necessary.
- Invest in family preservation policies to avoid too frequent and possibly unnecessary placement of (even very young) children.
- Invest in more social services and family support in the more rural areas and remedy the lack of trained staff in some of these regions.
- Closely follow-up and monitor the implementation of the plan on deinstitutionalisation. Be aware for the risk of deprofessionalisation in the change from residential to foster care. Foster care needs at least the same level of scrutiny and monitoring.
- Review domestic adoption practices in favour of more prevention of family break-up and more support to (single) parents in order to enable them to care for their children. Adoption policies should be more in line with the principles of the Convention of the Rights of the Child and the Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption (The Hague, may 29th 1993), which should be ratified promptly.
- Review the organisation of juvenile courts (less courts but with a better support and more experts to cooperate with) and invest more in small scale institutions for juvenile delinquents where a more tailor-made treatment and programme (schooling and leisure time) could be offered.

- Urgently refurbish the correctional facility for juveniles in Turopolje.
- Raise violence by adults to the same level of policy attention that has been given to peer violence.
- Multiply good practices such as the Polyclinica all over the country.
- Invest in children's rights education for children and young people and for professionals, especially in the social and educational settings.
- Actively work against the segregation and discrimination of Roma children and work towards guaranteeing their rights as it is done for Croatian children.

From the annual summary of the Children's ombudsman: The solution for many of these weaknesses should be sought in the active inclusion of children as equal participants in all issues affecting them. Therefore, children should be given the opportunity of making their views heard on a regular basis, not just on special occasions. It is our task to make sure that that children's views are given as much weight as possible in all debates and decisions that relate to them.

Let us remind ourselves that children have rights, guaranteed by law, but that the responsibility for exercising these rights lies entirely with us, the adult population.