

***CHILDREN WITH A PARENT IN CONFLICT WITH THE LAW:
WHAT ARE THEIR BEST INTERESTS? HOW CAN THEY BE MET?***

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Chair: Nancy Loucks OBE

The European Commission perspective on children of prisoners

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Thank you to the Ombudsman for Children of the Republic of Croatia and the NGO Children of Prisoners Europe for having organised this conference focusing on children with a parent in conflict with the law.

The European Commission recognises that a child with a parent in prison is in a situation of vulnerability and that special efforts may be needed to mitigate that vulnerability and ensure that the child's rights are respected. This was recognised in the 20 February 2013 Recommendation "[Investing in children: breaking the cycle of disadvantage](#)". In that child-rights based recommendation, one of the guiding principles was to: *"Ensure a focus on children who face an increased risk due to multiple disadvantage such as Roma children, some migrant or ethnic minority children, children with special needs or disabilities, children in alternative care and street children, children of imprisoned parents, as well as children within households at particular risk of poverty, such as single parent or large families."* This short extract reminds us also that children may face multiple vulnerabilities. The 2013 Recommendation on investing in children, which still requires implementation efforts, recommended the development of integrated strategies based on three pillars. The first pillar concerns access to adequate resources: parents' participation in the labour market, support for adequate living standards through a combination of benefits. The second pillar concerns access to affordable, quality services, notably early childhood education and care

as a means to reduce inequality, and improvement of the education systems' impact on reducing inequality. The third pillar focused on child participation, including their involvement in all decisions concerning them. Looking at this recommendation alone, children with a parent in prison may face at least a double, triple or quadruple whammy: the loss of love and affection, parenting support and presence, stigmatisation and a (further) descent into poverty.

At the June 2015 European Forum on the rights of the child, the Commission tabled a [reflection paper on integrated child protection systems, including 10 principles](#). In preparation of this document, we carried out a public consultation. Many respondents underlined the need for more work in the area of prevention and early intervention and family support. I am firmly convinced that every effort should be made to support parents in their role, including parents in prison. The vulnerability of children of parents in prison was also recognised in this document:

"Most violence against children takes place in the context of families, but some children may be exposed to great risks of violence due to external factors, such as those in situations of migration or seeking international protection, including undocumented or stateless children, children who are neglected, or without appropriate care, children in detention or in residential care, children who go missing or who are abducted by a parent, child victims of trafficking, discriminated against children including Roma children and children with disabilities, children in detention, children in conflict with the law, children left behind by parents moving abroad for work, EU national children who themselves move alone or without appropriate care within the EU, children of parents in prison, or children in situations of extreme material deprivation."

The 10 principles for an integrated child protection system, that we seek to promote, including through our funding priorities, were:

- Every child is recognised, respected and protected as a **rights holder**, with **non-negotiable rights to protection**.
- **No child is discriminated against.**
- Child protection systems include **prevention measures**.
- **Families** are supported in their role as **primary caregiver**.
- Societies are **aware** and **supportive** of the child's right to freedom from all forms of violence.
- Child protection systems ensure **adequate care**.
- Child protection systems have **transnational** and **cross-border mechanisms** in place.
- The child has **support** and **protection**.
- **Training on identification of risks** is delivered to a wide range of people working for and with children (including all teachers, health sector professionals, social workers, etc).
- There are **safe, well-publicised, confidential** and **accessible reporting mechanisms** in place.

Most recently, the Council of Europe in April 2016 recognised children of imprisoned parents as a vulnerable group, in its new [strategy for the rights of the child 2016-2020](#).

The Commission provides an operating grant to Children of Prisoners Europe for its network-related activities to raise awareness on their specific situation and promote respect for their rights.

Some gaps or violations, for example of the child's right to maintain direct contact with both his or her parents unless it is not in their best interests, may be due to basic lack of consideration of children and the impact of parental imprisonment on them. That is why the work of COPE and its members, including the Croatian Ombudsman for Children, is so important, in describing the impact and raising awareness, in raising awareness on the child's rights, bearing in mind that this means all human beings below the age of 18, and in identifying child-sensitive and child-rights based measures and mechanisms, and in helping to replicate good practice.

I wholeheartedly welcome the Italian Memorandum of Understanding (MoU). [The Italian Memorandum of Understanding between the Ministry of Justice, the national ombudsman for childhood and adolescence and the NGO Bambinisenzasbarre ONLUS](#), which has been in operation for two years now, is a remarkable and excellent initiative. If **100.000 children** pass through Italian prison gates every day, this MoU has enormous potential. It is comprehensive, but also very accessible. It tackles awareness raising head on, when it states, in Article 1, that judicial authorities will be asked to take into account the rights and needs of children in decisions concerning judicial orders, judgements and sentences, and Article 4 covers training for prison staff on the potential impact on children of parental imprisonment, as well on child-sensitive security procedures. Article 2 on children visiting prisons seeks to ensure that a child can visit his/her imprisoned parent within one week of arrest and regularly thereafter, and provides for child-friendly spaces. It also tackles the need to allow for visits outside school hours and the provision of information to children in an appropriate manner. I am glad to see that the role of NGOs active in the field

is recognised and welcomed. Article 2 provides for regular review meetings to monitor the situation and also consider possible or eventual improvements to procedures and facilities. Article 3 seeks to recognise and promote the maintenance of other types of relationships with imprisoned parents, particularly when regular visits are not possible, taking account of advances in mobile telephony and the internet. Article 5 covers the provision of information, assistance and support for prisoners, their relatives and their children. Article 6 commits to the collection of information about the number and age of children whose parents are detained, including those on remand, along with any other relevant information. It also commits to publishing statistics. This article is very important, given the lack of data available. We know that in previous research, the only way to count the number of children affected in some countries was to count how many prisoners had child maintenance obligations, for example. Article 7 concerns the situation of children living in prisons with their parents. I particularly welcome Article 8 creating a permanent working group to review implementation, to raise awareness in schools and to encourage the exchange of good practice. Let's not underestimate the importance of schools. Most children will be in fulltime education and school can be a game-changer. Will it be yet another arena for stigmatisation and discrimination or will the school be a champion for such children? Is there scope for nationwide guidance to schools on the specificities and support needed for children of parents in prison, along the lines of what may have been done for LGBTI or other groups? What about national child helplines? Are they aware of the situation of children with a parent in prison and do they collect data when they log calls?

It is promising that efforts are underway to adopt an MoU adapted to the national situation in Croatia and in the Netherlands, and even as far afield as Argentina. I hope we'll hear more on the catalysts and prerequisites for the adoption of such an MoU, and the behind the scenes work, and on how Italy led the way. In the planned guidance document from COPE, it would also be useful to have some feedback on the two years of implementation in Italy. It would be good to share the data collected and to share feedback on impact: on children of prisoners, on prisoners, on the relatives and partners of prisoners who hold the fort while a parent is in prison, and on prison staff. Were there hiccups in implementation? Who carried out staff training? Are adaptations planned to the MoU? Will it be renewed?

With regard to children of parents in prison, it may be considered quite a "niche" group. We may not find mentions of children of prisoners in league tables of child inequality or reports on children the world chooses to forget, because their "group" may be smaller than others. I think it is important for those who specialise in the area to extend their reach and make it easier for all those working for and with children, whether justice or social professionals, police, teachers and school staff, NGOs, child rights advocates, children's ombudspersons, prison staff or administrators, prison inspectorates, parents' associations, to better understand the situation, factor in the challenges for these children and have a toolkit available.

I fully support the laudable results achieved in Italy and the efforts underway in Croatia, the Netherlands and Argentina deserve to be brought to the attention of a wider audience and to be replicated.