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# Children Digi-CORE

Enhancing children's  
participation through DIGItal  
Complaints and REporting

**WP4 - Capacity-building training for an effective use of  
DIGItal COmplaints and REporting**

**D4.1: Standardized CORE Interdisciplinary guide**



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## 1. OVERVIEW

This report was prepared within the framework of the two-year project (01.04.2021-31.03.2023), Children Digi-CORE "Enhancing children's participation through DIGItal COmplaints and REporting."

The project, funded by the European Commission (Rights, Equality and Citizenship Programme), is coordinated by the University of Turin in partnership with the Consiglio Regionale del Piemonte (Piedmont Regional Council), the Agevolando Association and the Care Leavers Network, the digital experience company Synesthesia and the Cypriot nongovernmental organization Hope for Children.

It is, in addition, supported by the Ombudsperson for children of the Piedmont Region, the Order of the Social Worker and of Psychologists of the Piedmont Region, The Piedmont section of the Associazione Nazionale dei Comuni Italiani (National Association of Italian Municipalities), the International Association of Youth and Family Judges and Magistrates (IAYFJM) and the Commissioner (Ombudsperson) of Administration and Protection of Human Rights of Cyprus.

The objectives of the Children Digi-CORE project are:

- 1) the development of a technological tool (mobile phone app) to increase children's and young adults' awareness of their rights and improve the reporting of violations experienced by the reporter him or herself or by peers to the Ombudsperson for children of the Piedmont Region; and
- 2) the development of a transferable methodology (using interdisciplinary guidelines and policy recommendations developed both at national and European level) for the management of such reporting by public authorities.

This document on "Children's Digi-CORE Interdisciplinary Guidelines" specifically contributes to this second objective. The guidelines presented here have been developed in compliance with the international, European and national legal framework and the relevant scientific bibliography. In addition, the specific results of the empirical research developed within the Children Digi-CORE project have been enhanced, namely the observations of children emerging in the course of the focus groups organized by the Agevolando Association and Hope for Children, the results of a survey conducted by the University of Turin and addressed to Italian and European public authorities receiving reports of violations of children's rights, as well as two field visits to European Commissioners for Human Rights and Ombudspersons for Children<sup>1</sup>.

The stakeholders potentially addressed by these guidelines are public authorities and professionals institutionally required to receive and process children's complaints.

The Children's Digi-CORE guidelines' purpose is:

- enhance the reporting of children and young adults to public authorities as a tool for their empowerment and the exercise of their participation rights;
- provide information on the prerequisites, recipients, content, and effects of reporting, distinguishing, for example, between violations that also have criminal relevance and those that do not;
- promote an integrated and interdisciplinary approach to dealing with reports submitted to public authorities by children and young adults;
- identify some basic principles that should guide the processing and management of children reports by public bodies institutionally obliged to receive such reports;
- finally, provide specific operational guidelines for the handling and management of reports by regional ombudsperson for children and, in particular, by the Ombudsperson for children of the Piedmont Region.

## 2. CHILDREN'S PARTICIPATION RIGHTS

### 2.1 Who is the child?

In an international framework, the United Nation Convention on the Rights of the Child (CRC) establishes that "a child means every human being below the age of eighteen years" (Article 1)

The definition reflects the one provided in most Countries' legislation. In Italy, for example, Article 2 of the Civil Code sets the age of 18 as the age at which the person is considered capable of performing valid legal acts.

### 2.2 What are your rights?

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<sup>1</sup> The results of the focus groups, survey and field visits are collected in the *Report sulla valutazione dei bisogni* (deliverable D.2.1 Need Assessment Report) edited by C. Dante, G. Vergano, S. Marra and published on 29 October 2021 on the project website [https://digicore-project.eu/wp-content/uploads/2021/10/report-valutazione-dei-bisogni\\_per-sito-ITA.pdf](https://digicore-project.eu/wp-content/uploads/2021/10/report-valutazione-dei-bisogni_per-sito-ITA.pdf).

Children are entitled to:

- rights recognized to every human being. A list of these rights is contained, for example, in constitutional charters, such as the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms (abbreviated to the ECHR)<sup>2</sup>, the EU Charter of Fundamental Rights (the so-called Treaty of Nice<sup>3</sup> .
- the rights that the law expressly recognises to the person of minor age, as a subject in formation deserving special and additional protection with respect to that guaranteed to every human being (cf. art. 31 Const. paragraph 2, art. 3 CRC). The most important catalogue of children's rights is today contained in the CRC<sup>4</sup> .

SOME EXAMPLES:

### **Right to respect for identity and personal development**

Like all human beings, the person under the age of 18 has the right to respect for his or her personal identity, including protection of his or her image, privacy, protection of personal data, and access to information about his or her family and genetic origins. Its specificities make the protection of certain aspects of identity, such as birth registration, the acquisition of a name and nationality, particularly important for the minor person

Reference standards:

- a) Name
  - Article 24(2) of the International Covenant on Civil and Political Rights (ICCPR),
  - Article 7 and Art. 8 CRC
  - Article 18 of the Convention on the Rights of Persons with Disabilities (CRPD)
- b) Knowledge of family origins
  - Article 8 ECHR
  - Articles 7 and 8 International Convention on the Rights of the Child (CRC)
  - Article 22(3) of the European Convention on the Adoption of Children (Revised)
- c) Nationality
  - Articles 7 and 8 International Convention on the Rights of the Child (CRC)

### **Right to respect for family life**

Every minor has the right to respect for his or her family relationships as lived in practice. For instance, he or she has the right not to be separated from his or her parents against his or her will unless the competent authorities decide that this separation is necessary in their best interests. He/she also has the right to maintain contact with both parents in the event of a break-up of their relationship.

Reference standards:

- Article 7 (right to respect for family life) EU Charter of Fundamental Rights (Treaty of Nice)
- Article 8 (right to respect for family life) ECHR
- Articles 8 and 9 International Convention on the Rights of the Child (CRC)

### **Right to protection against violence and exploitation**

Every child has the right to the protection of his or her psycho-physical integrity and to be protected from exploitation and abuse.

Reference standards:

- Article 19 (1) (right to protection from all forms of maltreatment, abuse or exploitation) International Convention on the Rights of the Child (CRC)

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<sup>2</sup> European Convention on Human Rights, 1950, in: [https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=LEGISSUM:eu\\_human\\_rights\\_convention](https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=LEGISSUM:eu_human_rights_convention).

<sup>3</sup> Charter of Fundamental Rights of the European Union, 2016/C 202/02, <https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=celex:12016P/TXT>.

<sup>4</sup> United Nations General Assembly, UN Convention on the Rights of the Child, 1989: <https://www.datocms-assets.com/30196/1607611722-convenzionedirittinifanzia.pdf>.

- Articles 3 (prohibition of inhuman or degrading treatment) and 8 (privacy) ECHR;
- Articles 7 (right to special protection against physical and moral dangers) and 17 (right to protection against violence and exploitation European Social Charter (ESC))
- Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention).
- Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)
- Directive on combating the sexual abuse and sexual exploitation of children and child pornography (2011/93/EU)

### **Equality and non-discrimination**

Every human being, including children, has the right not to be discriminated against on the basis of sex, race, colour, ethnic or social origin, genetic features, language, belief or religion, political or other opinion, membership of a national minority, financial status, birth, disability, or sexual orientation.

#### Reference standards:

- Articles 20 (equality before the law) and 21 (non-discrimination) Treaty of Nice
- Article 14 ECHR; Article 1 of Protocol No. 12 to the ECHR (non-discrimination)
- Article E (non-discrimination) European Social Charter (ESC)
- Article 2 International Convention on the Rights of the Child (CRC)

### **Best interests of the child**

Children as such are entitled to special protection and thus to more favourable differential treatment on account of their condition of psychological and physical immaturity that makes them presumed incapable of independently looking after their own interests. This is the so-called principle of the best interests of the child. In concrete terms, this means, for instance, that when deciding on custody and parental custody following the breakdown of the relationship between the parents, the decision on custody arrangements must be based on the outcome of the assessment of the quality of the child's relationship with each of the parents and not on the 'blame' of the separation on one or other parent.

#### Reference standards:

- Art. 3 CRC
- Art. 24 Treaty of Nice

### **Minor age and participation rights**

Although lacking the capacity to perform valid legal acts, a child has the right to be involved in decision-making processes as a result of which decisions affecting his or her life are taken.

In this light, Article 12 CRC must be read. In fact, the first paragraph recognises the right of the child capable of discernment to "freely express his or her opinion on any matter concerning him or her", with the obligation for those who collect such an opinion to give due consideration to the child's views "taking into account his or her age and degree of maturity" (paragraph 1). Paragraph 2 then identifies one of the instruments that guarantee the child's participation in the proceedings, namely hearing, by the judge or by the other administrative authorities that will take decisions in the child's interest.

The Irish scholar Laura Lundy has effectively schematised Article 12 CRC by identifying the four fundamental characters that must exist for the child to be heard effectively<sup>5</sup> :

- SPACE: children, boys and girls must be guaranteed a safe and inclusive space to form and express their ideas.
- VOICE: children, boys and girls must be facilitated and supported in expressing their views.
- AUDIENCE: the opinion of persons of minor age must be truly heard.
- INFLUENCE: the point of view of the person of minor age must be taken into account and, if appropriate, taken on board by those who have the power to act and make decisions.

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<sup>5</sup> Laura, Lundy (*"Voice" is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child*, *British Educational Research Journal*, 2007, vol. 33, issue no. 6, pp.927-942.

Similar to Art. 12 CRC, Art. 24 para. 1 of the Treaty of Nice states: "Children ... may freely express their opinion. This shall be taken into consideration on matters which concern them in accordance with their age and maturity".

In recent years, the use of the term 'participation rights' has emerged and become widespread to describe precisely the need for continuous processes involving information exchange and dialogue between children or adolescents and adults, based on mutual respect and in which children and adolescents can learn how their own opinions and those of adults are taken into account and can influence the outcomes of such processes<sup>6</sup>.

Article 12 CRC does not impose any age limit for the recognition of the right of children and adolescents to express their opinions and, according to the UN Committee on the Rights of the Child<sup>7</sup>, states should assume that each child or adolescent has the capacity to form his or her own opinions and recognise that he or she has the right to express them<sup>8</sup>. Therefore, the right to participate belongs to every child, regardless of age, albeit in different ways and with different outcomes in accordance with their capacity for discernment.

Although direct listening to the child by the decision-maker (judge, administrative authority, etc.) is preferable, the child's participation in the decision-making processes that affect him/her can also be achieved through indirect listening through dedicated public services (first and foremost the social services), but also through specially appointed representatives (guardian, special curator). In fact, the European Convention on the Exercise of Children's Rights, which specifically concerns judicial proceedings, recognises in Article 4 the right of the child to "request [...] the appointment of a special representative" when there is a conflict of interest between the holders of parental responsibility and the child, a representative acting in judicial proceedings.

*Attention! Children can refuse to be heard. Expressing one's own opinions is a right of children, not an obligation<sup>9</sup>.*

### 2.3 Direct reporting to public authorities as an instrument of participation

Direct reporting, understood as communication to public authorities institutionally required to intervene in favour of minors in conditions of personal, family or social distress<sup>10</sup>, constitutes an *empowerment* tool for the minor. In fact, it represents a manifestation of awareness of one's own situation and the will to take control over one's own condition and personal relationships. More generally, when it is carried out by third parties who are not directly involved (e.g. reporting cyberbullying episodes against peers), it allows minor persons, as a group, to become protagonists of social life and agents of change.

For minors who suffer violence, the Committee on the Rights of the Child specifically calls for easy access to individuals or organisations to which they can safely and confidentially report their experiences<sup>11</sup>. In particular, the Ombudspersons for Children and Adolescents should have a key role as recipients of children's direct reports: the Council of Europe's 'Child Participation Assessment Tool' specifies that all children, regardless of nationality, age, disability, migration-related conditions and economic situation, should be able to 'report their concerns and complaints to the Authority (in writing, with pictures, by phone call)<sup>12</sup>'.

However, in practice still "children and young people rarely turn directly to the public authorities to report violations of their own rights or those of their peers" and "this would be attributable above all to the very low level of knowledge on the part of children of their own rights, of the existence of a Ombudsperson, and to largely non-existent information"<sup>13</sup>. In addition to this, it should be borne in

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<sup>6</sup> Committee on the Rights of the Child, General Comment No. 12 (2009), CRC/C/GC/12: [https://gruppoCRC.net/wp-content/uploads/2009/02/Commento\\_n.12.pdf](https://gruppoCRC.net/wp-content/uploads/2009/02/Commento_n.12.pdf).

<sup>7</sup> The Committee on the Rights of the Child, established under Article 43 CRC, is an independent body whose task is to examine the progress made by states in implementing the rights of children and adolescents within their territory and to propose measures for improvement.

<sup>8</sup> *Ibid.* In Italian domestic law, the term 'capacity for discernment' is used. See, for example, art. 315 bis, paragraph 3, Civil Code, according to which "A minor child who has reached the age of twelve years, and even younger if capable of discernment, has the right to be heard in all matters and procedures concerning him/her." and art. 336 bis, paragraph 1, Civil Code, according to which: "A child who has attained the age of twelve years, and even younger if capable of discernment, shall be heard by the president of the court or the delegated judge in proceedings in which measures concerning him/her are to be adopted."

<sup>9</sup> On this point see A.C. Moro, *Manuale di diritto minorile*, edited by L. Fadiga, Bologna, 2008, p. 334.

<sup>10</sup> For more details, see D. Simone, entry "*Segnalazione*", in *Nuovo dizionario di servizio sociale*, edited by A. Campanini, Carocci, 2013, p. 550 ff.

<sup>11</sup> Committee on the Rights of the Child, *General Comment No. 12*, cit.

<sup>12</sup> *Ibid.*

<sup>13</sup> C. Dante, G. Vergano, S. Marra, *Report sulla valutazione dei bisogni*, cit. p. 47.

mind that the request for help from young adults to strangers should not be regarded as a starting point but as a point of arrival within a long and arduous path of awareness<sup>14</sup>. There is a difficulty in recognising a situation or context of distress because it has always been experienced as everyday. There is also a juvenile emotional illiteracy: that is, there is confusion about the difference between a normalising context and a non-protecting context, since young people often do not have the tools to recognise violent or abusive situations and, when they become aware of this, it is often a confusing or even traumatic process<sup>15</sup>.

*«if I experience the context as judgmental I will never be able to  
really open up, to express what I think and recount what I am experiencing, I can  
only put on a mask»  
S., 22 years old*

From this perspective, it seems crucial for the increase of direct reports from teenagers to strengthen awareness-raising activities aimed at young people to make them more aware of their rights and information activities to explain to them when, where and how to file a report<sup>16</sup>. In fact, the most frequent cause of dismissal for Ombudsperson is incompetence<sup>17</sup>.

In addition, further critical issues to be overcome in order to bring minors closer to the public authorities are the lack of dedicated and effective tools and procedures to protect the confidentiality of minors, possibly also with respect to their parents, and the lack within the authorities of staff expressly trained to receive reports/formal charges from minors<sup>18</sup>.

According to the needs assessment report of the Children Digi-CORE project, the violation of a right is often accompanied in the victim him/herself by a feeling of shame for his/her own frailty, fear of judgement by the listener and a need for consent and appreciation.

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<sup>14</sup> C. Dante, G. Vergano, S. Marra, *Report sulla valutazione dei bisogni*, cit. p. 19.

<sup>15</sup> *Ibid.*

<sup>16</sup> C. Dante, G. Vergano, S. Marra, *Report sulla valutazione dei bisogni*, cit. p. 42.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*



### 3. WHEN, WHAT AND WHO TO REPORT TO

Reporting must be kept distinct from activities such as: formal charge; criminal complaint; civil action.

#### GLOSSARY

##### CIVIL ACTION:

A civil action institutes proceedings and consists of a request made by a person to a judge to examine a certain situation in order to obtain a judicial decision. A person of minor age, being legally incapacitated, does not usually have the power to initiate a civil action, except in cases expressly provided for by law<sup>19</sup>

##### FORMAL CHARGE:

The formal charge is the pre-trial act by which one brings to the attention of the public prosecutor or those acting on his behalf (e.g. a judicial police officer) a fact that has the characteristics of an offence indictable ex officio, indicating all the elements and circumstances that may be of interest to justice<sup>20</sup>.

##### CRIMINAL COMPLAINT:

is the declaration by which the person who has suffered an offence (or his/her legal representative) expresses the will that proceedings be taken to punish the offender. It concerns offences that cannot be prosecuted ex officio.

Several authorities are in charge of receiving alerts and reports concerning the violation of the rights of children.

These include, first and foremost, civil or criminal **courts**.

In Italy, reports are addressed to the Public Prosecutor's Office at the Juvenile Court if there is a suspicion of harm to a minor child due to the parent's conduct (civil jurisdiction of the Juvenile Court) or if there is knowledge of an offence committed by a person aged between 14 and 18 (criminal jurisdiction of the Juvenile Court)<sup>21</sup>.

The public prosecutor's office at the ordinary court, on the other hand, receives mainly reports of offences committed by adults.<sup>22</sup>

**CRIME:** This includes any human action or omission, prohibited by criminal law and sanctioned with a penalty imposed by the judicial authority.

#### What happens if you report to an incompetent authority?

If the report is addressed to an authority that is incompetent in the specific case (e.g. because it is addressed to an authority in another territory, or because the report falls outside the scope of the matters dealt with by the contacted authority), the contacted public authority itself will forward the report to the competent authority.

Identifying the competent authority at an early stage, however, helps to speed up the processing of reports.

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<sup>19</sup> An example provided by the Italian legal system is the request to be admitted to marriage, which may also be presented to the Juvenile Court by a minor over the age of 16 (Art. 84 of the Civil Code).

<sup>20</sup> Unlike public officials and persons in charge of a public service, in respect of whom there is always an obligation to report offences of which they become aware in the course of or because of their duties (Art. 331, Code of Criminal Procedure), private citizens are subject to this obligation only in exceptional cases, outside of which it is a mere option. For a precise distinction between the terms formal charge, civil action and criminal complaint, please refer to the Ministry of Justice website: [https://www.giustizia.it/giustizia/it/mg\\_3\\_2\\_16.page#](https://www.giustizia.it/giustizia/it/mg_3_2_16.page#) and on the website <https://www.tribunale.torino.giustizia.it/Content/Index/43788>.

<sup>21</sup> For further information on the juvenile justice system, in the presence of a juvenile offender: [https://www.giustizia.it/giustizia/it/mg\\_1\\_12\\_1.wp?facetNode\\_1=0\\_6&facetNode\\_2=0\\_6\\_2&previousPage=mg\\_1\\_12&contentId=SPS973590#:~:text=il%20Tribunale%20per%20i%20Minorenni.il%20reato%20da%20minorenne\)%3B](https://www.giustizia.it/giustizia/it/mg_1_12_1.wp?facetNode_1=0_6&facetNode_2=0_6_2&previousPage=mg_1_12&contentId=SPS973590#:~:text=il%20Tribunale%20per%20i%20Minorenni.il%20reato%20da%20minorenne)%3B) For a distinction between civil and criminal jurisdiction of the Juvenile Court: [https://www.tribunaleminori.torino.it/competenze\\_1.aspx](https://www.tribunaleminori.torino.it/competenze_1.aspx)

<sup>22</sup> The Public Prosecutor receives or acquires on their own initiative (Article 330 of the Code of Criminal Procedure) the so-called news of offences, i.e. all those acts (formal charge, denunciations, etc.) in which it is brought to the attention of the public prosecutor's office that an act punishable by law as an offence has been committed. For more information on the activities of the public prosecutor's office at the ordinary court: <https://www.procura.torino.it/procura.aspx>.



What if the reporter is not sure whether the reported fact actually constitutes a violation of a right against which that authority can intervene?

A report can be made even if one only has a doubt about the violation of a right: the authority contacted will make the appropriate enquiries.

It is advisable, in any case, to indicate all the elements that are considered useful for facilitating the receiving public authority in its due investigations.

Warning: the same situation may be reported to several authorities. In this case, the addressee should be informed of the existence of reports to other authorities for the same case.

### **When to report to the judicial authority**

Everyone is entitled to report to the competent authorities of the existence of prejudicial situations of minors requiring judicial protection.

This general reporting power is, however, attributed by law (art. 1, para. 2, Law no. 216 of 19.7.91) specifically, for the purposes of placing minors outside their families, to four categories of subjects with child protection duties:

social services, local authorities, educational institutions and the public security authority.

Our legal system also provides for cases in which reporting to the judicial authority is mandatory, namely:

- when a child is in a situation of abandonment for the purposes of a possible declaration of his or her adoptability (Article 9(1), Law No 184 of 4.5.1983);
- when a minor is morally or materially abandoned or brought up in unhealthy or dangerous premises or by persons who, through negligence, immorality, ignorance or other reasons, are incapable of providing for his or her upbringing (Article 403 of the Italian Civil Code), and for that reason placed, as a matter of urgency, in a safe place by the administrative authority; the purpose of reporting in such a case is to allow the Juvenile Court to immediately verify the situation and validate the administrative measure if necessary;
- when there are minors under the age of eighteen who engage in prostitution (Article 25 bis, paragraph 1, Royal Decree Law No. 1404 of 20.7.1934, introduced by Law No. 269 of 3.8.1998 on the sexual exploitation of minors);
- when there are foreign minors under the age of eighteen, without assistance in Italy, who are victims of the crimes of prostitution and child pornography or trafficking and trade (Article 25 bis, paragraph 2, Royal Decree-Law No. 1404 of 20.7.1934);
- when it is necessary to extend a family fostering placement or a placement in a community or in an institution, beyond the established term or to anticipate its termination (Article 4, paragraph 5, Law No. 184 of 4.5.1983).

In other cases, although not compulsory, reporting is nevertheless appropriate.

This includes all situations in which there is actual or potential harm to a minor, to remove which ordinary social service interventions are not sufficient, as it appears necessary to affect parental responsibility.

### **Exercisers of a public service and the reporting of an indictable offence**

Pursuant to Article 331 of the Code of Criminal Procedure, without prejudice to the provisions of Article 347, public officials and persons in charge of a public service who, in the performance of or by reason of their duties or service, become aware of an offence prosecutable ex officio, must report it in writing, without delay, to the public prosecutor or to a judicial police officer.

Attention! The psychologist, for example, has the status of public official or person in charge of a public service and is therefore obliged to report to the authorities any indictable offences committed (including by children) when:

- is employed by the National Health Service;
- works in agreement with the NHS or a public body;
- performs its activities in agreement with public bodies (ASL, public schools, municipalities, etc.);
- holds the position of Councillor of the Order.

Similarly, school employees are obliged to report a crime that can be prosecuted ex officio, because in addition to their material tasks (cleaning and maintenance of premises), they cooperate with school managers and staff in matters of security<sup>23</sup>.

## **PRACTICAL EXAMPLES OF VIOLATIONS OF CHILDREN'S AND ADOLESCENTS' RIGHTS**

### BULLYING AND CYBERBULLYING

BULLYING occurs when a boy/girl or a group of boys or girls engages in a set of abusive and bullying behaviours towards another person, the 'victim', perceived as weaker and unable to defend themselves<sup>24</sup>.

It is of paramount importance to be careful not to confuse the various forms in which bullying can occur (e.g. pressure, aggression, harassment, blackmail, insults, slander, defamation) with other forms of peer interaction (e.g. discussions, differences of opinion, jokes, fights).

To this end, schematically, the characteristics that distinguish a bullying situation from other forms of prevarication are:

- **INTENTIONALITY:** this refers to actions deliberately aimed at dominating, offending, harming, creating discomfort, intimidating, harassing, embarrassing, making the other(s) feel uncomfortable or excluded;
- **PERSISTENCE IN TIME:** these are repeated actions with a tendency for high frequency; in any case, the single episode, which by its characteristics could be categorised as bullying, certainly constitutes behaviour to be taken into account;
- **ASYMMETRY IN THE RELATIONSHIP:** there is usually an imbalance in 'power' and 'strength' between victim(s) and bully(s). This imbalance may be rooted, for example, in differences in strength and/or physical fitness between the two actors involved or in age differences.

CYBERBULLYING is defined as "any form of pressure, aggression, harassment, blackmail, insult, slander, defamation, identity theft, alteration, unlawful acquisition, manipulation, unlawful processing of personal data against minors, carried out by telematic means, as well as the dissemination of online content also targeting one or more members of the child's family whose intentional and predominant purpose is to isolate a child or a group of minors by means of serious abuse, harmful attack, or ridicule"<sup>25</sup>.

*Attention! Similar behaviour may be subject to different regulations.*

*Thus, for example, the conduct of personal injury (Article 582 of the Criminal Code), which, if it results in physical and/or psychological injury with a prognosis of more than 20 days, is an offence prosecutable ex officio, whereas it is prosecutable as a formal charge (within 90 days) if the injuries caused have a prognosis of less than 20 days.*

### INSUFFICIENT CARE IN THE FAMILY OR COMMUNITY

All children and adolescents have the right to be protected against all forms of maltreatment. Parents or caregivers must pay adequate attention to the minor's needs.

The World Health Organisation states that: "*child abuse, maltreatment* should be understood as all forms of physical and/or emotional ill-health, sexual abuse, neglect or negligence or commercial or other exploitation that result in actual or potential harm to a child's health, survival, development or dignity within a relationship characterised by responsibility, trust or power"<sup>26</sup>.

Both abuse and mistreatment can take the form of:

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<sup>23</sup> Thus, for example, Criminal Cassation, sect. IV, 07/03/2000, no. 5543.

<sup>24</sup> D. Tripiccione, *Bullismo e cyberbullismo*, in *Il minore vittima e autore di reato*, edited by A. Macrillò, Pacini, 2018, p. 163 et seq.

<sup>25</sup> Art. 2, Law No. 71 of 29 May 2017, Provisions for the protection of minors for the prevention and fight against the phenomenon of cyberbullying. For further discussion see V. Sellaroli, *Il nuovo reato di cyberbullismo* (l. 29 maggio 2017, n. 71), Giuffrè, 2017. See also, C. D'Onofrio, *Il cyberbullismo*, in *Re reato informatici e investigazioni digitali*, edited by F. Corona, Pacini, 2021, p.157 et seq.

<sup>26</sup> World Health Organisation, *World Report on Violence and Health*, 2002.

- active conduct (e.g. beatings, injuries, sexual acts, exploitation)
- omissive conduct (e.g. neglect, carelessness, negligence).

Such conduct, in addition to being relevant to criminal law, may lead to limitation/dismissal of parental responsibility.

## VIOLATION OF PRIVACY

Children have the right to protection of their privacy, including within the family. This right also includes the possibility for the child to have private correspondence.

Attention, however! A minor's right to privacy, even in relation to his or her parents, must be considered in the light of the parents' power/duty to take care of their minor children, provided that parental intervention is necessary to protect their overriding interest<sup>27</sup>.

One particular area of application of this right concerns the online confidentiality of personal data.

On this point, the so-called GDPR (General Data Protection Regulation, 27.04.2016, No. 679) introduced a specific regulation, Article 8, on the 'conditions applicable to the consent of minors in relation to information society services'.

The GDPR has set 16 as the minimum age for access to online services and thus to digital consent, while giving member states the option of providing for a different age of access, but not less than 13.

If, on the other hand, the data subject is under the age of majority, the processing is deemed lawful 'only if and to the extent that such consent is given or authorised by the holder of parental responsibility'.

Italy, with the decree adapting to the GDPR, Legislative Decree 10.09.2018, in. 101, set the age of autonomous digital consent in the context of the direct offer of information society services at 14.

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<sup>27</sup> C. Camardi, *Relazione di filiazione e privacy. Brevi note sull'autodeterminazione del minore*, in *Jus civile*, no. 6, 2018, pp.831 f. and A.Nicolussi, *Autonomia privata e diritti della persona*, Enc. Dir., Annali, IV (Milan 2011), pp.149-150.

#### 4. THE NEED FOR AN INTEGRATED AND INTERDISCIPLINARY APPROACH

When a report on the violation of children's rights is submitted directly by a minor to a public authority, cooperation between different institutional actors is often necessary.

Public authorities that receive reports and/or formal charges are called upon to adopt an approach that promotes networking that involves both interdisciplinary thinking and an integration of services<sup>28</sup>. First of all, in fact, it is advisable that thanks to the different professional figures involved in the concrete case there should be a prior and functional interdisciplinary assessment of the actions to be implemented and an integration of interventions, which avoids useless duplications<sup>29</sup>. This means that the coordinated dialogue between different professional activities is not to be understood only as a multiplicity of outlooks (multidisciplinarity) nor as transversality of common aspects (transdisciplinarity), but must be brought back to the interdisciplinarity that enhances and tests the mutual differences, not to multiply the forces in the field, but to generate new outlooks, starting from the interaction of the individual<sup>30</sup>. From this point of view, for instance, it is necessary for institutional actors to be aware of the psychological dimensions of their actions as well, and thus avoid the re-victimisation of the reporter through multiple hearings and the undue collection and dissemination of personal information relating to him/her.

The various professionals are called upon to integrate their points of view in order to comprehensively and thoroughly analyse the reports coming directly from persons of minor age by jointly designing interventions that can respond to them in a relevant manner, according to the skills and tools of their specific professional background.

Roles and ownership of the professionals involved should be clearly defined at an early stage.

In addition, in order to achieve effective relational and professional integration, time and space for meetings should be scheduled, as should moments of reflection under the supervision of experts.

Promoting and supporting the logic of a network system among the various institutional and non-institutional actors involved in the promotion and protection of the rights of children and adolescents generates common perspectives and helps to build, in a climate of mutual trust, customised intervention projects that are flexible to the needs of children and their families in a logic of co-planning.

An integrated approach then requires recognising distinct roles with equal dignity.

Among the professionals involved, with distinct institutional affiliations and different disciplinary approaches, a collaborative confrontation must take place so as to constitute a network capable of taking charge of complex realities that can only be tackled from an overall perspective, based on relationality and not on the claim of cultural prevalence of one profession over another<sup>31</sup>.

At the same time, it is fundamental that the reporting minor is taken seriously. The basis for building trust lies in active listening and a relationship of 'authoritative symmetry' between the listener and the speaker, building a fruitful and virtuous dialogue<sup>32</sup>.

*«Professionals cannot be mere expressions of authority. If you do not surrender some of your power, how can I express myself to you. Within his or her role the professional holds more power than yours, if he or she does not surrender it, at least in part, he or she will always remain limited in the educational relationship that hardly becomes truly supportive for the boy or girl.» L., 21 years old*

Institutional actors in charge of receiving reports from children must be adequately trained on children's rights and how to have a rights-centred approach to care.

The professionals involved are then called upon to bridge the generational gap between young people and adults, which sees on the one hand, young people aggregated in techno-referenced communities, children of an anthropological mutation in which relationships and communications are techno-mediated and therefore more uninhibited, who live with maximum immersiveness in the new

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<sup>28</sup> Compare, the following documents :

- Guidelines for reporting and taking charge of cases of abuse and maltreatment of minors, by the socio-assistential and health services of the regional territory, [Deliberation of the Regional Council, Piedmont Region, 1 March 2019, no. 10-8475](#);

- National Observatory for Childhood and Adolescence, [5th Plan of Action and Interventions for the Protection of the Rights and Development of Persons of Childhood and Adolescence, May 2021](#).

<sup>29</sup> E. Ceccarelli, *Prospettive interdisciplinari e interventi di giustizia*, in *Minori giustizia*, 2021, no.1, p.7.

<sup>30</sup> In these terms, E. Guarcello, *Il senso e compiti nell'educare nel dialogo con la giustizia minorile*, in *Minori giustizia*, 2021, n.1, p. 35.

<sup>31</sup> See E. Allegri, M. Dellavalle, *Complessità e interdisciplinarietà, l'apporto del servizio sociale nel sistema di tutela dei minorenni*, in *Minori giustizia*, 2021, n.1, p. 57.

<sup>32</sup> C. Dante, G. Vergano, S. Marra, *Report sulla valutazione dei bisogni*, cit. p. 9.

technologies and dialogue with rapid communicative expression; this is to the detriment of characteristics such as empathy, emotional clarity and solidarity (so-called *mobile born*), for which fiduciary delegation is only partially conferred on adults of reference; on the other hand, adults with little experience of new technologies, afraid of conflict, complacent and delegating ('adultescents'). In order to bring minors closer to the institutions, it is necessary to understand the new models of communicative and relational functioning, accompanying the knowledge of technologies with an increase in the level of competence and effectiveness of the response in terms of receiving reports.

In this context, in order to bring children closer to public authorities to denounce violations of children's rights, it seems useful to complement the *know-how* of professionals with that of *care leavers*, who can be defined as 'experts by experience'.

It is indeed important to enhance the role of *care leavers*, holders of knowledge and experience, in order to shorten the generation gap between professionals and young people and institutions in general and, in particular, the wide generation gap in terms of emotional attunement.

## 5. DIRECT REPORTS OF CHILDREN TO PUBLIC AUTHORITIES

The proper handling of reports from children requires the public authorities to whom they are addressed to respect some key principles:

### **Awareness-raising of children and adolescents on their rights and procedures to enforce them in case of violation**

Public authorities called upon to act in cases of violation of the rights of children should promote awareness-raising and information opportunities aimed at children about their rights and the procedures for reporting their violation. To this end, opportunities to meet with pupils in schools of all levels, the preparation of *ad hoc* information material shared in special sections of the institution's website and through social media, and the development of protocols for the joint implementation of events with other public authorities involved in the protection of children's rights are recommended as good practices. The language and modalities used should be designed and calibrated in relation to the age of the audience.

### **Professionalism and interdisciplinarity**

Authorities receiving reports of persons under the age of 18 should be provided with staff specially trained to deal directly with persons under the age of 18. In particular, multidisciplinary teams should be provided for, including at least one person with expertise in juvenile law and one person with expertise in developmental psychology.

### **Informing the child about the proceedings and the progress of the procedure**

When reporting, children should be informed of how and by whom the report will be dealt with, as well as its possible outcome. The child reporting a violation has the right to be informed in a timely manner about the progress of the procedure and its outcome, including closure.

### **Safety and well-being of minors**

The safety and well-being of the child is a priority. Throughout the process of taking charge of and handling the report, all reasonable measures shall be taken to prevent harm to the child. Specific attention shall be paid to containing the risk of re-victimisation of the reporter.

### **Trust**

It is essential to promote and cultivate a climate of trust, in which each person interacts with equal dignity, as a necessary prerequisite for developing a dialogue between the professionals involved and the person under the age of 18. The person under the age of 18 is entitled throughout the procedure to be accompanied by a person he or she trusts.

### **Confidentiality and anonymity**

Reports must be treated confidentially, respecting the right of the child to confidentiality.

Where possible, the authority also considers taking over reports submitted anonymously or by children who are identified but request that their authority be strictly kept anonymous.

### **Integrated approach**

While respecting the confidentiality of the reporter and of any other persons involved, the authority receiving the report should coordinate its intervention with that of other authorities already involved or otherwise competent. The aim is to ensure effective and sustainable intervention, without duplication.

### **Formalised, monitored and updated procedures:**

The Authority undertakes to adopt a reporting management procedure that provides for the creation of a database in which to store the information collected and allows for the subsequent drafting of reports and analyses aimed at monitoring the reports and highlighting any critical issues.

The cyclical review of the reports will allow them to be updated as necessary.

### ***Child Protection Policy:***

Each authority should have a *child protection policy in order* to prevent and minimise the risks of inappropriate conduct and make the promotion of the rights of persons under the age of 18 more concrete.

In what follows, some operational proposals will be formulated for the handling of reports of persons under the age of 18 by the Ombudsperson for Children and Adolescents of the Piedmont Region.

The proposals were drafted in the light of the law instituting the Piedmont Regional Ombudsperson<sup>33</sup> and the guidelines for the handling of reports adopted at the National Network of Ombudspersons for Children<sup>34</sup>.

Specifically, the founding law allows the functions of the Ombudsperson of the Piedmont Region to be divided into two main areas of intervention<sup>35</sup>.

The first is of a general nature and can be traced back to interventions to promote the rights of children.

The Ombudsperson, for example:

- "promotes the knowledge and affirmation of the individual, social and political rights of children and adolescents by taking all initiatives aimed at their concrete realisation" (Art. 2(1)(a));
- "supervises the implementation of the Convention on the Rights of the Child in the region..." (Art. 2.1.b). (Art. 2(1)(b));
- "expresses, at the request of the competent regional, provincial and municipal bodies, opinions, proposals and remarks on draft laws, regulations and administrative acts with regard to the possible and eventual impact on children and young people" (Art. 2, para. 1, lett. o).

The second area of intervention is specific and concerns responses to reports of situations of individual minors in difficulty.

The Ombudsperson, in fact:

- "receives reports from persons, including children, families, schools, associations and bodies, concerning cases of violation of rights" (Art. 2(1)(j));
- "report to the competent public administrations cases of violation of rights..., resulting from delayed, omitted or in any case irregularly performed acts or facts, of which it has become aware by public and private persons, or by individual persons, including children" (Art. 2(1)(k)).

The guidelines for the handling of reports adopted at the Italian National Conference of Ombudsperson clarify that reports brought to the attention of the Ombudsperson for Children may concern either situations of violation or the risk of violation of the rights of one or more minors (individual reports), or issues of a general nature (collective reports).

In addition, the website of the National Authority for Children expressly points out that 'it is very important that children and adolescents in particular know that they can report problems that concern them', specifying that situations that present a violation or risk of violation of the rights that the Convention guarantees to every person under the age of 18 living on our territory can be reported to the Ombudsperson Authority.

Despite this, the annual reports submitted by the Ombudsperson of Piedmont<sup>36</sup> and the data collected through the *survey* of the *Children Digi-CORE* project show that, to date, there have been almost no reports submitted to the Ombudsperson directly by persons under the age of 18<sup>37</sup>.

## 6. HOW TO CONTACT THE OMBUDSPERSON FOR CHILDREN OF THE PIEDMONT REGION

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<sup>33</sup> In Piedmont, the establishment of the Regional Ombudsperson took place in 2009 (by Regional Law No. 31 of 9 December 2009), but the first appointment did not come until 2016 (by Regional Council Resolution No. 173 of 25 October 2016).

<sup>34</sup> Rete dei Garanti, *Procedure di gestione delle segnalazioni da parte dei garanti regionali e delle province autonome di Trento e Bolzano*, 18 January 2017, available at: <https://www.garanteinfanzia.org/sites/default/files/2020-03/Linee%20Guida%20Segnalazioni.pdf>.

<sup>35</sup> For further discussion, see J. Long, R. Turino, *Più voce ai minori in Piemonte. L'istituzione e l'esperienza del Garante regionale per l'infanzia e l'adolescenza*, in *Il Piemonte delle Autonomie*, 2019, no.2.

<sup>36</sup> Compare the reports of the activity of the Ombudsperson for Children of the Piedmont Region, available online at: <http://www.cr.piemonte.it/web/assemblea/organi-istituzionali/garante-dell-infanzia-e-dell-adolescenza/documenti-protocolli-normativa>.

<sup>37</sup> 70.27% of the regional and municipal ombudspersons participating in the survey stated that they had not received any direct reports from children. See C. Dante, G. Vergano, S. Marra, *Report sulla valutazione dei bisogni*, cit., p. 41.



A child who wishes to make a report to the Ombudsperson for Children of the Piedmont Region can use the tools available to any reporter (telephone, email, ordinary mail).

A recommended form for submitting a report can be found on the website of the regional Ombudsperson.

It is suggested that the reporting form be made available in several languages, so that it can also be accessed by people of a younger age who are in the Piedmont region but are not fluent in Italian.

*«in the community I have often met young people who enter protection schemes and who could not, at least in the first months, understand the Italian language, it is important that they too are given the opportunity to interact». M., 18 years old*

The website of the regional Ombudsperson could summarise, in *child-friendly* language, the *process* that will follow the report, defining the preliminary investigation, the possible consequences, the institutional and non-institutional actors that will be involved and their role.

In order to encourage reports from persons of minor age, it is also suggested that it be specified on the website that reports from persons of minor age are also welcome, with clarification of what they can and cannot do.

This appears necessary for the correct information of the potential reporter and in order not to create unrealisable expectations in him/her (e.g. real-time response or prompt intervention).

It might also be useful to replicate the above-mentioned information at least in English and French, as well as to provide the possibility of contact via social media (preferably *Instagram*).

Thanks to the Children Digi CORE project, it now also has an additional, specifically dedicated tool at its disposal, the Children Digi-CORE app.

The Children Digi-CORE app, in addition to providing a guided path to knowledge of rights, which makes clear the right that has been violated, allows the reporting person to forward an e-mail directly to the Office of the Regional Ombudsperson in charge of handling reports.

Reports made via the Children Digi-CORE app can also be accompanied by audio, video or image elements.

The Office of the Regional Ombudsperson receives the report formulated by app by means of an ordinary e-mail, addressed to a dedicated e-mail address.

## **Taking charge of the report**

### **Collection**

The form currently made available by the Piedmont Ombudsperson requires, for the purposes of taking charge, that the report contain the following elements:

- identification data of the reporting party
- data of the minor for whom the intervention of the Ombudsperson is requested
- type of issues for which intervention is sought
- place of the violation
- subject of the report (brief description of the fact)

In order to facilitate direct reports from persons under the age of 18, it is suggested that reports be accepted even if they are transmitted anonymously, provided that the elements provided by the reporter are sufficient to circumscribe a situation of actual or potential harm, and without prejudice to the right of the Regional Ombudsperson to assess an *ex officio* intervention.

The needs assessment report of the Children Digi CORE project highlights as a further critical issue to be overcome in order to bring minors closer to public authorities the lack of dedicated and effective tools and procedures to protect the child's confidentiality, possibly also with respect to parents<sup>38</sup>.

The importance of also allowing anonymous reporting emerges both from the activity of the *focus groups*<sup>39</sup> and from the results of the *survey*.

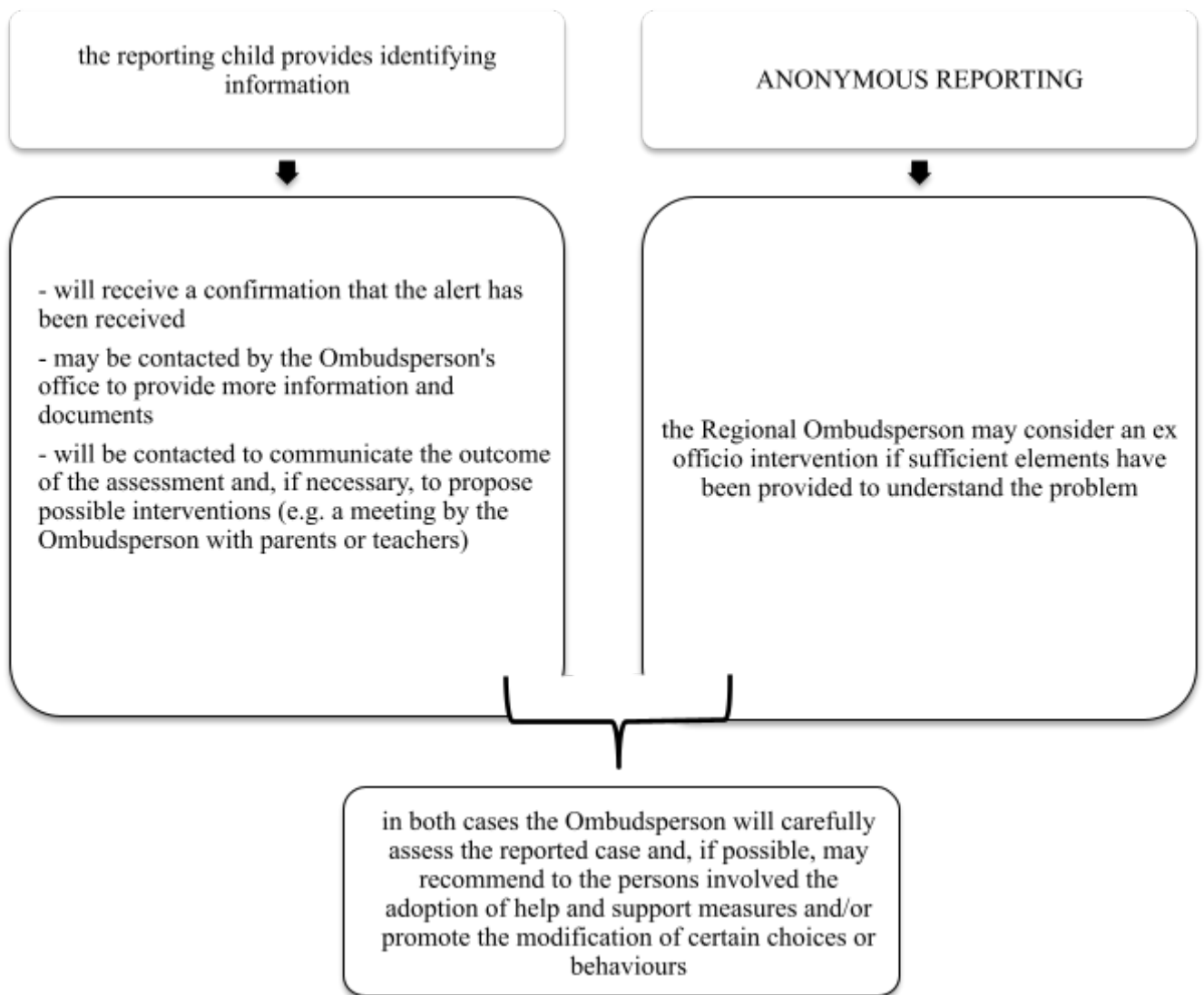
*«You also have to think about privacy, in the sense that many boys and girls do not ask for information or help for fear of being found out later, so it is essential*

<sup>38</sup> C. Dante, G. Vergano, S. Marra, *Report sulla valutazione dei bisogni*, cit. p. 46.

<sup>39</sup> *Ibid*, p. 16.

*to maintain a certain discretion. name and age should be protected at first, especially until you build a relationship that allows you to open up without worries.» A.14 years old*

### **Example of a process for taking charge of a report**



For each report received by the regional Ombudsperson, the office will automatically send a 'notice of correct submission' to the reporter, if identifiable. In any case, the office will assign a protocol number to each report received.

#### **N.B. reports on the same subject from different persons**

If reports with the same issues are received, they should in any case be registered, unless they are grouped together for processing. Notifications of the correct submission of the report and the protocol number will then be sent to each reporter.

In addition, the data will also be considered for statistical and monitoring purposes

#### **Analysis of the report**

The report brought to the attention of the Regional Ombudsperson must be examined promptly.

Whenever possible, the report should be taken up immediately and subsequent contact with the reporter should be made by personnel with specific childhood training.

The office examining the report will enquire whether the same report has already been submitted to another authority (e.g. territorial social service, school, judicial authority, national authority Ombudsperson for children and adolescents), enabling the Ombudsperson to coordinate with them in order to avoid inefficient duplications and inconsistent interventions.

The Regional Ombudsperson hears the reporting child directly, while respecting his/her confidentiality, giving him/her the opportunity to be accompanied by a person he/she trusts.

The importance of **timing** is one of the first aspects to emerge from the work of the *focus groups of the Children Digi-CORE project*<sup>40</sup>.

*«It is essential that, when I decide to bring a formal charge, there is someone ready to receive it and give me feedback quickly, within a short time I need a response because this makes me feel that on the other side there is someone who welcomes my words, my thoughts and my difficulties.» L., 21 years old*

At the outcome of the preliminary investigation, as mentioned above, the Ombudsperson and its staff may, if necessary, recommend to the interlocutors concerned by the report (essentially other public authorities) the adoption of aid and support measures and/or promote the modification of certain choices or behaviour.

If there is a situation of imminent danger for a person under the age of 18, the Ombudsperson promptly coordinates with the competent authorities (e.g. the Public Prosecutor's Office at the Juvenile Court) for appropriate action.

If it does not fall within the remit of the Ombudsperson, the report will be forwarded to the competent authority.

For offences that can be prosecuted *ex officio* (i.e. the most serious offences for which direct reporting by the victim is not required), the Ombudsperson is obliged to make a report to the judicial authority or to another authority with an obligation to report (e.g. the Carabinieri or the State Police).

### **Decision**

The Office then drafts the reply to be communicated to the reporter.

The principles of simplicity and clarity of communication should be observed in the answers.

The answer may be interlocutory if there is a need for further investigation. The interlocutory answer must, however, be followed by a definitive answer.

Archiving is also a form of decision. If the report is closed, the Office informs the reporter of the reasons.

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<sup>40</sup> C. Dante, G. Vergano, S. Marra, *Report sulla valutazione dei bisogni*, cit., p. 16.