*Ljubljana, May 2019*

**Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material "Safeguards for the protection of the rights of children born from surrogacy arrangements" – Input by SLOVENIA**

In Slovenia surrogacy is prohibited. The Article 7 of the Infertility Treatment and Procedures of Biomedically Assisted Procreation Act (Official Gazette of the Republic of Slovenia [Uradni list RS], Nos. 70/00 and 15/17 – Family Code) stipulates that a woman who intends to give her child to a third party after birth (surrogacy), whether for payment or not, shall not be eligible for biomedically assisted fertilisation.

There is no available data on the number of cases, in which Slovenian nationals have made a surrogacy arrangement abroad and returned to the state with the surrogate-born child. In all the cases that are known, the Slovenian nationals were already recognised as parents in the documents of the child – i. e. court decisions from other countries, travelling documents for the child and her/his birth certificate. According to Slovenian legislation, there are no differences among different kind of parenthood (biological parents, parents who have adopted a child) and different categories of children. This means that children that are born out of surrogacy arrangements in the countries, where this practice is legal, are treated in the same manner as other children in Slovenia. In all procedures that concern them, the primary consideration of the best interests of the child is applied. We had no case in which the surrogate-born child would express any interest to find his/her biological origin.

The safeguards for children are defined in the Family Code, which was adopted in 2017. Best interest of the child is the primary consideration in all matters that affects him/her and the assessment of the best interest is made individually in every case.

In the Republic of Slovenia, the sale and trafficking in children is prohibited by Article 113 of the Criminal Code. The first paragraph defines the acts and purposes of the criminal act of human trafficking and the penalties in this regard (1 to 10 years and a fine).

Furthermore, the Paragraph 2 determines that the penalty shall be increased in the event the act is committed against a child (3 to 15 years). The same paragraph defines also the offence which is committed in order to force a victim to become pregnant or be artificially inseminated as one of the forms of exploitation of victims of human trafficking. In this context, the institute of surrogacy is considered a form of exploitation of the victim of human trafficking if such maternity is a result of forcing a victim to become pregnant or be artificially inseminated.

In addition, the use of services exacted from victims of human trafficking, with knowledge that a person is a victim of human trafficking, is criminalized according to the fourth paragraph of Article 113.

Against this background, the exploitation of surrogacy or the exploitation of surrogacy services may be the subject of prosecution within the framework of a criminal offense of trafficking in human beings under the conditions laid down in Article 113.

**Criminal Code, Article 113**

 *(1) Whoever purchases another person, takes possession of them, accommodates them, transports them, sells them, delivers them or uses them in any other way, or recruits, exchanges or transfers control over such person, or acts as a broker in such operations, for the purpose of prostitution or another form of sexual exploitation, forced labour, enslavement, service, exploitation for criminal offences or trafficking in organs, human tissue or blood shall be given a prison sentence of between one and ten years, irrespective of the possible consent of such person.<0}*

*(2) If an offence from the preceding paragraph was committed against a minor or with force, threats, deception, kidnapping or exploitation of a subordinate or dependent position, or by giving or receiving payments or benefits to achieve the consent of a person having control over another person, or in* ***order to force a victim to become pregnant or be artificially inseminated****, shall be given a prison sentence of between three and fifteen years.*

*(4) Whoever knows that a person is a victim of trafficking in human beings and still uses his or her services which are a result of this person's exploitation under paragraph 1 and 2 of this Article shall be sentenced to imprisonment for not more than three years and fined.*