

The Parliamentary Ombudsman as an overseer of the rights of the child

Introduction

The heading of my article is exactly the same as that of a jurisprudential monograph, which was written by Deputy-Ombudsman Riitta-Leena Paunio in 2001 for the Finnish Law Society's prestigious journal *Lakimies* (*Lakimies* 6–7/2001, pp. 977–989, hereinafter 'article' refers to this work unless otherwise mentioned.) The thoughts put forward in the article on the task of overseeing children's fundamental and human rights are still valid and it is therefore worth summarising. The article also provides a good foundation from which to outline how the Ombudsman's work in the sphere of children's rights has developed since then and in what direction it might evolve in the future. A further reason for reviewing the article is provided by the fact that the United Nations Convention on the Rights of the Child, which was adopted in 1989, celebrated its 20th anniversary in November 2009.

The continuing topicality of an article written eight years ago might serve as an indicator of how the Ombudsman's oversight practices and principles with regard to the rights of the child have not changed substantially since the time of writing. By 2001, the operating practices in the category of cases involving the rights of the child had become established on a foundation derived from the practices adopted earlier in the social welfare and health care case categories.

At the same time, developments have been rapid on the part of the other actors involved in oversight of the fundamental and human rights of children. New overseers and promoters of rights have entered the scene, and established monitors appear to have become more active, too. I shall present some examples and then close by asking whether they should be considered in the Ombudsman's oversight of the rights of the child and in what manner this should be carried out. To begin, we'll return to the 2001 article and the story it tells.

The Eduskunta assigns a special task to the Parliamentary Ombudsman

Oversight of the rights of the child is, in a way, a special responsibility of the Parliamentary Ombudsman, even though this task is not mentioned in the Constitution of Finland or in the 2002 Parliamentary Ombudsman Act. The article describes the situation in which this responsibility was assigned.

In 1997, the Eduskunta was deliberating the establishment of a second Deputy-Ombudsman's office. At the same time, it had debated whether Finland should establish an office of a national child-welfare agent or an Ombudsman for Children, as had been suggested in, inter alia, the 1995 Government Report on Children's Policy. These matters were connected in the Government's proposal to establish a second office of a Deputy-Ombudsman (HE 129/1997). It was, however, noted during the parliamentary deliberation of this Government Proposal that promotion of the oversight of the rights of the child in this conjunction did not constitute the adoption of a stance on whether or not a specific office of an Ombudsman for Children was needed in Finland (PeVM 5/1997).

Oversight of the rights of the child was intensified in accordance with the wishes of the Eduskunta. These rights were introduced as a new case category as of 1 September 1998, and the annual report of the Parliamentary Ombudsman has contained information on this issue since 1998. At the time, Deputy-Ombudsman Riitta-Leena Paunio, the author of the article, assumed responsibility for these matters and she has continued this task after being elected to the office of Parliamentary Ombudsman of Finland from 1 January 2002 onwards.

The basic material in the case category dealing with the rights of the child is nowadays formed by cases that involve, inter alia, child welfare, parental disputes about child custody, visitation rights or maintenance payments, child abductions or adoption procedures. As a complaint cannot always unequivocally be categorised as dealing with the rights of a child, the so-called integration principle is utilised to focus on the aspect of the rights of the child in all other matters as well.

The rights of the child and the difficulties of application

Which rights of the child are subject to oversight by the Parliamentary Ombudsman? The article refers to the constitutional fundamental rights of children as well as to the United Nations Convention on the Rights of the Child. It emphasises a child's constitutional right to positive special treatment in order to safeguard their equal status with respect to the adult population (Section 6.3 of the Constitution HE 309/1993 vp, p. 45). Furthermore, the public authorities have a duty to support families and other parties responsible for the welfare of a child so that they are able to ensure the welfare and personal development of a child (Section 19 of the Constitution).

The article devotes an especially large amount of attention to the rights of the child as defined in the United Nations Convention on the Rights of the Child, a human rights document drafted for children only. However, the article also points out difficulties in applying the Convention to practical oversight work. For example, the monitoring of the economic, social and educational rights of the child is problematic. This is because the universal convention has not enabled the establishment of binding standards for these rights that could form the basis for assessing the oversight of their domestic implementation; instead, each State Party is required to undertake such measures to the maximum extent allowed by the resources available to them (Article 4). In practice, evaluation of whether this maximum extent has been achieved is determined by assessing the legality of the allocation of public funds as well as of whether fundamental and human rights viewpoints were taken into consideration in the allocation. More about this later.

Another issue the article raises is the difficulties related to the application of the principle of considering the best interest of the child (Article 3). These difficulties arise because the best interest of a child is, as a legal concept, open to interpretation and its contents are weighed up on an ad hoc basis for each individual case. Taking into consideration both a child's right to be heard (Article 12) and the best interests of the child in each individual case was considered especially difficult in the article, as was the question of when the best interests of the child and the parents can be considered to be mutually contradictory (e.g. Article 9).

However, the article notes that the challenges in applying the Convention on the Rights of the Child have not formed an obstacle to the performance of the Ombudsman's oversight task. Several years after the writing of the article, it can be said that this has not indeed been the case. Next, I will summarise the examples on how the rights of the child have been interpreted that were presented in the 2001 article. I will accompany them with examples of later developments.

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Oversight of the rights of the child in the work of the Ombudsman

Protecting the child

The article depicts the oversight task with the aid of a much-used classification. Rights protected by the Convention on the Rights of the Child are divided into three groups: rights dealing with the protection of children, rights that have the purpose of ensuring that children are granted a fair share of society's resources and rights (provision), which safeguard the child's entitlement to participate in decision making that concerns him or her (e.g. HE 163/2004 vp., p. 2).

In light of the article, oversight of child protection activities involves primarily what is traditionally considered child welfare work, although the article does note that protection should, in the context of the Convention, be understood broadly. The article takes into consideration the right of children who are in substitute care to meet with and maintain regular contact with both of their parents unless this is against the best interests of the child (Article 9.3 of the Convention). This question was particularly topical at the time of the article's writing because of a recent judgement by the European Court of Human Rights (*K. & T. v. Finland*, 12 July 2001). From the Ombudsman's viewpoint, the particular problem with maintaining contact had been that an appropriate decision on curtailing communications between the child and the parents had not, in practice, always been made, and this prevented the involved parties from appealing to a higher authority against the restrictions imposed on them. The article refers to the decisions and proposals for clarifying legislation that were made in 1998–2000.

More specific provisions for regulating contact between parents and children in substitute care were added later in conjunction with a revision of the Child Welfare Act in 2006. The related Government Proposal was influenced by decisions of the Ombudsman in many contexts, and this was also the case with regard to the statutes regulating restrictions on maintaining contact (HE 225/2004 vp., p. 75). Also in 2006, the European Court of Human Rights issued a judgement on Finland in which it took the view that the right to respect for protection of family life of a child, who had been taken into public care, and its parent had been infringed because, *inter alia*, no formal decision to restrict access that the parent could appeal against had been issued. Formal decisions in this case began to be made only after the applicant had turned to the Parliamentary Ombudsman, who intervened in the matter (*R. v. Finland*, 30 May 2006).

Another important example concerning child welfare dealt with oversight of the standard of care of children who have been taken into care (Article 3.3 of the Convention). Ensuring that the systematic oversight of child welfare institutions and services is arranged appropriately and functions well is of special importance for the Ombudsman's oversight task. In 1999, the Ombudsman had issued a broad decision concerning the oversight of a private children's home (779/98 and 1897/98). Oversight of such institutions was the focus of further attention in a 2002 decision concerning the realisation of the fundamental rights of children who had been placed into State-run reform schools (3170/01). Provisions concerning the oversight of substitute care were made more specific in conjunction with the above-mentioned revision of the Child Welfare Act; the opinions of the Ombudsman provided substantial grounds for these reforms as well (HE 225/2004 vp. p. 113).

As an example of how the Ombudsman exercises oversight of child welfare in the broader sense, the article mentions a 2000 decision that dealt with how certain rights of minor asylum seekers who had come to Finland unaccompanied had been realised. The Ombudsman identified shortcomings with respect to, *inter alia*, how, at the end of the process, some children received a residence permit, which did not allow for reunification with their parents in Finland. The procedure did not therefore safeguard the rights mentioned in Article 10 of the Convention on the Rights of the Child (2822/99). The Ombudsman kept track of developments with regard to this matter over the next few years and, among other measures, requested reports on the matter from the Ministry of the Interior. In 2004, it was possible to note that the situation had improved substantially with respect to other shortcomings, such as lengthy processing times and appropriate training for officials who interview arriving children. Operations were developed further to speed up the processing of family unification applications, prompting the Ombudsman to adopt the view that the matter no longer gave cause for further action (2726/02).

Children's share of society's resources

The article notes that the issue of to what degree a child is given access to society's resources is related to complaints dealing with the availability of services that are meant for children. Such complaints began to be filed with the Ombudsman towards the end of the 1990s, at a time when Finland was still in a deep slump. The filed complaints dealt with, for example, children's orthodontic treatments, the organisation of basic education during teacher layoffs and cases in which a children's day care place was not granted day care as required by the law.

As one example, the article described shortcomings in the City of Espoo's arrangement of day care services that were severe enough to even warrant consideration of prosecutorial action. Some parents had not been granted a municipal day care place in Espoo, even though they had, under the law, a so-called subjective right to such services (Section 11(a) of the Act on Children's Day Care). The obligation of the public authorities to arrange for the provision of day care services is also mentioned in the Convention on the Rights of the Child (Article 18.3). The report received on the matter stated that the City's financial difficulties had affected the City Council's decisions on the allocation of funds for day care services. However, it turned out to be impossible to press charges, as the funding allocation decisions were not directly linked to the availability of sufficient day care places because various decisions undertaken by different organs also indirectly affected the matter. This made it impossible to determine which body or bodies was legally responsible.

However, the Ombudsman had issued a reprimand to Espoo. In the same conjunction, she informed the Ministry of Social Affairs and Health that social welfare and health care legislation appeared to lack effective means through which private individuals could obtain the services, which are guaranteed to them under the law (1355/99).

The article also described measures the Ombudsman had undertaken with regard to the treatment of minor mental health patients. Finland's first periodic report to the Committee on the Rights of the Child in 1994 notes that some Finnish children had been placed in the same ward with adults at a psychiatric hospital (CRC/C/8/Add.22, Article 387, p. 63). The Ombudsman had intervened because this was a regular practice and, in conjunction with investigating the matter, discovered that children's access to psychiatric care had also not been provided for appropriately. Even children in need of urgent care had had to wait for an unreasonably long time, over six months in the worst cases. Towards the end of the year, the Ombudsman had drawn the Ministry of Social Affairs and Health's attention to this shortcoming (1052/96). The article notes that improvements in the availability of children's mental health services were later sought by the Eduskunta, which set aside funds especially for this purpose and, in 2001, passed an Act providing for a so-called treatment guarantee in this area. The treatment guarantee began to apply to other areas of health care only from 1 March 2005 onwards.

However, the Ombudsman had to intervene in problems associated with the psychiatric treatment of children also after this. Even as recently as 2005, it emerged that it could take as long as six months to be accepted into a children's psychiatric ward, i.e. twice as long as the maximum waiting period prescribed in the law. In this case, the child had been placed in an adult ward, which was problematic from the point of view of the rights of the child. Especially

problematic was, however, the securing of an urgent place in a ward for a child, and this related to the entire hospital district involved in the case (1205/05). The Ombudsman had received information about similar problems in other hospital districts during inspections carried out on psychiatric hospitals (Annual Report of the Parliamentary Ombudsman 2005, pp. 206–209 and the special report Children, domestic violence and the responsibilities of the authorities 2006, p. 29).

Corresponding problems related to the availability of services were identified with children's orthodontic treatments. Decisions issued in such cases have been described in the Ombudsman's annual reports for 2001 (pp. 215–219), 2002 (pp. 154–156) and 2004 (p. 223).

Resource-allocation issues were highlighted in oversight of implementation of children's fundamental and human rights in 2001, the article reveals. The Ombudsman had made demands for the clarification of statutorily defined rights and for allocation of resources to ensure their realisation. In this conjunction, the Ombudsman also emphasised the significance of monitoring and oversight because, through them, it would be possible to ensure the equal realisation of children's rights irrespective of their place of residence. As the Ombudsman had been forced to focus attention on inadequate resourcing again and again over the years with regard to similar cases, the article came to the conclusion that the constitutional obligation placed on the public authorities to safeguard the realisation of fundamental and human rights entails an obligation to also verify *ex post facto* whether or not these rights had actually been realised (Section 22 of the Constitution). The right of children to services intended for them would not have been safeguarded without appropriate oversight, of which regular monitoring should always be an essential aspect.

The right of the child to be heard

The right of the child to be heard with regard to decisions, which affect him or her is, along with the principle concerning the best interest of the child, one of the most important rights of children (Article 12 of the Convention on the Rights of the Child, Section 6.3 of the Constitution). Adults, holders of parental responsibilities first and foremost, most usually speak on behalf of children, but the child's so-called own right to participate means that children are entitled to be heard with regard to decisions which concern them, to an extent that is appropriate considering their age and level of maturity.

According to the article, monitoring of the realisation of children's right to participate is difficult to implement through the measures employed in oversight of legality. In written proceedings, it is difficult to ascertain whether or not a child has been given the opportunity to

be heard when he or she has requested it. Even if the child has been heard, a written report will not always reveal all of the essential features and contents of the hearing. The article duly notes that the views held by children themselves will usually not be channelled to the awareness of the Ombudsman via the complaint process. An exception is formed by inspections of child welfare institutions and other children's housing facilities; during these visits, children are always offered the opportunity to speak with the Ombudsman in confidence. Many children have utilised this opportunity to voice their concerns to the Ombudsman or the Ombudsman's representative over the years. It is, however, possible to perform only a limited number of inspections.

So, although only a small amount of information was received, the article surmised that the methods and forms of child hearings might, in practice, be problematic from the point of view of the rights of the child. "If children are not heard in a way that provides them with the opportunity to confidentially and genuinely express their opinions, how can they influence and participate in decisions that concern them as they are entitled to do?" the article asks.

The Ombudsman later returned to this issue during a seminar lecture titled Observations on the realisation of a child's right to participate she delivered on 5 March 2009. The lecture drew special attention to the opportunities of children who are in a difficult position to participate in the making of decisions that concern them, even when they are entitled to take part. On the basis of studies conducted on supervised meetings between children and their parents as well as on reform school children and children who had experienced domestic violence and been housed in shelters, it was possible to estimate that children experience the greatest difficulties in expressing their opinions at times when knowing them would be of the greatest significance to the people trying to help these children. Special support and assistance should be provided for these children to safeguard the realisation of their right to participate (the topic of the seminar arranged by the Central Union for Child Welfare in Finland was Inclusion of children in early education. The speech is published on the organiser's website www.lskl.fi).

Conclusions of the article

All in all, the Ombudsman's oversight of the rights of the child appears to function quite well in light of the article. The described difficulties with the sufficiency of resources and the oversight of the realisation of children's right to participate do not appear insurmountable and are more like challenges for future activities. The end of the article, however, contains a section in which the oversight task is split between the individual level and more general

promotion of the rights of the child – this division is important from the point of view of future challenges. According to the article, the task of monitoring the rights of the child on the individual level is a natural aspect of the Ombudsman's oversight of the realisation of fundamental and human rights, whereas promotion of the rights of the child generally is not as appropriate for the Ombudsman, as the supreme overseer of legality can not be expected to promote the interests of some specific social group. It was hoped that a separate office of an Ombudsman or Trustee for Children would be established for this purpose. This wish was fulfilled four years later, when Maria Kaisa Aula was appointed the first Ombudsman for Children in Finland.

However, one area in which the Ombudsman can, according to the article, also act to promote the realisation of the rights of the child more generally lies between the handling of complaints concerning individual children and the general safeguarding of children's rights. This is possible firstly on the basis of children's right to positive special treatment that is enshrined in the Constitution. Children need special treatment to enable the realisation of their fundamental rights, which is why such treatment does not infringe upon other people's right to equal treatment. Secondly, the article points out the appropriateness of promoting the rights of children who are in need of special safeguards and protection because oversight of the rights of such children should be the focus of particular attention. According to the article, particularly children who reside in institutions are in need of special safeguards and protection.

The above-mentioned fairly far-reaching decisions concerning, for example, oversight of a private children's home and the realisation of the rights of unaccompanied minors are examples of the Ombudsman's actions with regard to promoting the rights of children who are in need of special safeguards and protection. A similar situation involved a decision concerning the realisation of the fundamental rights of children placed in State-run reform schools (3170/01). These house over-12s who have been taken into public care. Realisation of the rights of children who reside in prisons in the company of their parents has also been the focus of scrutiny (2758/07 and 2765/07, Annual Report of the Parliamentary Ombudsman 2008, pp. 121–122).

A child's entitlement to positive special treatment was indicated with special clarity in the Ombudsman's special report Children, domestic violence and the responsibilities of the authorities (K 1/2006 vp). The Ombudsman may submit a separate report to the Eduskunta on matters that she or he deems especially important (Section 12.2 of the Parliamentary Ombudsman Act). In this special report, the Ombudsman focused attention on the realisation of a child's right to physical and mental inviolability in conjunction with instances of

domestic violence that take place in their home. The points of departure were formed by, on the one hand, alarming estimates of the prevalence of domestic violence and, on the other hand, the fact that the public authorities have a special obligation to actively protect children in situations where violent acts are being performed or condoned by those adults who have the primary responsibility for the safety and welfare of the child (Sections 6.3, 7.1, 19.3 and 22 of the Constitution). The States Parties to the Convention on the Rights of the Child have also made a commitment to take active measures to prevent violence and negligence in families and on the part of others responsible for childrens well being as well as to effectively safeguard children who are in such circumstances from any danger (Article 19). Ensuring the protection of the family life of children through a kind of positive special treatment has been touched on in, for example, the Ombudsman's proposal concerning supervised meetings (2752/04) as well as in the decision, which dealt with mediation and counselling services intended for parents (2059/03, Sections 10 and 19.3 of the Constitution, Articles 9 and 18 of the Convention on the Rights of the Child).

According to the article, oversight of legality with regard to the rights of the child calls for, on the whole, initiative on the part of the Ombudsman. Performance of the special task assigned by the Eduskunta is thus, in a way, based on the positive special treatment of children in oversight of legality. This calls for the Ombudsman to exercise active oversight of the realisation of those rights that are not being proactively looked after by the holder's of parental responsibility and other parties who are involved in the child's affairs.

New actors and instruments for promoting and exercising oversight of the rights of the child

As mentioned, the Ombudsman for Children commenced work in autumn 2005. She is tasked with promoting realisation of the rights and best interests of the child. She does not handle individual cases. Drafting of relevant legislation started from the assumption that the tasks of the Ombudsman for Children and those of the Parliamentary Ombudsman would complement one another (HE 163/2004). The activities of the Ombudsman for Children are supported by the Advisory Board on the Health and Welfare of Children and Young People, which is composed of representatives of various administrative sectors, the so-called third sector and specialists on matters related to childhood and the circumstances surrounding children today. The Ombudsman for Children chairs the Advisory Board's meetings.

Activities related to the oversight and promotion of the rights of the child have become livelier also beyond Finland. The most notable international authority that monitors human rights

is the European Court of Human Rights. It works under the aegis of the Council of Europe and has, especially during the 2000s, developed the interpretation of the rights of the child as determined by the European Convention on Human Rights in its rulings, many of which have concerned Finland (cf. Geraldine Van Beuren: Child rights in Europe, Council of Europe 2007).

The Council of Europe has approved international treaties on, e.g., the legal status of children; of these, those that Finland has ratified include the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and Restoration of Custody of Children (1980). Topical from the point of view of legislation being drafted in Finland are the European Convention on the Exercise of Children's Rights (1996), the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007) and the revised European Convention on the Adoption of Children (2008).

The Council of Europe is currently implementing a special programme called Building a Europe for and with Children, which has the aim of promoting children's rights. The first three-year phase of the programme was launched in Monaco in 2006 and, in November 2008, it was continued with the so-called Stockholm strategy for the period 2009–11. Firstly, both parts of the programme contain measures that have the aim of preventing violence against children. The programme takes into consideration bullying at school and other forms of school violence, Internet violence, sexual abuse and the physical disciplining of children or so-called disciplinary violence. Secondly, the programme has the aim of supporting children's right of participation and, thirdly, of drawing attention to the rights of the most marginalised and vulnerable children. Following the initiative of the Council, each Member State has established a kind of a focal actor; in Finland, the Advisory Board on the Health and Welfare of Children and Young People has been made responsible for this task.

The European Union also promotes the realisation of children's rights. Children are considered in the Charter of Fundamental Rights, Article 24 of which deals with the right of children to such protection and care as is necessary for their well-being, their right to express their views on matters which concern them, the requirement to make the best interests of the child the primary consideration in all actions relating to children and the protection of the personal relationship between children and their parents. The Charter of Fundamental Rights will become binding if or when ratification of the Lisbon Treaty is completed. Even though the Charter of Fundamental Rights is not binding at time of writing, it is considered to be reflective of the principles of justice that are approved by all Member States.

In 2007, the European Commission asked the European Union Agency for Fundamental Rights (FRA) to develop indicators for the evaluation of how Member States have protected,

respected and promoted the rights of the child. The Agency submitted its report, called Developing indicators for the protection, respect and promotion of the rights of the child in the European Union, on this work in March 2009. The indicators are supposed to steer the Agency's own data collection and research activities. The objective is to devise a toolkit of sorts to support, for example, EU decision making with regard to issues concerning children. The instruments relate to, for example, children's family life and child welfare activities. Where children's family life is concerned, the focus could be on the effects international divorces or parental separations have on children, the separation of children from their parents because of emigration or immigration as well as on procedures that have the aim of reunifying children with their parents. Realisation of, for example, children's right to participate can be assessed in these different segments.

The indicators that the FRA has developed for the child welfare sector deal with trafficking and smuggling of children, the sexual and economic exploitation of children as well as with violent treatment of children. It is possible to then examine separately how these issues affect children belonging to special groups, such as Roma children or unaccompanied, minors seeking asylum. In this area, the FRA works in cooperation with, for example, the Council of Europe, which employs experts on human trafficking and human smuggling and runs programmes that focus on these problems (Council of Europe Convention on Action Against Trafficking in Human Beings 2005).

In 2006, the European Commission issued a communication titled Towards an EU Strategy on the Rights of the Child. The new Commission, which will be appointed in autumn 2009, is expected to adopt this strategy as one of its focal areas. Among other things, the aim is to improve consideration of children's rights and opinions as well as children's awareness of their own rights. It is quite obvious that the European Union is about to become an active agent in the promotion of the children's rights and their appropriate realisation.

UNICEF estimates that 1.2 million children fall victim to human trafficking each year. In this context, also the actions of the Organisation for Security and Cooperation in Europe (OSCE) against trafficking in human beings, which are led by Special Representative Eva Biaudet, should be mentioned. In a speech delivered at the Side Effects of Free Mobility seminar in Helsinki in March 2009, Biaudet noted that human trafficking all over the world is, in fact, very much about abuse and exploitation of vulnerable children. Closely related to this theme is also the above-mentioned Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2008); the legislative drafting process associated with the ratification of this Convention is currently ongoing at the Ministry of Justice.

Perhaps the most significant international actor after the European Court of Human Rights in promoting and monitoring the rights of the child is the Committee on the Rights of the Child, which oversees the implementation of the Convention on the Rights of the Child. The Ombudsman's decisions have repeatedly referred to the Committee's recommendations. The hearing procedure for Finland's fourth periodic report is currently pending. The report was submitted to the Committee in 2008. The Committee on the Rights of the Child also issues general comments on the application of the Convention on the Rights of the Child. In 2007, the Committee issued a general comment on the rights of disabled children, which was closely related to the UN Convention on the Rights of Persons with Disabilities that was adopted in the same year. The most recent of the Committee's general comments had to do with the right of the child to participate and be heard (Article 12). This general comment was issued in July 2009.

The task of the Parliamentary Ombudsman as an overseer and promoter of the rights of the child

The brief review above consists mostly of examples of the exercise of oversight of the rights of the child as well as of different programmes that have the aim of promoting these rights. However, they do reveal that the themes that were considered central to oversight of the rights of the child in the article concerning the Parliamentary Ombudsman are highlighted in the programmes of many international actors as well. These themes include the status of vulnerable children who are in need of special safeguards and protection, the position of children who are victims of domestic violence and abuse as well as the realisation of the right of the child to participate. In other words, the realisation of the rights of the child within the Finnish jurisdiction is not solely a national project that is poked at every once in a while by the European Court of Human Rights or the UN Committee on the Rights of the Child; instead, it is a part of a European juridical development that at its broadest affects all of humankind.

The Ombudsman's connection with international developments is not, however, limited to observing the actions of others, as if looking in from the outside. At present, certain projects are ongoing that, if realised, will result in the Ombudsman's activities becoming more officially linked to various international overseers of human rights. Finland signed the UN's Optional Protocol to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (OPCAT) in 2003 and it entered into force internationally in 2006. The legislative drafting measures leading to the ratification of this Optional Protocol are progressing. In conjunction with this process, it has been proposed that the Ombudsman act as

the national monitoring body, which is required by OPCAT. If this happens, the Ombudsman will probably have to conduct substantially more inspections of different institutions. Child welfare institutions, group and family group homes for unaccompanied minors, for example, the children's wards of psychiatric hospitals would fall under the scope of application, although all of these types of facilities have anyway been the focus of inspection activities hitherto.

A working group appointed by the Ministry of Justice is currently investigating the possibility of adding a national human rights institution, which would observe the UN-approved so-called Paris Principles, to the Office of the Parliamentary Ombudsman. An institution that operates in observance of these principles would be tasked with, for example, pooling the resources of different human rights actors, such as NGOs, special representatives and researchers, in addition to which it would serve as a uniting cooperative body in the international effort to promote and monitor human rights (for more details, see Åbo Akademi University's report dated 15 March 2002).

In other words, international trends affect interpretations and emphases of the rights of the child, and it is possible that international cooperation on these matters will become a part of the Ombudsman's activities or, at least, some kind of a link will be established. What impact would this have on the Ombudsman's task of exercising oversight of the rights of the child? Would, for example, international programmes concerning the rights of the child have to be taken into consideration to a greater extent than they now are?

If international-level cooperation is tightened, opportunities to receive fresh information will at least improve. European unification and other internationalisation do not bring people together in positive ways only. It also brings a commonality of problems. It is useful to gain fresh knowledge of, for example, ways in which to respond to human rights issues that affect children and are still relatively unknown to us. Examples of this could be information on the various manifestations of human trafficking that targets children, measures for combating it and on how best to help children who have fallen victim to it.

But the first and foremost outcome of cooperation should be interaction. Could the Parliamentary Ombudsman of Finland have something to contribute to oversight of children's rights on the international level?

The last question is easy to answer in the sense that the Ombudsman has participated in, for example, drafting of all periodic reports concerning implementation of the Convention on the Rights of the Child. The Ombudsman's oversight of matters related to children's rights has

therefore already been of significance on the international level as well. This is based on a key viewpoint on the significance of the Ombudsman's tasks to oversight of fundamental and human rights. The fundamental tasks of the Ombudsman, the investigation of complaints and inspections of institutions, produce invaluable information on how these rights are realised on the individual level. As this information comes from an independent Ombudsman rather than from, say, an official who has to answer to the Government, its reliability is fundamentally on an entirely different level. Internationally defined and assessed criteria on the realisation of children's human rights are not of very great significance if they are not accompanied by such unbiased grassroots information on the situation of, for example, children in Finland. It's no wonder that the recommendations issued by the Committee on the Rights of the Child have also emphasised the significance of individual complaints.

When resolving individual complaints or making decisions that concern groups of vulnerable and unprotected children, the Ombudsman is exercising oversight with respect to the realisation of children's rights. The performance of this task will, in future, increase even further the importance of finding interpretations of the rights of the child that are in harmony with national, European and universal views on the matter. Even though children cannot yet be granted an equally large share of national resources even in all parts of Europe, it is, in my opinion, more important than ever for a unifying Europe to gather information on the availability and standard of services for children in, for example, the other Member States. The European Court of Human Rights has in its decisions already adopted a stance on questions related to the realisation of a child's right to participate. Once the EU Charter of Fundamental Rights is ratified, realisation of a child's right of participation will more clearly become an aspect of the right to equal treatment of all European children. It is becoming increasingly important to be aware of how the rights of the child are interpreted in a unifying Europe and beyond when interpreting these rights on the national level. 