OMBUDSMAN SLOVENIA

Regarding information to be provided for the purpose of preparation of the report on child, early and forced marriage in humanitarian settings, The Human Rights Ombudsman of the Republic of Slovenia (hereinafter referred to as: The Ombudsman) would first like to point out, that answers to the posed questions should be provided by the Slovenian national authorities. However, in hopes of contributing at least in some way, The Ombudsman wishes to provide the esteemed addressee with insight into our own experiences in this field.

In 2012, the Ombudsman published its Special Report on Roma[[1]](#footnote-1), which also included subchapter on the issue of juvenile mothers (2.1.6, pages 21-22), where the following was pointed out.

According to the petitioners, the issue of underage mothers from the Roma community was a pressing one. In this respect, The Ombudsman made an inquiry, addressed to the Mayor of the Municipality of Novo mesto, which upon birth offers municipal financial support to the newborns, and was able to confirm that the Municipality actually grants aid to infants born to mothers, who are 12 or 13 years old. The local population could not understand that the authorities in such cases do not act on a suspicion of the crime of sexual assault against a person, younger than 15 years. The Government’s reply to The Ombudsman was that juvenile pregnancy and underage mothers in Roma population are not good nor for the mother nor for the child. It further added, that acceptance of Roma culture, which has a specific relationship to juvenile mothers in the sense that, according to their social norms it is not problematic, if an underage mother gives birth to a child, cannot be permissible in this respect, and that this is to be stressed. It also pointed out that in 2011, the number of criminal complaints against sexual assault against persons under age of 15, increased for more than 100 percent as well as the number of criminal complaints against the neglect of the child.

In an additional query to the Government, The Ombudsman asked for explanations about how care and protection of underage mothers and their children is being dealt with. The answer was that the police has in the six months of 2011, dealt with nine (in the comparable period of 2010 about four) offenses of sexual assault against a person under 15 years of age, and 69 (in the same period, 2010 30) offenses of neglect. According to the police, the increase in the number of recorded crimes, was mainly due to their intensive work in this area, as all of the mentioned cases were due to its own activity. The police was said to be striving to reduce these problems also in this way, but still there is urgently needed cooperation of other bodies and institutions in this area.

The Government further noted that the police is facing a number of problems in dealing with criminal offenses of sexual attack against a person younger than 15 years, as Roma notion of sexuality, marriage, pregnancy, childbirth, etc. is traditionally different from the views of the majority population; professional literature also indicates that Roma women marry very early, between 9 and 14 years of age. With regard to the protection of underage mothers and their children, the Government was of the opinion, that such a protection is already being provided for under existing legislation. Based on the provisions of the Marriage and Family Relations Act (hereinafter: ZZZDR), parents, other persons, state authorities and holders of public powers, shall adhere to the child’s interest in all related activities and procedures. ZZZDR further stipulates that the state shall ensure protection of minors whenever their healthy development is endangered and when other interests of children require so. If parents fail to fulfill their obligations arising from parental rights for the benefit of their children, parental rights are to be limited (119 and 120 ZZZDR) or revoked (Article 116 ZZZDR). Measures for protection of children are in ZZZDR laid down in Article 119, according to which Centers for Social Work (hereinafter: CSWs) are provided with a general power to act, i.e. they must take the necessary measures required by the care of a child or the protection of his or her property and other rights and benefits. If the CSW does not succeed in the context of preventive actions with family that the parents properly care for their children, it can interfere in their parental rights by taking him or her away from them. CSW can place the child in a foster family or in an institution if the parents neglect the child's care and upbringing or if this is in child’s interest for other important reasons. A child can be taken form the parents already if the child's development is but at risk, and not only after damage was already done to his or her development. Given all this, CSW have legal powers, under which they can act even in the case of minor Roma girls and strive to prevent their premature pregnancy, either via discussions within the family or via taking away minor Roma girls, if they unable to prevent violations of rights and benefits of the girl only with preventive work.

The Ombudsman took the position that the Government offered a relatively sufficient reply in regards to activities of the competent authorities, although the state of affairs remains worrisome. Significant increase in charges for crimes of sexual assault against a person under 15 years of age, can be detected, which may indicate an increased police activities. For a more comprehensive solution to these issues, changes in Roma culture itself will be required, which can only be achieved by a better integration of the Roma community in Slovenian society.

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On another occasion, The Ombudsman also issued a public statement[[2]](#footnote-2) (already in 2010, i.e. before the above mentioned special report) the translation of which would be something like this:

***Roma customs do not make illegal action right***

*A while ago a case of a girl who, according to Roma customs, married before her fifteenth year, and a suspicion that she was a victim of child trafficking, was brought to The Ombudsman’s attention. After an inquiry, The Ombudsman noted that the competent authorities (Center for Social Work and police) are familiar with the problem and have already started with the necessary procedures.*

*The Ombudsman stresses in this regard that different customs and cultural traditions can not be an excuse or justification for the violation of the positive law, and therefore expects the competent authorities to determine potential threats to the child’s benefit and protection and sanction unlawful conduct of the responsible.*

*At the same time, The Ombudsman points out that the country still does not adequately provide for the possibility of temporary accommodation of children who are suspected victims of child trafficking. These children should be provided with a safe environment, and often also special protection, which is not being provided by the existing network of institutions, especially when children have complex problems.*

*The Ombudsman already organized in February this year a working meeting of ministers responsible for the family, education, interior and health, where it was agreed that one of the existing crisis centers is to be strengthened staff-wise and trained in comprehensive care for children. In addition, a special expert group is to prepare a platform for the establishment of a special ("triage") center, which would be able to accommodate children with complex difficulties in the most appropriate institution. According to the information available to The Ombudsman, agreed tasks are yet to be materialized.*

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Also, even though not The Ombudsman’s work – see please also chapter 2.3 EARLY MARRIAGES AND PREGNANCIES in the REPORT BY NILS MUIŽNIEKS COMMISSIONER FOR HUMAN RIGHTS OF THE COUNCIL OF EUROPE FOLLOWING HIS VISIT TO SLOVENIA FROM 20 TO 23 MARCH 2017 (CommDH(2017)21)[[3]](#footnote-3).

In terms of references, also last but not least - from 2016 (Human Rights Committee: Concluding observations on the third periodic report of Slovenia - see page 5)[[4]](#footnote-4):

*23. The Committee is concerned that despite the measures taken by the State party, including the amendment in 2009 of the Local Self-Government Act, the adoption in 2007 of the Roma Community Act, and the adoption in 2010 of the National Programme of Measures for Roma, limited progress has been achieved in improving the situation of Roma, who continue to suffer from prejudice, discrimination and social exclusion.* ***It is also concerned at: (a) instances of child and/or forced marriages among the Roma community****; (b) the distinction made by the State party between the so-called “autochthonous” and “non -autochthonous” Roma communities, with only the former being granted special rights and opportunities and the latter being unrepresented at the local level; and (c) the lack of effective functioning of the Roma Community Council, as well as the composition of the Council, which does not reflect the diversity of groups within the Roma community (arts. 2, 23, 24, 26 and 27).*

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1. Available only in Slovene, here: <http://www.varuh-rs.si/fileadmin/user_upload/pdf/posebna_porocila/POSEBNO_POROCILO_ROMI_-_maj_2012_-_za_splet.pdf> [↑](#footnote-ref-1)
2. In Slovene only, here: <http://www.varuh-rs.si/o-instituciji/podrocja-dela-varuha/ustavne-pravice/novice/detajl/romski-obicaji-ne-opravicujejo-nezakonitega-ravnanja-1/?cHash=d2f744e93ba2486365fbc26c99367c5a> [↑](#footnote-ref-2)
3. Available here <https://rm.coe.int/report-on-the-visit-to-slovenia-from-20-to-23-march-2017-by-nils-muizn/1680730405> [↑](#footnote-ref-3)
4. Available also here <http://www.mzz.gov.si/fileadmin/pageuploads/Zunanja_politika/CP/ConcludingObservationsSVN3-ICCPR.pdf> [↑](#footnote-ref-4)