

The Ombudsman for Children – individual UPR submission – Iceland – October 2011

1. Introduction

The role of the Ombudsman for Children is to further the wellbeing of children and to look after their interests, rights and needs. The Ombudsman's individual submission to the UPR will therefore only regard children's rights issues. The Ombudsman has recently sent his report to the UN Committee on the Rights of the Child (CRC), in which he addresses a number of the key issues relating to the human rights of children in Iceland. The report will be sent to the UPR as an annex. In this submission the Ombudsman will give a short overview of the issues the Ombudsman for Children in Iceland and considers the most important to rectify, that is issues regarding cutbacks that negatively affect children, domestic violence, the right to health, the right to education and the rights of young offenders.

2. Cutbacks that negatively affect children

One of the negative side effects of the current economic situation in Iceland is the severe cutbacks taking place in all areas of Icelandic society. These cutbacks negatively affect all societal groups, particularly those that are vulnerable in some way. The Ombudsman for Children has pointed out the particular importance of protecting children and their rights during times like these and ensuring that they receive the services their welfare requires. Furthermore, the Ombudsman for Children has pointed out that the child's best interests shall always take precedence when decisions concerning children are taken; cf. Article 3 of the Convention on the Rights of the Child. Consequently, the authorities must always seek other means of cutting costs before curtailing services to children. However, the comments received by the Ombudsman for Children reveal clearly that the current and proposed cutbacks make a marked negative impact on children. Examples of such cutbacks are budget cuts in Iceland's pre-schools and primary schools, including reductions in staffing, merger of class groups, and cancellation of courses. Cutbacks have also been made in secondary schools which has negatively affects the services that upper secondary schools provide to students, not least those who need special support. It can be assumed that this will result in an increased dropout rate from upper secondary school. This is inconsistent with the authorities' policy of reducing the dropout rate from upper secondary

schools in Iceland, which is already among the highest in Europe. See more on pages 4-5 in the report to the CRC.

3. Domestic violence

Domestic violence makes a prolonged and serious impact in children's development and wellbeing, whether it is directed at the children themselves or someone close to them. When violence has taken place within the home, it very often continues even if the parents divorce or separate. Moreover, under such circumstances, the perpetrator is more likely to direct his or her violent behavior against the child. It is therefore important to consider protection of children against domestic violence when assessing which custody arrangements are best fit for the child. The Children's Act, no. 76/2003, does not stipulate how important domestic violence shall be considered in decisions on child custody. A study of rulings in custody cases revealed that domestic violence has limited impact on the assessment of a parent's eligibility for custody. Such results reflect a certain ignorance of the repercussions of domestic violence and the risk created when the perpetrator of violence is granted custody of a child. In the same manner, domestic violence has limited impact on an assessment of a child's access to its parent. As is described above, in numerous instances it is stipulated that children must visit the absent parent regularly, even though they are in danger of being subjected to violence. It can be inferred from the way the law is implemented that access is almost always deemed best for the child, irrespective of the behavior or circumstances of the parent concerned. Given the limited impact that domestic violence has on decisions concerning custody and visitation, there is reason to doubt that children are guaranteed adequate protection against violence in the implementation of Icelandic law. See more on the protection against violence on pages 8-10 in the report to the CRC.

4. The right to health

In many respects, the status of healthcare issues in Iceland is not acceptable. Among the areas needing improvement are dental health services, psychological services, professional psychiatric services, and speech therapy services. The healthcare system has been subjected to major cutbacks, and further cuts are proposed. The Ombudsman for Children considers it clear that this will adversely affect children, particularly those living in rural areas, those who are disabled, and those who are vulnerable in some way.

It is clear that the dental health of children in Iceland is deteriorating. Government participation in the cost of dental repairs has declined. Consequently, children of less affluent parents will be less likely to receive the dental care they need. Dental health is not accorded the same status as other areas of healthcare in the Icelandic welfare system. The Ombudsman for Children considers this abnormal, as dental health plays an undeniably large role in children's overall health and wellbeing.

The services of speech pathologists are extremely important for children who, for any reason, need assistance in order to express themselves or attain satisfactory understanding of the language. Only six speech pathologists in the entire country have a contract with the National Medical Insurance Institution, one of them in the greater Reykjavík area. When speech pathologists do not have such a contract subsidy payments are insignificant. It is therefore clear that parents must pay large sums for speech therapy in the vast majority of cases. Clearly, this expense can be quite onerous for parents, and many children do not receive the service they need as a result. In these cases, children are subjected to discrimination on the basis of their parents' financial position. See more on pages 11-12 in the report to the CRC.

5. The right to education

According to Article 17 of the Compulsory School Act, no. 91/2008, students are entitled to having their academic needs met in public primary schools, without separation and irrespective of their physical and mental capacities. The municipalities are responsible for the operation of primary schools and for the overall structure of school activities. The Ombudsman for Children is concerned that, with cutbacks in staffing and merger of classes, children with special needs will receive less attention and poorer service than before. There is also the risk that, as a result of cutbacks in primary schools, it will not be possible to guarantee access and accommodation for these children. The Ombudsman for Children has received a number of comments to the effect that facilities for special needs children within the school system are inadequate. In this context, it is worth mentioning that children who need assistive equipment in their daily lives are only allocated one such item. If the equipment in question is bulky or unwieldy, it is necessary to decide whether the child will use it in school or at home.

6. Young offenders

Very few criminally liable children are in prison in Iceland. Nonetheless, it is cause for concern when children in prison are not separated from adult prisoners, as is stipulated in the Convention on the Rights of the Child. The Prison and Probation Administration and the Government Agency for Child Protection have made an agreement that children who have been sentenced to prison shall serve their sentences in treatment homes. This is subject to the consent of the child concerned, however, and subject to a Government Agency for Child Protection treatment home's ability to receive the child. This arrangement does not always ensure that children are separated from older prisoners. Experience shows that there are always some who choose to serve their sentences in prison rather than in a treatment home, which is not always best for the child concerned. As a result, the Ombudsman for Children considers it desirable that the agreement with the Government Agency for Child Protection be amended so as to allow for a child to be sent to a treatment home without his or her consent, or for a judge to be authorized to sentence an individual to serve a sentence in a treatment home. See more on the matter of juvenile justice on pages 14-15 in the report to the CRC.