

European Network of Ombudspersons for Children

Position Statement on “*Strengthening Independent Children’s Rights Institutions and recognising their unique role*”

* Adopted by the ENOC 27th General Assembly, 21 September 2023, Brussels, Belgium

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PREAMBLE

This ENOC Position Statement 2023 comes from the need to emphasise the core principles¹ of Independent Children’s Rights Institutions (ICRIs), *inter alia*, Independence, Autonomy, Adequate powers and resources, Accessibility, Visibility, and Participation. Regardless of their form or structure², the statement aims to recognise ICRIs’ unique role as specialised institutions with the mandate to protect and promote the rights of all children.

In recent years, an increasing number of ICRIs in Europe have been under considerable pressure and faced challenges that risked compromising their mandate and mission. While ENOC has been providing guidance and assistance to its (44) members over its 26 years of existence, the responsibility to support and strengthen ICRIs, as primary watchdogs of children’s rights fulfilment, lies with states and international authorities.

Children are autonomous holders of rights, which states have a duty to respect, protect, and fulfil under the UN Convention on the Rights of the Child (CRC). Regardless of their specific status, they are first and foremost children, and must be protected as such in all aspects of life. It is imperative to recognise that they are in a constant state of development and are more susceptible to rights violations that impact both their present condition and long-term prospects. As a result, the best interest of the child must be the driving and primary concern in all laws, policies and decisions affecting children (Art. 3 CRC). Children are dependent on adults for their wellbeing and the fulfillment of their rights. Their views are often not heard and they are less able to defend their rights. Furthermore, children’s opinions and interests may differ from those of their caregivers, which can make their position even more vulnerable.

¹ Paris Principles, Venice Principles, UNCRC General Comment No 2, and other relevant international instruments.

² Ombudsperson for Children, Commissioner for Children, Children’s Rights Department/Unit or Deputy Ombudsperson for Children’s Rights within a broader NHRI or within a general Ombudsperson’s Office, etc.

In most countries children face considerable challenges in accessing effective complaints mechanisms, which further restricts their access to child-friendly remedies and quick redress when their rights are infringed. Children are the main users of some public services (education, care, etc.) but their limited political power can exclude them from public decision-making processes.

Recognising this contradiction and the specific status children hold, ENOC highlights the vital role of ICRI to protect, promote, and monitor children's rights, striving to ensure that States, including governments, fulfil their obligations under the CRC.

ICRI must be accessible to all children and proactively inform and raise awareness among children and young people about their rights. They must strive that all (groups of) children can express their views and that their opinions are taken into consideration and acted upon. ICRI's independence is a fundamental aspect that ensures the primacy of a child rights approach and children's best interest in their work. ICRI must be independent from Governments, and should be able to determine all aspects of their work, including the allocation of resources, policy and operational strategies, and others. Visibility, accessibility, and adequate resourcing are essential elements that guarantee the effectiveness of ICRI and their outreach to children and their advocates. By enhancing them, ICRI can effectively advocate for children's rights, increasing the likelihood of children's concerns being acknowledged and prioritised. Engaging with children is both a core element of ICRI's operation, and part of their mandate to promote children's meaningful participation.

This Position Statement is informed by the research *'Independent Children's Rights Institutions: current strategies, approaches and challenges in protecting and promoting Children's Rights'* and consultations with ENOC Members. It is also informed and enriched by the recommendations agreed upon by the European Network of Young Advisors (ENYA). It calls for the recognition and protection of ICRI by states and international actors, emphasising the shared commitment of ENOC members to collaborate, regardless of their diverse contexts, in protecting and promoting the rights and well-being of children.

Emphasising that States have a duty to take all necessary measures to implement the Convention on the Rights of the Child, including through the establishment of effective Independent Children's Rights Institutions (ICRI);

Emphasising that States have to guarantee children and their caregivers access to an ICRI;

Recognising that ICRI, diverse in structure and form, play a critical role in the national/regional implementation of the Convention on the Rights of the Child, with a range of powers to protect and promote children's rights and to hold authorities to account;

Affirming that ENOC is a strong voice for ICRI, committed to advocating for institutions that are independent, accessible, visible, engaging, and adequately resourced;

Supporting the realisation of all the provisions enshrined in the CRC, and especially of the following rights and general principles: the right to non-discrimination (Article 2), the right of children to have their best interests as a primary consideration (Article 3), the right to life, survival and development (Article 6), and the right of children to be heard and to have their views given due weight (Article 12).

We, ENOC members, urge international and European organisations, States, national and regional authorities to fulfil their obligations by implementing the following recommendations.

ENOC calls on the EU, the Council of Europe, the UN Committee on the Rights of the Child and other relevant European and international institutions to:

- Promote the establishment of Independent Children's Rights Institutions, ensuring they meet the minimum standards set out in the Paris Principles, Venice Principles and General Comment No 2 of the Committee on the Rights of the Child;
- Monitor that in countries where ICRI exist, and especially when they are part of a broader NHRI or a general Ombudsperson's Office, state authorities ensure adequate child-specific resources to increase the visibility of the ICRI and its capacity to effectively carry out its mandate;
- Periodically assess whether states provide the legislative basis and powers, the required technical, financial, human and other resources to ensure the effective fulfilment of the ICRI's mandate;
- Develop specific recommendations to states on the key role of ICRI in the independent monitoring of the implementation of children's rights standards, and on the need and the means to strengthen their role and effectiveness;
- Develop a child rights specific monitoring mechanism within the framework of the EU strategy on the rights of the child;
- As part of human and child rights treaty monitoring, systematically include specific and detailed recommendations to strengthen the mandate of ICRI, especially when

they are part of a broader NHRI or a general Ombudsperson's Office, ensuring the follow-up of recommendations during periodic review;

- Engage actively with ICRI in the human and children's rights treaty body monitoring process, paying extensive attention to their role and importance and giving ICRI visibility, weight and space, including a separate speaking quota, during the treaty body monitoring process.

ENOC calls on States, national, regional and all other relevant authorities to:

- Enshrine in national/regional law an ICRI with adequate powers and resources to effectively protect and promote the rights of all children under the CRC;
- Resource, develop and promote the independence and standing of existing ICRI, or the department/unit on children's rights within broader NHRI or an Ombudsperson's Office, by guaranteeing autonomy in budgetary, staffing, communication and strategy matters;
- Guarantee adequate resources to the ICRI to fulfil its mandate effectively, especially where the institution is part of a broader NHRI or a general Ombudsperson's Office;
- Ensure the recruitment process to appoint the office holder is transparent, independent, robust and involves children, taking account of the expertise and experience in children's rights and leadership necessary for the role;
- Proactively seek and provide prompt response to the advice, recommendations and guidance of the ICRI on legislative, administrative and other matters that impact on children and the realisation of their rights;
- In line with General Comment No. 2 of the CRC Committee, protect the ICRI, or the department/unit or Deputy Ombudsperson on children's rights within a broader NHRI or general Ombudsperson's office, from any reduction of powers, remit and resources and ensure only their increase;
- Adopt a rights-based approach in public decision-making, in the development and implementation of laws, policies, budget decisions, programmes and services that affect children, in line with the ENOC Position Statement on Children's Rights Impact Assessment (2020)³;

³ ENOC 2020 Statement on CRIA (accessible [here](#)); ENOC 2020 CRIA webpage (accessible [here](#))

- Ensure Human Rights and Children's Rights Education is included in school curricula at all levels, and information on how to access and seek effective redress for breaches of rights, including before ICRI, is disseminated.

We, Ombudspersons and Commissioners for Children, commit to:

- Always put forward children's perspective, act without discrimination in their best interests, and advance the enjoyment of their rights, in line with the UN Convention on the Rights of the Child;
- Take steps to exercise all the powers of our mandate to the fullest extent possible, in the monitoring, protection and promotion of the rights of all children;
- Act independently, in line with the Paris Principles, the Venice Principles and General Comment No 2, to protect and promote children's rights at the regional or national level;
- Advocate for legal provisions that ensure that Children's Rights Departments/Units or Deputy Ombudspersons for Children within a broader NHRIs or a general Ombudsperson's Office, are in place and have the power, space and autonomy to be visible and active through public interventions;
- Take proactive, strategic and creative steps to fulfil all aspects of our mandate, including, where relevant, the provision of effective, and child-friendly complaints mechanisms to provide redress to child rights violations;
- Provide speedy response, support and remedy, considering the different perception and experience of time for children⁴ and adapt our procedures or processes to their developmental needs;
- Provide or ensure a rigorous, fair, child-centred and rights-based approach to complaints, with learnings on complaint outcomes and recommendations brought regularly to the attention of decision-makers;
- Provide or advocate that training and development for professionals, volunteers and those who work with and for children is arranged to embed and safeguard children's rights in their practice;
- Take special care to raise awareness of the rights of children, in an age-appropriate manner, among children, especially children in vulnerable groups and/or

⁴ CRC, *General Comment No. 14* (2013) para.93: "The passing of time is not perceived in the same way by children and adults. Delays in or prolonged decision-making have particularly adverse effects on children as they evolve. It is therefore advisable that procedures or processes regarding or impacting children be prioritized and completed in the shortest time possible".

circumstances, among those who care for them, and any other adults working with or for them;

- Increase the visibility and accessibility of the ICRI among children, especially those in vulnerable groups and/or circumstances, among their carers, professionals, civil society organisations that work with and for children, and others;
- Regularly reach out, meet and meaningfully engage with children and young people in all possible settings and geographical areas, such as educational, residential, and closed settings, community centres and others;
- Design ICRIIs according to their purpose, with appropriate physical and digital child-friendly and safe spaces;
- Systematically involve children in the work of the institution in different ways, including through meaningful participatory mechanisms such as surveys, focus groups, interviews, child advisory panels, etc. so that children's experiences and insights are fully taken into account. This includes their participation in the future development, evaluation and implementation of the work of the institution;
- Develop, where appropriate, procedures for self- or independent evaluation of the impact and extent of institution's powers and resources so that its potential can be fully realised;
- Promote CRIAs in the development and implementation of laws, policies, budget decisions, programmes and services that affect children⁵;
- Ensure ICRIIs are a reference as a qualified and trustworthy knowledge hub and that all staff have advanced and cross-sectorial regular training in children's rights. Additionally, ensure that designated staff have special training on child participation and child protection;
- Align ICRIIs' strategies and priorities with issues children face on the ground in the enjoyment of their rights, including those in especially vulnerable circumstances;
- Submit alternative report(s), informed by the views of children, to the UN Committee on the Rights of the Child in the framework of the Periodic Review. Facilitate children's participation in the exchanges of views before the Committee.

⁵ In line with the ENOC Position Statement on Children's Rights Impact Assessment (2020).



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