**Input for the Special Rapporteur**

There was an ex-officio follow-up investigation (No. AJB-1485/2018) launched by The Commissioner for Fundamental Rights (hereinafter referred to as “the CFR”) which dealt with the protection of the rights of children who became victims of prostitution and the possible means of prevention. It was confirmed by the investigation that child prostitution is present in each county that was assessed, as well as in the capital city. However, due to latency, only a small fraction of such actions come to be known by the child protection authorities or the police. Furthermore, it gives rise to concern that even now, those children in coerced situations who are caught performing acts of prostitution are threatened by infraction proceedings and sanctions.

The threat of becoming a victim of prostitution may *multiply in the children’s homes at the times of leave and escape from the institutions.* In grave and recurring cases, the justified but proportionate temporary isolation of the children in question may prove to be a good solution. It raises concerns that at the moment, the child protection institutions feel helpless, while the accountability guarantees for the proportionate restriction of personal freedom are missing. There are many good practices that are used by the institutions but there is *no comprehensive campaign* aimed at practical solutions, and no training programs, further training courses, guidelines or protocols, which would make such work easier, are available to the majority of the experts.[[1]](#footnote-1)

The CFR pointed out that despite some slow progress, no genuine achievements can be made in suppressing this phenomenon, which is due to the lack of a state action package aimed at the elimination of child prostitution and translated into reality, the lack of the targeted further training of child protection experts, as well as the lack of comprehensive preventive measures, i.e. an action plan that is much more intensive than the current one.

It is also a threat that children who become victims of child prostitution, come from a background where they got to know prostitution first-hand in their families, as they saw it from their mother, or sister. In some cases, mothers can be a very strong negative influence, even (as a children’s home reported) a mother can be a procuress, or a mediator for the prostitution of her own child. It also happened that the child was a victim of prostitution with her own mother, as they were working together. These children are extremely at risk.

It is also supposable that some children fall to prostitution when they escape the children’s homes. Their motivation can be cigarettes, or needs for other drugs, or articles that otherwise they could not get. A part of children who are in residential care, think of it as a punishment, they do not understand it and do not want to accept it. They blame the child protection system for their situation, and do not recognise their dangerous environment. Because of the defects in their socialization and previous experiences, they get drawn to deviant persons and groups, where their needs and disadvantaged circumstances can be recognized and abused by their presumable procuresses. Because children’s homes are not closed institutions, the right for outgoing of children over the age of 14 could only be limited exceptionally.

The CFR thinks that we should start out from the idea that the act of prostitution committed by a minor cannot be voluntary: the minors are engaged in such an activity as a result of some physical, emotional or economic coercion or threat. Children should thus be regarded as victims even if they do not feel they are victims or if the force that is used is not spectacular, i.e. the act is motivated by obtaining material gains or dependency. It raises concerns that the effective law views the children involved in prostitution as offenders rather than victims, who can only be exempted from liability if they prove that they have performed their action as a result of coercion or threat.

The CFR proposed that the Minister of the Interior consider the amendment of the act on misdemeanour in order to achieve that a person under the age of 18 years should not be punishable for committing the infringement of prostitution. He requested the Minister of Human Capacities to support the proposals made by the expert working group involved in the suppression of child prostitution threats that affect those children who are under child protection care. The CFR also proposed that a specific action package, an action plan be elaborated, in the context of which general campaigns in which the children are educated on their rights should be organized. He proposed that training programs aimed at helping child protection experts recognize child prostitution be launched. He asked the Chief of the National Police Headquarters to review the protocols on handling the phenomenon of child prostitution, the element of the national crime prevention programs which deals with the issue of child prostitution, as well as to consider the general use of the best practices of county police headquarters, and to make the cooperation between the county-level police units and the child protection authorities, especially the children’s homes, meaningful and continuous. In his response, the Minister of the Interior did not agree with the recommendations but in his counter-response, the CFR maintained his position and recommendations related to the revision of the statutory regulation on misdemeanour.

In his response, the Chief of the National Police Headquarters stressed that, in agreement with the purpose of the requests made in the report, an action plan had been prepared for the most efficient practical implementation of the prevention and exploration activities related to child prostitution. The state secretary for social affairs and social development at Ministry of Human Capacities said that the processing and analysis of the research findings of the specific working group, as well as the preparation of the practical implementation of the proposals are still in progress, with a view to taking the necessary measures as part of the comprehensive action plan for combating child prostitution. He also indicated that according to the requirement set out in the Child Protection Act, the cases of child abuse identified by the professional child protection services staff should be investigated into and managed in line with the methodology displayed on the homepage of the Ministry in May 2018. Furthermore, a further training program on the prevention of, and fight against child prostitution and child trafficking has been elaborated.

The CFR concluded that the legal situation in which children between 14 and 18 years of age may be sanctioned for their engagement in acts of prostitution under the Hungarian law on misdemeanour is not compatible with the obligations set out in the Lanzarote Convention and it also causes an impropriety related to children’s rights. It was emphasized by the Commissioner that the Lanzarote Convention also requires more efficient support and protection to be provided to the victims, without this, the phenomenon of child prostitution cannot be suppressed in Hungary.

The CFR thinks that rather than pushing police proceedings, the staff working in the child protection system should be strengthened, as well as better prepared for recognizing endangerment in due time and for taking meaningful actions against it.

In the CFR’s opinion, all this should be done within the framework of the child protection system, rather than by applying legal sanctions. It can be concluded from the responses given by the assessed authorities that the application of the misdemeanour sanction is not functional: in the case of a child in a coerced situation or under threat, neither general, nor special prevention may work. The problem is caused by that an act of coercion or a threat is very hard to prove, the children do not report the persons inducing them to pursue acts of prostitution to the police, they do not testify against them, and they often withdraw their reports.

Currently, Hungary is not yet party to the Optional Protocol to the 30-year-old Convention on the Rights of the Child on a Communications Procedure. It is thus a significant development that upon the CFR’s appeal, the Minister of State for Family and Youth Affairs at the Ministry of Human Capacities has indicated: they have begun to prepare the decision necessary for Hungary’s joining the optional protocol.

According to the CFR who has a particular responsibility for the protection of the rights of children, Hungary’s joining the complaints mechanism set up by the protocol would constitute an important secondary and complementary means for the legal protection of hungarian children. All reasonable guarantees must be established in order to compensate for the vulnerable situation of children and to enforce their rights. As the CFR sees it, joining the complaints mechanism set up by the optional protocol would be just such a tool. If Hungary were to become party to the optional protocol in the year of the 30th anniversary of the Convention on the Rights of the Child, the date itself would add symbolic weight to the action.

In relation to the appeal of the CFR, the Minister of State for Family and Youth Affairs at the Ministry of Human Capacities indicated: professional considerations on child rights also point towards the decision that Hungary should join the countries that have already confirmed by their signature their commitment to the protection of child rights. The CFR welcomed the fact that upon his initiative, the competent Ministry has started the preparation of the government decision on joining the optional protocol. The CFR trusts that Hungary’s joining will effectively take place in the very near future.

***Examples of the good practices of raising public awareness and sensitisation on issues of sale and sexual exploitation of children***

For raising public awareness, as a means of prevention, a good example is the Police in Csongrád county which informs the residents about the possibilities of victim help through press releases, monthly periodical newsletters, and spreads information to local governments and Churches via Police Mail.

Children in a children’s home run by the Ministry of Human Resources in Esztergom participated in an art projekt „Orphan Dream”, which concluded to a documentary-theatrical performance in Budapest, at Trafó Contemporary Arts’ House in connection with child prostitution, which raised national attention and media coverage.

Interbranch consultations were organised by the police in 2012 and 2013 on the day of Missing Children in Bács-Kiskun county, with the title of ’My child, your child, his/her child’ I. and II. This county organised „Fairytale land, where are you?” opening ceremony which led to a professional dialogue. After the conference, greater cooperation was reached, the signalling system in child protection became more effective.

Police forces also conducted conferences and trainings, one example is a conference „Cooperation in the battle against the sale of people” with investigators, another is a national training „Child protection in the police service” for the prevention of crime units in the headquarters’ of the capital city and all the counties.

The Police offers trainings for students in various programs, for example, the DADA program (for primary schools), and the Remedy (ELLEN-SZER) program (for secondary schools), in which they raise awareness and empower youth with necessary information and skills to avoid and prevent sexual exploitation, as well as to offer available help and support. The police in the county of Csongrád started an online website called bulisbiztonsag.hu (party safety), which aims to strengthen the self defense mechanism of the youth, highlighing risk factors, promoting safety.

***Measures taken by the CFR***

The CFR suggests the Minister of the Interior to consider – in cooperation with the Minister of Justice and the Minister of Human Capacities – Initiating the modification of the Code of Administrative Offences in a way that in the future, no person under the age of 18 could be punished for committing the offence of prohibited prostitution.

The CFR requests the Minister of Human Capacities to

a) actively support and initiate the work started in the expert groups related to fighting off the threat of child prostitution affecting children raised in child protection care, and based on that take the necessary measures, especially ensuring the staff and equipment, as well as the preparation of professional protocol, training material, and legislative amendments;

b) initiate – in cooperation with the Minister of the Interior and the Minister of Finance – the drawing up of a specific packet of measures, action plan,in which framework attention is payed to

ba) raising children's awareness of their rights, the launch of thematical campaigns of deepening the understanding, according to the Lanzarote Convention, what bodies and persons can a child – facing the danger of child prostitution or being affected by any other form of sexual abuse and exploitation – turn to, with trust, for help and support;

bb) trainings aimed to help the professionals working in child protection - both in primary care and residential care - to recognise and prevent child prostitution;

The Commissioner requests the Commander in Chief of the Police to

a) consider - involving professionals – the existing protocols of the treatment related to the phenomenon of child prostitution, and the elements of crime intervention programmes performed by polive forces and operated at a national level in connection with the issue of child prostitution, and where it is appropriate, revise and update their contents, as well as examine the generalisation of the county police headquarters' good practices;

b) call upon all county and capital city police headquarters' chiefs to draw up agreements in each county for the prevention of child prostitution, and possibilities for having substantive and ongoing cooperation between police forces and child protection institutions, especially children's homes;

c) ensure that through trainings and continuous training, police staff members continuously receive actual information in connection with the phenomenon of child prostitution, as well as the available police actions related to fighting off child prostitution, its treatment and prevention.

1. To the CFR best knowledge, the Ministry of Human Capacities has prepared a guideline for child protection services to prevent and treat child prostitution, but this is not yet available. [↑](#footnote-ref-1)