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We all agree that any form of violence against children is unacceptable and constitutes one of the most serious forms of endangerment and violation of the rights of children and we all have an obligation to protect children from all forms of violence, support the family and provide environments suitable for unhindered development of children.

The Institution of Human Rights Ombudsman of Bosnia and Herzegovina has a specialised Department for Monitoring the Exercise of the Rights of the Child and the Department staff often comes across information and face cases pertaining to children's right to protection from sexual violence and abuse. Whenever possible, in cases concerning violations of the right of children to protection from sexual exploitation, IHROBiH insist that the media avoid sensationalism because we must not ignore the fact that these are children who are particularly vulnerable and exposed to violations of their rights and are very often neglected and left behind by their own parents.

IHROBiH uses the opportunity to point out that Bosnia and Herzegovina ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in 2012. By ratifying this and all other international conventions concerning the protection of children's rights, Bosnia and Herzegovina has undertaken to protect children from any form of psychological or physical violence, including sexual abuse. Four criminal codes govern this area in Bosnia and Herzegovina and these are as follows: Criminal Code of Bosnia and Herzegovina, Criminal Code of the Federation of Bosnia and Herzegovina, Criminal Code of the Republika Srpska and Criminal Code of the Brčko District of Bosnia and Herzegovina. The Criminal Code of the FBiH, Criminal Code of the RS and Criminal Code of the BDBiH provide for criminal offences against marriage and the family, which include criminal offences of child neglect and abuse, child abandonment, violation of child privacy, child maintenance avoidance, etc.

The Republika Srpska passed a new Criminal Code in 2017, which introduced a new chapter (Chapter XV – Criminal Offences of Sexual Abuse and Exploitation of Children) providing for the following criminal offences: sexual intercourse with a child under the age of fifteen, sexual abuse of a child over the age of fifteen, causing a child to be present during a sexual activity, exploitative use of children in pornography, exploitative use of children in pornographic performances, introducing children to pornography, exploitative use of computer networks or communication by other technical means for commission of sexual abuse or exploitation of children, sexual gratification in front of a child and soliciting for child prostitution.

IN 2017, IHROBiH submitted an initiative to amend the Criminal Code of the Federation of Bosnia and Herzegovina, in order to harmonise it with the CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and harmonise legal solutions in the interests of the child in the FBiH. However, the competent authorities of the FBiH failed to amend the Criminal Code of the FBiH. IHROBiH sent a Recommendation¹ to the Parliament of the FBiH, instructing it to initiate without delay procedural actions to amend the Criminal Code of the FBiH. IHROBiH is monitoring the implementation of this Recommendation because according to the latest information from the competent authorities from October 2021, the activities of the Working Group of the FBiH Ministry of Justice on drafting the Act on Amendments to the Criminal Code of the FBiH are underway, which should in turn adequately align the legislation of the FBiH with the Lanzarote Convention and Istanbul Convention.

Article 37 of the CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse sets forth the obligations for Member States reading as follows: *“For the purposes of prevention and prosecution of the offences established in accordance with this Convention, each Party shall take the necessary legislative or other measures to collect and store, in accordance with the relevant provisions on the protection of personal data and other appropriate rules and guarantees as prescribed by domestic law, data relating to the identity and to the genetic profile (DNA) of persons convicted of the offences established in accordance with this Convention”*. In this regard, the Act on the Special Register of Persons Convicted by Final and Binding Judgements for Criminal Offences of Sexual Abuse and Sexual Exploitation of Children² entered into force in the Republika Srpska, and the Register was established in accordance with the Act. The enactment of the law that governs the collection and storage of data on perpetrators of sexual abuse and exploitation of children is an obligation assumed by Bosnia and Herzegovina with the adoption of the CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. IHROBiH will continue to insist with the competent authorities in the FBiH and BDBiH to comply with international standards and implement the IHROBiH Recommendation.

As for complaints filed by individuals, the IHROBiH investigation procedure focuses, usually at the very beginning, on actions related to courts and prosecutor's offices, i.e. on the prosecution of perpetrators of criminal offences against children. In its cases, IHROBiH tries to point out to courts the necessity of expeditious court proceedings, and until a final and binding court decision is made, social welfare centres have the obligation to plan follow-up activities to protect the child in any current proceedings. The same call for expeditious and efficient court action can, *mutatis mutandis*, apply to prosecutors' offices.

Being aware that the protection of children from sexual abuse and exploitation requires a multidisciplinary approach and cross-system services (engagement of family and social protection services and healthcare services, and engagement of education institutions so that all authorities respond to children's needs and facilitate their protection within their competences and powers), we also engage other competent bodies in the investigation procedure. In cases of this type, IHROBiH insists that all those in charge, especially social welfare centres, provide the necessary psychological support to the victims. It is insisted that social welfare centres immediately review the condition and needs of the child, provide the child with adequate assistance to protect them from further neglect or abuse. In our work we often insist on parenting capacity assessment and depending on the situation found, child protection measures and actions are defined, which may include: a safer and more stimulating environment for the child, appropriate and timely healthcare, education in accordance with the individual protection plan, and continuity of psychosocial protection for the child. When selecting the option of social/family legal protection of a child, the

¹ Recommendation no P-117/19 dated 19 April 2019 and sent on 3 June 2019.

² The Official Gazette of the Republika Srpska, no 31/18

authorities are obliged to take into account the child's age, psychophysical development, health condition, previous upbringing and care, family and social conditions and all other relevant circumstances.

When working on individual cases, IHROBiH observes the lack of quality and coordinated inter-agency cooperation in different proceedings and often suggests and recommends to the authorities to take joint measures and activities to reach a solution that will be in the best interest of the child. This way IHROBiH finds itself in the position of the coordinator because we are always guided by the obligation to put the child in the focus of the work and actions taken.

In the so-called high-conflict divorce cases, we always invite parents to cooperate with institutions and to cooperate and establish communication with each other, but we often note that the authorities have not found an appropriate way to contribute to solving problems and protect the interests of the child. Unfortunately, IHROBiH also encounters cases in which the custodial parent makes it difficult or does not allow contact with the other, noncustodial, parent and the relationship between the parents tends to be disturbed to the point that they “accuse each other of sexually abusing the children” and the accusations turn out to be ungrounded, etc.

As IHROBiH often stresses in its cases, reports and releases, the competent authorities must pay particular attention to online violence and new trends in violence against children: sexting, grooming and fake Facebook profiles, and the competent MoI bodies are especially responsible for monitoring new trends.

IHROBiH is of the opinion that the work on promoting the UN Convention on the Rights of the Child should be continued and its application in domestic legislation should be insisted on, which, *inter alia*, means continuous awareness-raising of professionals and the general public to act in accordance with the Convention and directly apply international and EU standards in the work to protect the rights of the child. Also, institutions for children without parental care need to be more intensively transformed and foster care strengthened. Furthermore, by strengthening the capacity of social welfare centres and through professional development of workers, they are to be encouraged to use all existing legal mechanisms to protect children in different situations from abuse and neglect (institute of deprivation of parental authority or other protection measures in accordance with domestic violence protection acts, etc.). Actions still need to be taken to eliminate shortcomings in the system of combating human trafficking and measures need to be taken to effectively combat beggary and treat it as a human trafficking crime, and responsibility for neglect and abuse of children needs to be established.

As we have been pointing out for years, our general assessment is that children's rights are not a special priority of the competent authorities and that poverty and difficult financial situation in Bosnia and Herzegovina have a very bad effect (direct and indirect) on the exercise of all children's rights guaranteed by the UN Convention on the Rights of the Child.

THE INSTITUTION OF OMBUDSPERSONS OF BOSNIA AND HERZEGOVINA