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| NGO Report to the implementation of the Convention on the Rights of the Child and its Optional protocols in Slovenia |
| Report contains comments on the Third and Fourth Report of the Republic of Slovenia on the measures taken regarding the implementation of the Convention on the Rights of the Child and its Optional protocols |
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| **Slovene NGO cooalition ZIPOM** |

**April 2013**

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| In preparing this Report, the non-governmental organizations would like to draw attention to the fact that in Slovenia the main issue is mainly in the enforcement of legislative provisions and the Convention on the Rights of the Child in practice. It has also been observed that many UN Committee on the Rights of the Child recommendations on the 2nd Report of Slovenia still remain unrealized. We therefore encourage the Committee to again draw attention of the government of the Republic of Slovenia to the unresolved issues. |

Introduction

Slovene Non-governmental coalition ZIPOM[[1]](#footnote-1) have prepared the enclosed Report which contains comments on the Third and Fourth Report of the Republic of Slovenia on the measures taken regarding the implementation of the Convention on the Rights of the Child and its Optional protocols, which will be presented at the UN Committee on the Rights of the Child (CRC) in June 2013.

The report does not include all areas of children's rights violations, but merely the areas we, the participating organizations cover with our activities and which we perceive as problematic.

In preparing this Report, the non-governmental organizations would like to draw attention to the fact that in Slovenia the main issue is mainly in the enforcement of legislative provisions and the Convention on the Rights of the Child in practice. It has also been observed that many UN Committee on the Rights of the Child recommendations on the 2nd Report of Slovenia still remain unrealized. We therefore encourage the Committee to again draw attention of the government of the Republic of Slovenia to the unresolved issues.

The non-governmental organizations wish to inform the UN Committee for Children by providing additional information about the implementation of basic principles of the Convention as well as violations of children's rights in the areas we feel are still pressing and require the State to act quickly and effectively.

These areas are:

1. General measures
2. Social protection measures
3. Children belonging to the Roma community
4. Children from ethnic minorities
5. Erased people - measures taken to compensate the children
6. Unaccompanied minors, asylum seekers and refugees
7. Custody of a child in cases of parent separation
8. Foster care and adoption
9. Children in families with same sex parents
10. Protection of child victims
11. Child participation and education on child rights

Ljubljana, April 2013

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# General Measures (UNICEF Slovenia)

When the United Nations Convention on the Rights of the Child was adopted, by which Slovenia is also bound, it sent an important message to the world that children are subjects with all human rights, who also require special care and protection. In Slovenia we still have children as well as groups, who are unable to fully enjoy their rights, even though they are written in the Convention. It is our duty to do all we can to improve their situation.

We welcome that the State showed great amount of responsibility regarding child rights and took active role in the preparation of Optional protocol on communications procedure. Therefore we encourage that the ratification of the protocol follows as soon as possible.

**Recommendation under OP3:**

* **The State should ratify Optional protocol on communication and enable complaint mechanism for children.**

The absence of effective mechanisms for the coordination, monitoring and implementation of the Convention lead to an ineffective implementation thereof. Ministry of labour, family, social affairs and equal opportunities in most cases takes on the role of coordinative body, but practice shows that ministry itself is often facing lack of cooperation, response and shifting of responsibility beetwen ministers, without any possibility to sanction.

In Slovenia, an insistence on the “division” of the child into individual areas is clearly visible, instead of treating the child as a complete personality (subject). Responsibility is therefore shared between ministries, procedures are longer and the monitoring and coordination mechanism is lacking.

A National action plan is lacking, which needs to follow the The Programme for Children and Youth 2006-2016 (hereinafter referred to as PCY*)* and it should be pointed out that the document must be concrete and binding, which was not the case with the last adopted Action plan for 2009-2010, the execution of which was inconsistent. We welcome the States activities with preparation of updated PCY and urge that the document includes a comprehensive approach on the rights of the child and that the two-year action plans follow in time and are binding in its measures.

**Recommendation under CRC:**

* **The state should establish an interministrial body, whose priority tasks should include:**
	+ **monitoring and promotion of the implementation of the Convention on the Rights of the Child;**
	+ **preparation of a comprehensive Action plan for children based on the updated Programme for Children and Youth 2006-2016, which will be a concrete and an obligatory document, clearly stating the responsibility of each and every member of the society – the government, public administration, local communities, civil society and non-governmental organizations, individuals as well as children themselves.**

In September 2002, the Human Rights Ombudsman appointed a deputy for the area of children’s rights and social protection. We feel this solution is not appropriate for we believe these areas are too broad. We need a Special Ombudsman for children, who would not limit their activities solely to hearing complaints, but rather actively champion the protection and implementation of rights of children as a social group as well and make sure children’s voices were heard and considered in the society.

**Recommendation under CRC:**

* **The state should establish and appoint, respectively, of a Special Ombudsman, who would be responsible solely for the area of children’s rights.**

We find that government documents that pertain to children are lacking key indicators that would demonstrate positive success in achieving the set goals and tasks. Namely, an accurate assessment and quantitative indicators are urgently required in order to enable the monitoring and evaluation of progress. And further it enables thorough examination of the effects of any new measures on children and youth prior to the implementation thereof, which is especially important in the times of economic crisis.

**Recommendation under CRC:**

* **The state should establish a monitoring system of situation of children in Slovenia based on quantitative indicators, which could also enable government thorough examination of the effects of any new measures on children and youth prior to the implementation thereof.**

We feel the cooperation of the State with NGOs is still not satisfactory. It is often observed that NGOs are not systematically included in all phases of the implementation of the Convention. NGOs are increasingly facing issues related to financing, which is exclusively dependent on public tenders that are becoming more and more restricted in scope; their financial values are decreasing. Additionally, long-term planning is not possible and the extensive bureaucracy burdens the already underfunded NGO sector.

**Recommendation under CRC:**

* **The government and responsible ministries should support the establishment of a formal coalition of NGO which execute and develop programs for children. This network and the representatives, respectively, should be formally included in the working groups of before mentioned interministrial body in addition to research institutions and individual experts in this field;**
* **That government should allocate funds that would allow for the basic functioning of NGOs and that the funding would no longer be tied solely to NGO projects and service delivery.**

# 2. Social protection measures (UNICEF Slovenia and the Friends of Youth Association Moste-Polje)

The number of children living in poverty in Slovenia is increasing. The latest official data for 2011 show that the child poverty risk rate is 14.7 and in just one year has increased by two percentage points, which is the fastest recorded increase so far. UNICEF’s report[[2]](#footnote-2) shows that as many as 8.3 % of children are deprived of two or more basic goods. The crisis has had the greatest impact on particularly vulnerable children, as 43.6 % of children, from families where one or both parents are unemployed, are significantly deprived.

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| **Year** | **Rate** |
| 1997 | 14.3 |
| 1998 | 13.5 |
| 1999 | 11.8 |
| 2000 | 11.2 |
| 2001 | 11.7 |
| 2002 | 10.5 |
| 2003 | 9.9 |
| 2004 | 8.9 |
| 2005 | 11.9 |
| 2006 | 11.5 |
| 2007 | 11.3 |
| 2008 | 11.6 |
| 2009 | 11.2 |
| 2010 | 12.6 |
| 2011 | 14.7 |

Source: Child Observatory, 2013:

[www.irssv.si/otroci/index.php/socioekonomska-varnost/relativna-revina/stopnja-tveganja-revine-otrok](http://www.irssv.si/otroci/index.php/socioekonomska-varnost/relativna-revina/stopnja-tveganja-revine-otrok)

With regard to the New social legislation that came into force in 2012 (Financial Social Assistance Act[[3]](#footnote-3) and Exercise of Rights to Public Funds Act[[4]](#footnote-4)), which was designed to reduce poverty and social exclusion, however the changing of the conditions for the receipt of these benefits lead to the deterioration of the social status of numerous people. It is urgent that an in-depth look at the new system of social benefits is being made because of the adoption of single entry point and limitation of the conditions for exercising rights from public funds which depend on material status (income and property) of individuals and families.

We estimate that the number of people living at risk of poverty will be substantially higher in 2012 and 2013 than in 2011. Analysis of the new social legislation impact in 2012[[5]](#footnote-5) showed that social transfers were heavily impacted and among them especially child benefits with 64 million euro decrease. While figures clearly show that households with children are among the most vulnerable groups at risk of poverty. Especially single-parent families, children of unemployed parents, low educational level parents and families with several children are more at risk.

The new social legislation regulates the following rights: child benefit, cash social assistance, minimum pension support, state scholarships, reduced kindergarten fees, additional meal subsidy (elementary school pupils and secondary school students), lunch subsidy (elementary school pupils), rent subsidy, exemption from payment for social security services, contribution to payment for a home care assistant, right to cover the difference to the full value of healthcare services and right to payment of contributions for compulsory health insurance. Because child benefits, as an instrument of family policy, were made part of social transfers by the Exercise of Rights to Public Funds Act, the family policy effectively became social policy.

Additionally, we would like to highlight the importance of the inclusion of the area of family policy and children in the government’s strategies, particularly those pertaining to reforms, for we are finding that National Reform Programme 2012-2013[[6]](#footnote-6) practically do not include children, poverty and transfers. We believe there has been a lot of erosion in the area of family policy over the past two years. It is very important that the government thoroughly examines the effects of any new measures on children and youth prior to the implementation thereof, especially in times of economic crisis.

In accordance with the National Social Report of the Republic of Slovenia[[7]](#footnote-7), which determines that “without a functioning welfare state/…/the conditions in Slovenia would be much worse, because the poverty risk level would almost double”, we warn of the urgency of the preservation of the scope of social spending for children and families.

In May 2012, the Fiscal Balance Act[[8]](#footnote-8) (FBA) was adopted, which amended 42 laws and impacted the social protection measures as well[[9]](#footnote-9) and **resources for the implementation of the Convention:**

* deletion of upper two income classes for entitlement to child benefit
* property census for the right of the benefit for a large family has been set at the level of the 6th class of child benefit; thus far, this has been a general benefit (the limit was EUR 631.93 per family member),
* child maintenance is not harmonised up to the year which succeeds the year in which economic growth exceeds 2.5 per cent of gross domestic product,
* free kindergarten for the second child was abolished,
* general subsidy and one income class for additional subsidy were abolished,
* state scholarships remain frozen until the 2014-2015 academic year,
* maternity benefit for the first three months has not been modified and remains 100% of the basic wage, while parental benefit (nine months after three months of maternity leave) has been reduced to 90% of the basic wage, before it was 100%
* parental allowance increased from EUR 196 to EUR 251 per month,

Friends of Youth Association Moste-Polje are working directly with families and children at risk of poverty. In 2012 they helped over 5.000 families and 11.000 children. Here are some observations:

* More and more children are living in extreme poverty and personal crisis situations. Children are missing basic food, school appliances, suitable clothing and footwear, access to health and other vital services.
* In many cases families don’t have the means to cover electricity and water bills, and are therefore forced to live in extreme situations. Due to evictions often place of living is a garage, small bunkers or stay with friends and family members, where there are no spare beds. Children in such situations are deprived for leisure activities and socializing with friends.
* On top of difficult family situation, they are facing social exclusion in schools and all lead to their poor school performance or even become school dropouts.

**Recommendation under CRC:**

* **The government should include clear guidelines and targets regarding the prevention of child poverty in its documents, based on quantified goals for the decrease of child poverty. These objectives should be separated from those set for the general public;**
* **It would be necessary for family policy to once again become autonomous.**
* **The government should preserve the scope of social spending for children and familie**s.

# Children belonging to the Roma Community (the Mozaik Association – Association for Children)

According to the estimates of various institutions (Centres for Social Work, administrative units, non-governmental organizations) there are approximately 10,000 Roma (and even up to 12,000) living in Slovenia. Denser populations of the Roma live in Prekmurje, Dolenjska, Bela krajina and Posavje as well as in larger cities, such as Maribor, Velenje, Ljubljana, Jesenice, and Radovljica (mostly members of the Sinti family live in Jesenice and Radovljica).

During the 2002 census, 3,246 residents identified themselves as members of the Roma community and 3,834 indicated the Romany language as their mother tongue. In the previous census of 1991, as many as 2,256 people defined themselves as members of the Roma community and 2,752 indicated the Romany language as their mother tongue. When comparing the two censuses, it can be concluded that the greater number of people identifying themselves as Roma at the last census also shows an improvement in their situation in this period.[[10]](#footnote-10)

The Roma have historically been excluded from the social life, political decision-making and represent one of the most vulnerable groups in Slovenia. They are subjected to various forms of discrimination, from which problems of Roma children result. In non-governmental organizations we have observed that children’s and human rights of the Roma children are often violated.

**SALE AND TRAFFICKING**

NGOs have been detecting that the Roma children are mainly subjected to two forms of sale of Roma children.

**FORCED MARRIAGE**

Non-governmental organizations have been detecting the occurrence of sale of Roma children, mainly in Ljubljana and Maribor. It involves the so called forced marriage of underage Roma girls, where they enter an informal marriage. It is a traditional ritual involving marriage, where during her wedding night the girl is subjected to intercourse in order to establish her virginity. It involves sexual abuse (examination of genitals prior to intercourse, most commonly by her mother, the groom’s mother and one of the aunts) and sexual assault by her future husband. The girls usually move into their new families the same day (either within the State or abroad). We have recorded marriages of girls living in the Republic of Slovenia as well as girls, who have moved to the Republic Slovenia from abroad after having entered marriage. We have recorded five such unions in Ljubljana since 2010. This constitutes a grave interference with the child and violation of their rights.

A case of a 13 year old Roma girl received a lot of media attention. In 2010, she was sold by her father for 30,000 euros and was “sent” into marriage, respectively, in exchange for a debt in that amount being written off. The case was handled by the Police and the competent Center for Social Work. The Director of the said Center for Social Work publicly stated that in his opinion the girl was sufficiently mature to take this step into adulthood. This speaks of a general conviction that such an occurrence is part of the Roma culture. In 2010, the Association of Roma in Slovenia clearly expressed their position on forced marriage, namely, that it is trafficking in human beings and not a cultural custom.

The Republic of Slovenia does not provide sufficient protection to youth that are victims of trafficking in human beings and has no suitable accommodation capabilities. In non-governmental organizations we feel that the State does not address criminal offences in accordance with the Penal Code[[11]](#footnote-11): Article 113 – Trafficking in Human Beings; Article 171 – Sexual Violence; Article 173 - Sexual assault against a person under the age of 15; Article 192 – Neglect and Maltreatment of Minors) and violations of children’s rights (Articles 35 and 36 of the CRC).

**BEGGING AND FORCED CRIMINAL ACTIVITY**

In non-governmental organizations we are noticing cases of children being forced in criminal activities (theft, participation in the sale of illegal drugs) and begging on the streets (Articles 32 and 36 of the CRC).

**Recommendation under OPSCS:**

* **The State should adopt all necessary measures for the protection of children that are victims of victims of trafficking, sale of children, (such as forced marriage, forced criminal activity and begging).**
* **The State should establish suitable safe living quarters such as Safe house that can be used for the rehabilitation, reintegration and compensation of child victims of trafficking, sale of children, sexual exploitation and child pornography victims of sale.**
* **Mandatory consideration of forced marriage as criminal offences against children and discontinuation of referring to it as Roma culture.**

**EDUCATION**

Despite the fact that the Republic of Slovenia adopted the Strategy for Education of the Roma in the Republic of Slovenia (2004) and its amendment (2011), non-governmental organizations are observing the occurrence of severe violations in the area of education of the Roma children. We have been observing three main approaches:

1. Denial of existence of Roma children in the school and with that failure to exercise the specific additional forms of assistance, the educational system provides the Roma children (e.g. the aid of a Roma assistant);
2. Consistency in the implementation of enrolment of Roma children in school and inconsistency in the continuity of school attendance – there are different approaches to this issue in different parts of the country. Consequently, there is a high proportion of total or partial illiteracy (Article 28 of CRC) among the Roma elementary school children in certain areas of the Republic of Slovenia.
3. Common placement of Roma children in elementary schools with special curriculum:

According to the data from 2010 provided by the Ministry of Education[[12]](#footnote-12), 9.8 percent of Roma children attend elementary schools with special curriculum or institutions for education of children with special needs. The percentage of other children attending elementary schools with special curriculum or institutions for education of children with special needs is significantly lower. There are only 1.6 percent of such children in the rest of the population of elementary school children. Due to different social circumstances that contribute to the lack of success in school (poorer living and material conditions, inability to understand the language, illiteracy of parents, etc.) the Roma children are medically categorized as being intellectually disabled and are therefore placed in elementary schools with special curriculum. By doing so, the school system pathologies and ethicizes the Roma children.

The school system does not provide the Roma children with the right to education in their mother tongue. This is a violation of Article 30 of the CRC and Article 8 of the Elementary School Act[[13]](#footnote-13).

Additional professional assistance, intended for the Roma children is not a right of the child, but rather the right of the school. *Rules on norms and standards for the implementation of the elementary school programme[[14]](#footnote-14)* namely state that the school can justify part of a teacher’s employment as a special assistance teacher for the Roma providing the school has a sufficient number of Roma children.

Schools still use outdated materials that produce and re-enforce stereotypes, prejudice and negative perceptions of the Roma. Example of a verse from a poem: “*Pedenjpedu je piščal, kar čez noč cigan ukral. Svirilili, svirilili, niso ga več izsledili*.”[[15]](#footnote-15) *(Pedenjped’s whistle was stolen by a gipsy overnight. They looked and looked, but could no longer find him.)*. The Roma children are subjected to peer violence that stems from stereotypes and prejudice (teasing, insults, abusive language).

**Recommendation under CRC:**

* **The State should apply clear anti-discrimination practice in the school system, with the implementation of Roma language and culture in the school system, education of school workers about ethnically sensitive approaches and implementation thereof,**
* **The State should honour the principle of inclusion in the regular school system (as a method of preventing excessive inclusion of children in elementary schools with special curriculum);**
* **The State should implement approaches that will ensure regular class attendance and strive to eliminate illiteracy among children.**
* **The state should implement existing and create new forms of assistance for the Roma children (that are based on children’s real needs) and additional professional help as a right of every Roma pupil, regardless of the number of Roma children in a school.**

The State should prepare analyses about the success of Roma children and connect all these information with analyses about the actual state. The reason for this lies in the protection of personal information, because Article 95 of the Elementary School Act does not allow for the collection of personal information. Elementary schools therefore often avoid sending the data, but at the same time receive funds for additional professional assistance for the Roma children without any problems (they either have or do not have Roma children – whichever suits them). Consequently, it is difficult to plan positive measures, if there is no clear picture of the actual state and measures are prepared ‘by heart’. We would like to point out that numerous international HR bodies have been warning Slovenia to prepare analyses and monitor the data on the Roma minority, for example the report of the European Commission against Racism and Intolerance (ECRI) among others.

Despite worrying results of individual elementary schools, the State established some positive mechanisms in the area. Through a special project, the State introduced Roma assistants. Additionally, a special outreach approach to preschool education in Roma settlements is in its third year – among and with the Roma, led by the Institute for Ethnic Studies. This program is aimed at Roma children, who are not enrolled in preschool and offers a transitional form of integration, thus helping overcome problems with the enrolment in elementary school. The program also includes parents and is each year carried out in more Roma settlements. Unfortunately, these projects are not systemic, so it is up to schools to decide whether they will participate in the program or not, limiting the reach of the project. We are also worried about the lack of decision on how to continue – no funds have been secured to continue and build on this work. We believe that positive measures should be continued and built on with a strategic goal of implementing them in the educational system.

The state must support and additionally strengthen such proactive approaches, results of which will not be seen tomorrow, but rather after some time. Similar measures will also have to be prepared in other legal areas, because even the most progressive educational measures will not be effective, if they are implemented across departments and will not address the causes for attendance of Roma children in the educational system and the unsuccessfulness of those, who do attend school. The educational system cannot be successful as long as the Roma children are getting to know the world of education by candlelight, in homes without water and heating.

**SOCIAL AND ECONOMIC POSITION OF THE CHILD**

Most Roma parents are unemployed and live in poor social and economic conditions. Consequently, many Roma children are encountering poverty and bad living conditions. Many Roma children still live in geographically segregated environments with poor infrastructure and are facing problems pertaining to the ownership of land which they live on.

Consequences of such problems are evident as some Roma families in the Republic of Slovenia live without water and electricity in their places of residence. An Amnesty International report shows that in the period from 2011 water was provided to 3 of 19 families living in the Roma settlement in Škocjan. Others did not have access.

NGOs are observing that Roma children are not receiving equal representation in procedures before the Centres for Social Work. Their families, despite strongly expressed need, did not receive the so called welfare service of “family home aid” that would provide them with additional assistance. Additionally, children often do not receive protection in cases of neglect and violence.

**Recommendation:**

* **The State should ensure positive discrimination and additional attention from the Centres for Social Work with regard to assistance provided to the family (with regard to education and integration).**
1. **Children from Ethnic Minorities** (the Mozaik Association – Association for Children)

**Article 30**

**Situation of ethnic minorities in Slovenia**

The Republic of Slovenia guaranties ethnic minorities the assertion of rights in accordance with the autochthonism principle. Italian, Hungarian and Roma (autochthon Roma[[16]](#footnote-16)) communities are considered autochthon minorities. The Italian and the Hungarian minority are enjoying a wide selection of rights, whereas the Roma minority is in a worse and an unequal position in comparison.

Despite the large numbers of other minorities in Slovenia (Albanians, Bosnian Muslims, Montenegrins, Croatians, Macedonians, Muslims, Serbs and Bosnians), they enjoy no special rights.

Census with regard to nationality, 2002[[17]](#footnote-17):

|  |  |
| --- | --- |
|   | 2002 |
| total | share |
|   | % |
| TOTAL | 1,964,036 | 100 |
|  |
| Ethnically defined | 1,766,982 | 89.97 |
| Slovene | 1,631,363 | 83.06 |
| **Italian** | **2,258** | **0.11** |
| **Hungarian** | **6,243** | **0.32** |
| **Roma** | **3,246** | **0.17** |
| **Albanian** | **6,186** | **0.31** |
| Austrian | 181 | 0.01 |
| Bulgarian | 138 | 0.01 |
| **Bosnian Muslim** | **21,542** | **1.10** |
| Czech | 273 | 0.01 |
| **Montenegrin** | **2,667** | **0.14** |
| Greek | 54 | 0.00 |
| **Croatian** | **35,642** | **1.81** |
| Jewish | 28 | 0.00 |
| **Macedonian** | **3,972** | **0.20** |
| **Muslim** | **10,467** | **0.53** |
| German | 499 | 0.03 |
| Polish | 140 | 0.01 |
| Romanian | 122 | 0.01 |
| Russian | 451 | 0.02 |
| Rusyn3) | 40 | 0.00 |
| Slovakian | 216 | 0.01 |
| **Serbian** | **38,964** | **1.98** |
| Turkish | 259 | 0.01 |
| Ukranian3) | 470 | 0.02 |
| Vlach | 13 | 0.00 |
| Other | 1,548 | 0.08 |
| Ethnically undefined | 22,141 | 1.13 |
| Declared as Yugoslavian | 527 | 0.03 |
| **Declared as Bosnian** | **8,062** | **0.41** |
| Regionally defined | 1,467 | 0.07 |
| Other | 12,085 | 0.62 |
| Did not wish to answer | 48,588 | 2.47 |
| Unknown | 126,325 | 6.43 |

NGOs are observing that the rights of children of ethnic minorities are being violated, namely Article 30 of the CRC.

**EDUCATION**

The school system does not provide the children of ethnic minorities with the right to education in their mother tongue and the right to learn about their culture. This is a violation of Article 30 of the CRC and Article 8 of the Elementary School Act[[18]](#footnote-18).

**Recommendation under CRC:**

* **The State should implement different languages in schools, and expanding the choice of language in which pupils will learn in compliance with Article 30 of the CRC;**
* **The State should provide additional assistance to children, whose mother tongue is not Slovene language, based on real needs of the child;**
* **The State should respect of principles of multiculturalism and the opportunity to learn about own culture for every pupil.**

**SOCIAL AND ECONOMIC POSITION AND PROTECTION OF THE CHILD**

Children, who are members of ethnic minorities, are often targets of prejudice and xenophobia. NGO are noticing that children of ethnic minorities are often at greater risk for poverty; many among them do not have basic health insurance and therefore do not have free access to medical services (violation of Article 24 of the CRC).

NGO’s have detected unequal treatment of children, whose parents have obtained alien status in the Republic of Slovenia, but the status of children themselves is not settled[[19]](#footnote-19)[[20]](#footnote-20).

The elimination of all forms of discrimination against children from ethnic groups is one of the most important tasks of education.

*Social inclusion in the broader environment.**The work of the Ministry and police was commended explicitly by the Human Rights Ombudsman in her 2011 annual report.*

**Recommendation under CRC:**

* **The State should take all necessary measures to prevent and eliminate all forms of discrimination against children from ethnic groups.**
1. **Erased people - measures taken to compensate the children** (Amnesty International Slovenia)

In Slovenia, the issue of erased people is one of the most serious human rights concerns in the field of ethnic discrimination. The erasure took place on 26 February 1992 without notice, without due process of law and without the possibility to complain. Erasure was a measure of unlawful revocation of the permanent resident status to people form other parts of Yugoslavia who did not acquire Slovenian citizenship because of many reasons. As a result, the authorities showed no mercy and erased them from the registy of permanent residents. As a consequence of erasure, the erased lost all their rights because of loosing their legal status, families were separated and in December 2012 a man returned to Slovenia, finally able to visit his children after more than 20 years of erasure.

Unlawful deprivation of legal status in Slovenia affected thousands of people. In January 2009 the Ministry of Interior conducted an internal investigation. According to their findings, the official number of persons unlawfully erased from the registry of permanent residents on 26 February 1992 is 25.671 erased persons. Out of all erased people, until 2009 1.302 persons died, 10.943 have a regulated status (out of them 7.313 are citizens of Slovenia), while 13.426 people are still without a regulated status. Newly acquired family members (children) are not counted in these numbers. It is not clear how many of them are in Slovenia and how many are abroad, however, the assumption is that the majority of them are abroad (because they were deported, as they could not return, or because they left due to the consequences of the erasure).

In 2010, the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia[[21]](#footnote-21) was enacted in the Republic of Slovenia, and entered into force on 24 July 2010. The Act redefines the issue of permanent residence permits also for the children of the ‘erased’, **but the Act refers only to those children who were born in the Republic of Slovenia after 25 June 1991 and who have actually resided in the Republic of Slovenia since their birth.** This means that children of erased, who were (later) born abroad, are not eligible for regulation of status. Especially in cases where parents are already deceased, this is a major concern[[22]](#footnote-22). All the children of erased people are now of age, but we feel that it is still a problematic issue and challenges with grandchildren of erased people remain, as the State only addresses direct descendant of the erased.

International human rights mechanisms have in the past reacted and urged the Slovenian authorities to address and resolve the issue. The latest in the long series of recommendations, warnings and conclusions is a letter from CoE HR Commissioner Mr. Nils Muižnieks to Slovenian authorities of 29 January 2013.

Most importantly, on 26 June 2012 the European Court of Human Rights delivered a judgment in the case Kurić and others v. Slovenia[[23]](#footnote-23) finding Slovenia responsible for violations of the erased peoples’ right to protection of private and family life (Article 8 of the European Convention on the Protection of Human Rights and Fundamental Freedoms), the right to effective remedy (Article 13) and the prohibition of discrimination (Article 14).

With the judgment the first six erased people ever were granted compensation of 20.000 EUR each for non-pecuniary damages. The decision of the Court on pecuniary damages is still pending. The Court also ordered the Slovenian government to set up within one year a compensation scheme for other erased people as it found that under the current rules on compensation the victims are not able to claim compensation.

The Government publicly announced they will respect the European Court of Human Rights judgment. The six winning applicants received the compensation for non-pecuniary damages in the fall of 2012.

In the fall 2012 the Government out-sourced the preparation of the implementation plan (comprising of an Action Plan and legislation drafts) to a group of four Law Professors from the Faculty of European and State Studies from Kranj (*Fakulteta za evropske in državne študije*). In the course of preparation of the implementation plan the group did not wish to interact with the civil society or the erased people. The materials prepared by the group were submitted to the Government in mid-December 2012. The documents were classified as internal at the level of Ministry of internal affairs and confidential at the level of the Government according to the media.

Amnesty International Slovenia filed an application demanding access to public information for all the materials including draft documents on behalf of the civil societyin January 2013. In January 2013 the Action Plan was made public, while other, more detailed documents, such as the original implementation plan or any draft legislation, were not. The legal proceedings for accessing these documents as public information are continuing (as of 7 May 2013).

**Other developments – legal status of children of the erased**

The Strasbourg Court judgment has no effect on the issue of regulating the legal statuses of the erased people. As required by the Constitutional Court rulings No U-I-284/94 of 4 February 1999 and No U-I-246/02-28 of 3 April 2003, the authorities took some steps to enable some of the erased people to retrieve the legal statuses they were deprived of in 1992.

The most important measure was the 2010 ZUSDDD-B amendment (Law on regulating the status of citizens of oher successor states of Yugoslavia). The law only regulates legal statuses and gives the possibility to the erased people to file an application for a permanent residence permit and provides no additional measures which are more than just necessary (integration support, health care measures, psychological support, redress, housing measures, education measures, social support measures etc.).

The main issue of the law regarding children **is the fact that children of the erased born after independence can claim legal status only if born in Slovenia.** Considering the fact many erased were forcibly removed from the country and still live abroad (it is estimated that approximately one half of the erased are living outsice of Slovenia) – this means that all the children of this group cannot return to Slovenia – even if their parents can. There are no special provisions for the reunification of families in the law (pelase look at the example of Ali Berisha in the footnote nr. 22 on the previos page – Ali Berisha won at the EctHR, received his status back, but his 5 children cannot return with their father to Slovenia because they were born abroad after Ali was deported from Slovenia).

The other main issues with the Legal Status Act are:

* The erased people have to file a new application for permanent residence permit (new lengthy administrative proceeding);
* Administrative fee of 95 EUR applies;
* The burden of proof is entirely on the erased people (deportations carried out without a deportation order, for instance, are difficult to prove);
* Several administrative barriers are imposed: competence for the decision is transferred to local administrative units (where the same officials solve cases who took part in erasure; costly official translation of all documents; attending a hearing in Slovenia is difficult, time-consuming and costly for persons living abroad; in case of absence from Slovenia they have to prove that they tried to return to Slovenia in the time period from 5-10 years of their absence (not before and not later).

**Statistics on the implementation of the Legal Status Act**

Since the adoption of the amendments to the Legal Status Act in 2010 the state of affairs is as follows:

By 1 January 2013, 368 applications were filed (284 by erased people, 28 by children of erased people and 56 by applicants who were not erased). 101 applications were approved, 125 applications not approved, 142 cases are pending.

These shows the applications for permanent residence status of erased people are still being rejected, which is completely unacceptable. It shows that this general measure adopted by the state reached only cca. 2.4 % of the erased without status (284+28 applications). The Republic of Slovenia should approach the victims of erasure and offer a legal status to them instead.

**Recommendation:**

* **The State should regulate the restoration of legal statuses ( issuing of permanent residence permits) for all erased and especially the children of the ‘erased’ including those children who were not born in the Republic of Slovenia and all other descentants or family members.**
* **The State should take all necessary measures to compensate the children of the »erased«, even though not erased themselves.**
* **The state should adopt all other necessary measures to reintegrate the erased and their children in the Slovenian society inclusing employment, education, social and housing measures. Special attention should be given to minors, inclusing relevant psycho-social assistance or counselling.**

**6. UNACCOMPANIED MINORS, ASYLUM SEEKERS AND REFUGIES (**Slovene Philanthropy)

In Slovenia, unaccompanied minors are dealt with in accordance with their 'migrant status', granted to them by the State. This status determines where they will be placed, and what their options and rights are.

The data of the Ministry of the Interior shows that 148 unaccompanied minors applied for international protection between 2010 and end of 2012. The majority of them were boys between the ages of 16 in 17, and the prevailing countries of origin were Afghanistan, Somalia, Syria and Algeria (crises centres and war regions). During this period, Slovenia granted subsidiary protection to eleven unaccompanied minors and a refugee status to seven unaccompanied minors (three have turned 18 during the procedure).

The majority of unaccompanied minors, who apply for international protection, leave Slovenia prior to the conclusion of the procedure or soon after being placed in an asylum home, respectively. This is also due to lengthy procedures, improper handling, inadequate psycho-social programs, unsuitable living conditions as well as insufficient care and protection. It is alarming that it is not known how most unaccompanied minors left Slovenia and where they went. It is also important to note that the number of unaccompanied minors who stay in Slovenia has been increasing over the past three years.

**All recommendations apply to all unaccompanied minors and children with families, regardless of their status.**

**Statistical records**

The Police keep a record of the number of entries of unaccompanied minors that cross the state border illegally, but they do not keep a separate record of the number of entries and denied entries of unaccompanied minors that cross the border illegally.

**Recommendation:**

* **The State shall ensure the keeping of separate records of the number of entries and denied entries of unaccompanied minors that cross the border illegally.**

**Health care, rehabilitation and social integration**

Unaccompanied minors and underage children with families, who do not have a settled status, and children with a permission to remain, are entitled only to emergency health care, which is contrary to Articles 2 and 24 of the CRC. Children that fled to Slovenia from war zones are not ensured rehabilitation and efficient social integration programs which is contrary to Article 7 of the OPAC.

**Recommendation under CRC:**

* **The State shall ensure that all children have a right of access to the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health.**

**Recommendation under OPAC:**

* **The State shall ensure those persons that fled from war zones rehabilitation and effective social integration programs.**

**Insufficient protection**

A person that applies for international protection can obtain a refugee status or subsidiary protection (narrowly defined and time limited protection). Another form of protection (e.g. protection on humanitarian grounds) for unaccompanied minors does not exist. Current practice shows that most unaccompanied minors are granted subsidiary protection only for the period when they are underage and when they apply for the extension thereof (they are no longer minors at that point), the State does not grant them approval. We find that problematic because a long-term solution is not sought. They have integrated into the Slovene society well while they were under protection, at the same time the security situation in their country of origin does not allow them a safe return, for they are in danger of becoming victims of armed conflict. The existing arrangement is contrary to Article 22 of the CRC and provisions of OPAC.

**Recommendation under OPAC:**

* **The State shall provide suitable security and protection to persons, who would be in danger of (again) becoming victims of armed conflicts upon the return to their home country, which shall not be limited to the period when they are minors.**

**Accommodation**

Slovenia does not have suitable accommodation for unaccompanied minors, where they would receive professional treatment and access to psycho-social programs, tailored to their needs that would promote their full development. Their placement is tied to the status they are granted by the State. They are placed in institutions not intended for the care of children. Placement in foster families is not implemented in practice. The existing arrangement is contrary to Article 20 of the CRC.

Unaccompanied minors and children with families that are in the process of being deported from the State are placed in the Aliens Centre, which is a Police institution of closed type (detention center). We believe that despite providing special sections for vulnerable groups, placement in this type of an institution is not appropriate, and in Slovenia this is done systematically and lasts months at a time, which is contrary to Article 37 of the CRC, which defines that the detention of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time. The Aliens Act (Ztuj-2, Official Gazette of RS no. 50/2011) does state that an underage alien and a family with an underage alien, in agreement with a legal guardian, should be placed in appropriate institutions for the placement of minors (and if that is not possible, they are to be placed in the Aliens Centre); however, this provision is not implemented in practice.

Unaccompanied minors (and underage children with families), who have applied for international protection are placed in a special section of the Aliens Centre. The section is somewhat physically separate, but other applicants are able to access it, which exposes unaccompanied minors to various abuses, including dangers of trafficking in human beings. Additionally, the Aliens Centre does not provide 24-hour psycho-social service and treatment.

The International Protection Act (ZMZ-UPB2, Official Gazette of RS, no. 11/2011) determines that an unaccompanied minor, who has been granted international protection, is ensured placement with adult relatives, foster family or provided special accommodation, suitable for minors. In practice, most of these children are placed in an Integration House, where they reside alone, without the presence of professionals to monitor and guide them as well as provide them with psycho-social support. Four unaccompanied minors (three no longer underage) have been placed in a residence hall for students, which have proven to be successful and should be practiced more often in the future.

**Recommendations under CRC:**

* **The State shall change the provision of the Aliens Act which determines that children can be placed in an Aliens Centre and at the same time ensure placement of all children in suitable institutions, designed for the care of children and provide tailored professional treatment and suitable psycho-social programs. When determined that it is in the best interest of the child, the State must place the child with a foster family.**

**Legal guardianship**

The Aliens Act and the International Protection Act determine that a legal guardian must be appointed to unaccompanied minors. Despite this provision, Centres for Social Work, who are in accordance with the Aliens Act, responsible for appointing a legal guardian to unaccompanied minors that have crossed the border illegally and have been processed by the Police, do not respond every time. In these cases, unaccompanied children are processed by the Police without the presence of a guardian, who is supposed to look after their best interests. Another problematic issue is the fact that professionals from Centres for Social Work that act as guardians for different ‘categories’ of unaccompanied minors (children processed at the border or placed in the Aliens Centre, children applying for international protection and children that were granted international protection) are not (sufficiently) trained. In 2010, an amendment to the International Protection Act was adopted (ZMS\_B, Official Gazette of RS, no. 99/2010) that prescribed mandatory training for all legal guardians of unaccompanied children, who are applying for international protection, but not for legal guardians of children with other types of status. It should be emphasized that up to now no such training has been carried out. Additionally, the planned changes to the International Protection Act, which will be adopted soon, anticipate a repeal of the Article that prescribes the mandatory training of guardians.

Until March 2011, legal representation for unaccompanied children who applied for international protection was implemented by representatives of the non-governmental organization Slovene Philanthropy. At that time Slovene Philanthropy decided to temporarily stop implementing legal guardianship for newly arrived children. This decision was adopted in order to (again) warn the State that the current system of care and treatment of unaccompanied children was inappropriate and that the area was in dire need of change. Slovene Philanthropy was also faced with a lack of capacities due to an increased influx of unaccompanied minors into Slovenia and the lack of financial support. After the decision to discontinue the practice of legal guardianship by representatives of Slovene Philanthropy, the implementation of legal guardianship for unaccompanied children was taken over by the competent Centre for Social Work. This significantly lowered the level of protection of these children, because professionals from Centres for Social Work are facing severe time constraints (they rarely have contact with children, and are in most cases only present at hearings) and are at the same time insufficiently trained for this work. The existing regulation is contrary to Articles 20 and 22 of the CRC.

**Recommendations under CRC:**

* **The State shall ensure mandatory training of legal guardians of unaccompanied minors.**
* **The State shall provide appropriate support to non-governmental organizations that are willing to implement legal guardianship for unaccompanied minors and are trained to do so.**

**Free legal assistance**

Unaccompanied minors, who are in the process of being deported from the State, are not entitled to free legal assistance. Unaccompanied minors who have applied for international protection are entitled to free legal assistance, but only in the second and third instance (with regard to procedures at the Administrative and Supreme Court), but are not entitled to this type of assistance in the first instance of the procedure, when it is most needed as well as crucial. Legal protection of unaccompanied minors is ensured through the non-governmental organization Legal-informational Centre of Nongovernmental Organizations – PIC, which is carrying out a project that is financed by the European Refugee Found. Since this assistance is in a form of a project and financed accordingly, it is irregular. The existing regulation is contrary to Article 22 of the CRC.

**Recommendation under CRC:**

* **The State shall ensure efficient free legal assistance to all children in all instances of the procedure.**

**Family reunification (in Slovenia)**

Only unaccompanied children with granted international protection are entitled to family reunification and they can only request reunification with their parents. Unaccompanied minors who come of age during the procedure are no longer entitled to reunification with their parents. It is important to note that most unaccompanied children are between 16 and a half and 18-years-old when they are granted international protection. Because the procedures are lengthy, most unaccompanied children come of age during the process. The existing regulation is contrary to Article 10 of the CRC.

**Recommendations under CRC:**

* **Applications by a child shall be dealt by the State in a positive, humane and expeditious manner.**
* **The State shall change the legislation and enable reunification of unaccompanied children with their parents even after they turn 18.**

**Age assessment**

The Aliens Act determines that when the identity of a minor is not confirmed and there is doubt whether the person is a minor, the Police can determine the persons age with the help of experts. Additionally, an amendment to the International Protection Act (ZMZ-C, Official Gazette of RS, no. 83/2012) introduced a provision determining that as part of the application procedure the competent authority can order an examination of an unaccompanied minor by a medical expert for the purpose of age assessment. What we find particularly problematic is the fact that the law allows the possibility of using x-rays to determine age, which is ethically questionable (for it is not intended for the treatment of the person), harmful to health and inaccurate (results may deviate by as much as a few years), which has been determined by many international studies. A non-governmental organizations’ initiative for the use alternative methods of age assessment in children that are not harmful to the child and ethically acceptable, have not been adopted by the competent Ministry of the Interior. The fact that the International Protection Act does not require the issuing of a declaratory decision, which a child has the opportunity to appeal, is also questionable. The existing regulation is contrary to Article 3 of the CRC.

**Recommendations under CRC:**

* **The State shall define in the International Protection Act and the Aliens Act as well as ensure in practice an age assessment procedure, using methods that are ethically acceptable, not harmful to the child and culturally appropriate.**
* **The State shall prescribe the issuing of a declaratory decision on the child’s age in the International Protection Act, which the child can appeal.**

**Schooling**

There are no effective preparatory programs in Slovenia that would facilitate the unaccompanied minors’ inclusion in school and the learning process itself (e.g. intensive and continuous literacy training and learning of the Slovene language, adapted learning materials). In some cases, inclusion of unaccompanied minors in vocational training proves more appropriate than enrolment in elementary or secondary schools. However, in accordance with the provisions of the International Protection Act they are given the opportunity to enrol in vocational training solely nine months after their lodging of an application for international protection if they haven’t received any decision from the competent authority. The existing regulation is contrary to Articles 3, 22 and 28 of the CRC.

**Recommendations under CRC:**

* **The State shall provide effective preparatory programs that will facilitate the child’s inclusion in school and the learning process itself by ensuring intensive and continuous literacy training and learning of the Slovene language as well as adapted learning materials.**
* **The State shall change the provision of the International Protection Act granting children, who applied for international protection, access to vocational training immediately after their arrival.**

**Lengthy procedures**

Despite the fact that the International Protection Act determines that the competent authority should process an application for international protection in six months and that the application must be given priority when lodged by an unaccompanied minor, these procedures last longer in a great majority of cases. Additionally, these procedures are not carried out in a child-friendly environment.

**Recommendations under CRC:**

* **The State shall uphold the provisions of the International Protection Act and process applications of unaccompanied minors as a priority and adopt a decision in six months.**
* **The State shall conduct procedures in child-friendly premises.**

**Insufficient training of those actively involved**

People involved in procedures involving unaccompanied children (decision makers, guardians, legal representatives, social and care workers, police and others) are insufficiently trained.

**Recommendations:**

* **All those working with unaccompanied children must receive appropriate and on-going training. Such training should focus specifically on the rights and needs of unaccompanied children, but also on cultural factors and the development of the appropriate skills for communicating with them.**

**Non-involvement of Ministries in the resolution of issues of unaccompanied minors**

The area of migrations and with that unaccompanied minors falls under the jurisdiction of the Ministry of the Interior. We estimate that the involvement of other ministries is inadequate; particularly the Ministry of Labour, Family and Social Affairs should play a larger role. In October 2010, an interdepartmental working group (with representatives of the Ministry of the Interior, the Ministry of Labour, Family and Social Affairs, the Police, the Ministry of Education and Sports and representative of NGOs) was established with the purpose of assuring a more appropriate treatment of unaccompanied children at a systemic level and establishing a more unified and better coordinated approach in the area. The interdepartmental working group ceased its activities in February 2012, and was officially discontinued by the Government in May 2012.

**Recommendations:**

* **The State should re-establish an interdepartmental working group with the aim of solving problems pertaining to unaccompanied children, which will consist of representatives from all competent Ministries and non-governmental organizations. At the same time, the State shall consider all recommendations proposed by the interdepartmental working group regarding changes of the legislation and practice.**
1. **CUSTODY OF A CHILD IN CASES OF PARENT SEPARATION (**THE OSTRŽEK ASSOCIATION)

**THE CHILD’S RIGHT TO CONTACT**

The Convention determines that a child, who is separated from one or both parents, has the right to maintain regular relations and direct contact with both parents, unless that is contrary to their interests (Article 9/3). The right to contact to one’s own child is a personal right, which is established by a Provision of Article 106 of the Marriage and Family Relations Act. It is also a parental right, the Constitution classifies as one of human rights and fundamental freedoms (Articles 53 and 54). The right of children to contact, who have been separated from one parent in a divorce, must be protected. Additionally, considering their level of understanding, the child’s opinion must be respected, which is extremely rare. In most cases, the children are not even consulted.

In a divorce, it usually the mother who gets custody of the child and becomes their legal guardian. This is still presented as part of our culture, but at the same time it should be noted that only a small number of fathers express the wish to gain custody of their children. Precisely because of the overwhelming number of placements of children with mothers and not fathers, including eventual future problems regarding the right to access, it statistically weight heavier on mothers than fathers.

Last year, the Centres for Social Work handled 2,048 cases pertaining to the right to contact. However, they have no data on how many parents violate this right. The number of supervised contacts is increasing[[24]](#footnote-24). The Ostržek Association emphasizes that supervised contacts in the Republic of Slovenia represent a special type of contact that is implemented in the event of litigation where one parent is suspected of violence against the child. In Slovenia, legal procedures last unreasonably long. It is not uncommon for family disputes to last 10 years or more, and even after the completion of the procedure, in many cases a parent obstructs the right to contact of the other parent, without incurring penalties. Slovenia has been repeatedly penalized before the European Court of Human Rights precisely for violations of Article 8 of the European Convention on Human Rights.

The number of divorces in the Republic of Slovenia is similar to the number of supervised contacts, while the number of dissolutions of common-law marriages, which are equal to marriage in the Republic of Slovenia, is unknown. Equation of these types of families in theory is one thing, but in practice, from the point of view of the enforcement of children's rights is another. Children from common-law marriages are in a much worse position after separation, because as we know that contact with both parents is the right of the child, as is the right to child support according to our national law, **but children cannot claim one nor the other because of their incapacity to participate in a legal procedure**. An undefined number of common-law marriages means that the parent who leaves, will not necessarily submit a claim with the court to assert the right to contact; and the parent who keeps the child may not claim payment of child support from the former partner. There are quite a few parents from such unions that have decided assert the right to contact and payment of child support, even though they still live together, which entitles them to certain, minimum benefits (e.g. priority enrolment in kindergarten, higher child benefits by 10 %).

The Ostržek Association estimates that with the current legislation and the inaction of public authorities, in particular Centres for Social Work, the number of children whose rights to contact have been violated, cannot be defined. We can only state that over the past 3 years, 867 fathers and 5 mothers came to us for assistance, because their contacts were being impeded, despite court decisions. As an example[[25]](#footnote-25) of anomalous procedures taking place in the Republic of Slovenia during a process of asserting the right to contact after a divorce, we are providing a summary of the judgment of the European Court of Justice. We would like to point out that the situation in this area has NOT CHANGED, even though the judgment is from 2009, and the procedures described began in 2001.

Our expectations have of course not been meet, because as we have already mentioned at the beginning, that which is also confirmed by the Association of Centres for Social Work, contacts between parents and children are now taking place “under supervision”. That means that the courts are increasingly accepting claims made by the other parent at court during divorce proceedings and establishment of contact, such as the presence of different forms of violence, thus limiting the right to contact. Contacts may take place in such form for several years, and we have fathers who have had and some are still having over 300 meetings with children in small and unsuitable offices of Centres for Social Work across Slovenia, since they do not have separate areas for the execution of these activities. These contacts are also carried out solely during the working hours of Centres of Social Work, that is, in the morning and mostly only once a week for 2 hours. Here we would like to especially highlight the often demonstrated unprofessionalism of these Centres, their ignorance and inflexibility of their operations.

A child, who is granted the right to contact with both parents under the Convention, is in the Republic of Slovenia still unable to independently enforce this right in a court process, even if they have turned 15 (Article 409/1, 2 and Article 410 / 3 of the Civil Procedure Act). The Civil Procedure Act still only provides that the courts issue a new decision on the custody of a child, but does not anticipate the possibility of a new decision on withdrawal or restriction of the right to contact, although it may be necessary to issue a new decision due to changed circumstances and the protection of the benefits of the child. So, because the Marriage and Family Relations Act from 1977 is still valid and the Family Code was not adopted, supervised contact are enforced, which is completely inappropriate and a violation of the Convention.

There are practically no sanctions in the Republic of Slovenia that the parent, whose right to contact is impeded by the other parent, can take advantage of. Fines for failure to enforce court decisions, imposed by the courts, are very low and very rare. An enforcement of a judgment that would involve the child itself is not requested even by parents who haven’t had contact for a longer period of time, as they believe that this would not benefit the child. In recent years, we know only of 3 cases of enforcement of a judgment involving a child, and they were actually all public, shown on TV and other media, which among other things, violated the child’s right to privacy.

**Recommendation:**

* **Even though marriages and common-law marriages are equal to marriage the practice shows that is not the case from the point of view of the enforcement of children's rights. The State should ensure that children from common-law marriages received equal protection in cases of dissolutions of common-law marriage.**
* **The State should enable children to participate in a legal procedure and claim contact with both parents and child support.**
* **The State should ensure that contacts under supervision become more children friendly.**

**(NON)PAYMENT OF CHILD MAINTENANCE (Article 27)**

Since 1995, the Ostržek Association has been drawing attention to the legally inadequate regulation of the determination of child maintenance as well as the recovery of thereof. Based on these pressures, the Republic of Slovenia founded the Maintenance Fund, which is all the State did with regard to non-payment of maintenance. The prepared and not (yet) adopted Family Code also does not regulate this area, and the responsible Ministry is not responding to our proposals. ALL recommendations that the Committee included in the 2nd periodic report, have remained unrealized in their entirety. In 2006, we informed the Ministry of Labour, Family and Social Affairs that in the Republic of Slovenia over 5,000 divorce proceedings, determinations of contact and maintenance annually “drown” in the sea of exactly 640,000 unsolved cases in the judiciary. That more than 50,000 children are receiving miserably low maintenance between 1 and 100 euros per month. And more than 15,000 children don’t even receive that. And even then, according to our data, there was more than 5 million of unrecovered maintenance; therefore, the problem of non-payment is INCREASING RAPIDLY.

In 2009, we addressed another demand to the Ministry of Justice to regulate the area of maintenance recovery in an effective manner. At our initiative, a major decision was adopted to prepare changes and amendments to the Enforcement and Securing of Civil Claims Act. To date, no such changes have been prepared. The only positive solution was that after 22.04.2010 the courts started separating maintenance enforcements from the rest, which enabled us to make a partial determination regarding the non-payment of maintenance since April 2010[[26]](#footnote-26), the data of course being limited to those who actually submit a claim for the enforcement of maintenance with the court. The number is of course much higher, because after all the long years of ineffective legal procedures, many parents already gave up and no longer submit claims for the enforcement of maintenance.

However, a court issued decision does not mean that the child will receive their maintenance, because the courts do not keep records on whether the enforcement was successful or not. The records we keep at our Association about amounts after enforcement proceedings in 2006 and those prior to 2006, show that the courts “successfully” issued a decision on enforcement of maintenance; however, these decisions were most often never executed. Here is an example.[[27]](#footnote-27)

It should be noted **that in 2012**, according to the annual report of the Police: "**The greatest increase was in the number of criminal charges or reports to complete criminal charges regarding the non-payment of maintenance, namely by 36.3 %, and the number of complaints of neglect of a minor and maltreatment increased by 5.1 %.”** **The increase in the number of reports on the non-payment of maintenance was expected, because of the economic crisis in Slovenia. The Guarantee and Maintenance Fund therefore published a brochure with information for beneficiaries on how to proceed in the event maintenance is not settled.** But it should be emphasized that even if the offender, accused of non-payment of maintenance, is convicted of that offense by the court, the child is still left without maintenance. And if the offender is sentenced to imprisonment, the State must pay for their care, which **amounts to 95 EUROS PER DAY, while the Maintenance Fund on average pays 85 EUR of compensation for their child PER MONTH.**

Of course we cannot ignore another fact that shows the real state of matters and how concerned the Republic of Slovenia is for their children and why our Association keeps on repeating the same findings about what the State doesn’t do for children, but should.[[28]](#footnote-28)

Based on data the Ostržek Association managed to obtain, from parents who need advice and assistance in the recovery of maintenance, we conclude that in the Republic of Slovenia the rights to maintenance of at least 30,000 children are violated and they do not receive it; and that the amount of money owed already exceeds 30 million euros.

The procedure requires the legal guardian to submit a complaint for the payment of maintenance on behalf of the child, submit a motion for the enforcement of maintenance if it is not paid, pay security for the bailiff in advance, which all takes a minimum of two years and sometimes 10 years or more. The costs include the cost of enforcement, which may increase up to 5,000 euros that must be advanced by the creditor – the minor and consequently by their legal representative, which is their mother in 90 % of the cases.

**Recommendation:**

* **The State should regulate the area of maintenance recovery in an effective manner. And implement recommendations that the Committee included in the 2nd periodic report, that have still remained unrealized.**
1. **Foster care and adoption** (Association relationship)

In Slovenia the legal basis for performing fostering activities are defined in the **Law on Performing Fostering Activities** (ZIRD). In December 2012, the amending Act to the Law on Foster Care (ZIRD-A) was adopted and brought some positive changes.

Terminology was modified; the law now does not use definition *foster children* any more, but rather *the children placed in foster families*. Further some responsibilities of fosterers were appropriately modified, as well as authority of Social work centres. The criteria for the fosterers have become stricter, finding more and more candidates for fosterers being highly educated people. Fosterers have to additionally educate and train to meet strict conditions for foster care providers. The Law also defines the process of obtaining permission to perform this activity, a way of providing foster care, monitoring of the implementation of activity and its financing as well as other issues associated with the provision of foster care.

Biological parents remain those rights and obligations that are compatible with the purpose of foster care. In order to protect the interests of children, therefore, the biological parents can withdraw or restrict the right of a child. This is decided by the court. In each case it is necessary to specifically identify and act in the interests of the child.

**Children’s voice**

It is important to take into account he views of children of all age and to enable them to exercise their right to express their opinion.There are cases when **c**hildren are being forced into contact with biological parents experiencing psychological pressure not in favour to their healthy development. Children are often not listen to or allowed to express their views, wishes and feelings.

According to the Law on the Foster Care the child has the right to contact with biological parents. Contact should also be encouraged. However, in practice often children cannot return to their biological parents. Reasons for placing child in foster care are complex –such as drug addictions, alcohol abuse, long-term mental health problems, neglect or abuse of children, parents need special expert help. etc. Such contacts between children and their parents are often not in the favour of children. In such cases it would be necessary to examine and assess whether such contacts are really for the benefit of the child and, if necessary, restrict or abolish. Centres for social work and courts have a very important role in this decision making and should always consider the best interests of the child.

We notice that there are some violation of child rights due to lack of knowledge on legislation provisions and different interpretations of it in practice. There are cases where differences in processes of placing children in foster care occur even in cases where parents ignore the parental responsibilities for child care and upbringing (article 120 of the Law on Marriage and Family Relations Act) the withdrawal of neglected child does not initiate, but instead child's fate depends if the parents give their consent to place a child in foster care. The State should therefore identify and standardize best practices in the area of foster care. In some cases we notice also tolerance to family violence and tolerance to violation of Family Violence Prevention Act***.***

The state should improve the situation of foster families and children placed in foster families by giving them more independence in decision making with child’s every day’s routine, such as obtaining permanent residence at the fosterers address, as foster care is usually long term, and children don’t have a place to return to. Fosterer’s status is legally not equivalent to the status of biological parents, meaning that they are not eligible for tax deduction, are limited in using sick leave for caretaking of sick child in foster care. The State should therefor ensure normal living conditions for children to enable inclusion in their communities and prevent neglect and stigmatization in everyday situations e.g. visit at the doctors, enrolment in kindergarten etc. such common situations when sending medical reports, admission invitations, etc. ... to the child's permanent address can lead to confusion, time-consuming and stigma..

 Position of foster parents is also questionable in relation to the institution. They are often exposed to proceedings in court (not protected against conflicts with biological parents), which can result in restlessness, stress and severe stress, which is not for the benefit of children who are placed in such a family, because they need peace and appropriate conditions for healthy personal development.

The decisions of Social work centres and courts (the family justice) should be made with the consideration of the best interest of the child. Children are not the property of adults, unfortunately, practice shows different. Biological parents have influence many decisions, which in practice means that decisions are made in favour of the biological parents, while the child's voice is not heard and taken into account.

**Recommendation under CRC:**

* **The State should enable children of all age to exercise their right to express their opinion and to be taken into account.**
* **The decisions of Social work centres and courts (the family justice) should be made with the consideration of the best interest of the child.**
* **The state should improve the situation of foster families and children placed in foster families by giving them more independence in decision making with child’s every day’s routine.**
* **The relevant state parties should fully implement foster care legislation.**
* **The State should identify and standardize social workers’ best practices in the area of foster care.**

**9. Children in families with same sex parents in Slovenia** (Peace Institute of Slovenia)

**Social and legal context**

The Registration of Same-Sex Partnership Act (Zakon o registraciji istospolne partnerske skupnosti) from 26 July 2006 provides certain rights for same sex partners, but it does not represent an equal position to marriage and to heterosexual couples, which is covered in Marriage and Family Relations Act (Zakon o zakonski zvezi in družinskih prejemkih). The main difference between these the laws consider children in same-sex families as there are no provisions covering children in same-sex families. In July 2009 the Constitutional Court of Slovenia held that the Article 22 of the Registration of Same-Sex Partnership Act violated the right to non-discrimination under the Article 14 of the Constitution on the basis of sexual orientation. The Constitutional Court required the legislature remedy to be established within six months. In the autumn of 2009 the Ministry of Labour, Family and Social Affairs prepared a new version of the Family Code for public debate. The new Family Code stipulates a legal equalization of heterosexual and homosexual partnerships, including the right to adopt children. Later the Ministry of Labour, Family and Social Affairs introduced a “compromised” version of the Family Code, which would allow same-sex partners only second parent adoption. What followed in 25th March 2012 was the referendum on the Family Code Bill, which did not pass. In Slovenia a legal system still does not enable adoption for same-sex couples (Zaviršek et al. 2011, p. 23; Kuhar et al. 2011).

**Experiences with homophobia**

The position and status of children in same-sex families and their social parents can be described with one word, invisibility. Social parent is legally invisible, having no rights over the child/children of his/her partner. Also children living in families with same sex parents haven’t been discussed publicly until recently (Zaviršek et al. 2011). It is difficult to estimate the number of children living in the families with same sex parents as there is no statistics or other reliable estimations. We came across the number 200 children, but according to researchers the number is growing each year and it exceeds the number 200 (Zaviršek et al. 2011, Sobočan, 2013, email communication). According to the latest qualitative research (Zaviršek et al. 2011) children and young people living in families with same sex parents in Slovenia reveal their experience of direct hate speech from their colleagues, relatives, school personnel. They experienced homophobic violence also in schools in the form of humiliation, pity, interpretation of their problems as related with the sexual orientation of their parents. Silencing about themes and issues related to homosexuality, homophobia, same-sex families can also be understood as a form of violence (ibid.).

Scholl is an important institution, which is not only a place for learning, but above all a place for socializing. It is therefore a relevant institution for children from families with same sex parents in terms of acceptation. Children reported they experienced from their teachers that homosexuality was discussed in a way that reproduced prejudices and stereotypes. Homosexuality is covered mainly with issues related to HIV, pederasty in ancient Greece, taboo and criminalization of homosexuality in the past. In schools in Slovenia homosexuality is never discussed in the light of diversity of families, love, relations within families, peer violence, reproductive ways, experiences of young people living in families with same sex parents etc (ibid.).

**Recommendations for education system:**

* **School personnel need to protect children from homophobic violence and be open and sensitive not to produce it;**
* **homosexuality should be discussed in education process within different subject and not in a form of workshop or lecture once in the school time (for example, once during the secondary school);**
* **schools need to cover topics that are important for children who are growing up – these topics need to cover diversity of families and relations in families, experiences of children living in families with same sex parents, peer violence, pressure and peer support, partnership, sexuality, reproduction ways and transformation of family types (ibid.).[[29]](#footnote-29)**
1. **CHILD RIGHTS AND PROTECTION OF CHILD VICTIMS** (Association Against Sexual Abuse)

**CHILD’S OPINION**

According to CRC’s Article 12 children have right to their opinion and to express it in the matters that cncern them. The practice shows that child’s opinion is rarely considered and taken into account.

**CONTACTS OF CHILDREN WITH ALLEGEDLY ABUSSIVE PARENT**

A child who was a victim of the most severe forms of violence, particularly sexual assault, should have the right to be believed that which they are communicating and for that to also be the basis for the suspension of contact, which ensures a child the much needed safety. This is not only about protection against repeated abuse, the child also needs to psychologically stabilize after abuse, and the suspension of contact for a determined period of time is a guarantee that the abuse will not continue. Therefore, when a child is refusing contact with one of the parents, most commonly in cases where domestic violence or other forms of child abuse were present and until the child's protection is not otherwise ensured, either with a restraining order or supervised contact, it is extremely important to consider the child's verbal and behavioral messages – such as intensive rejection of contact, refusal do get dressed or put on shoes, when their body temperature raises beforehand, are sobbing, they rebel physically, are angry, kicking, when bed-wetting occurs after contact as well as nightmares, or the child becomes ill, etc. Especially in cases of suspected sexual abuse of a child, the child's opinion is too often not considered as well as their feelings and the knowledge that the suspension of contact may be of utmost importance to the child in establishing a sense of security and knowing that they are not to blame for the abuse and were right to speak up and that everything will be done to prevent this from happening again.

# In order to protect the child and improve the conditions for a professional investigation of suspected sexual abuse and a forensic interview with the child it would be necessary for the State, utilizing its measures, to implement the suspension of contact between the child and the suspected abuser for a determined period of time.

# Often the concerns of the institutions are focused on the demands of parents seeking contact, arguing "the right of parents to contact", with the argument that especially with young children, suspended contact may result in loss of contact between the parent and child, even if they are the abusive parent. This is particularly evident in cases of some Centres for Social Work, where the same social worker deals with both the abusive and the non-abusive parent, simultaneously offering assistance to both parties, while also being responsible for the protection of the child.

# ESTABLISHING CONTACT

# Judicial procedures are too long and the decision on the right to contact cannot be subject to a guilty judgment of the Court. Therefore, in cases of unresolved issues regarding contact between a child and an abusive parent, too much is asked of the non-abusive parent, when they are required to prepare the child for contact. The parent is in distress, because all too often they lack professional knowledge, thus utilizing their lay experiences to usually force the child to have contact, because they aware that otherwise they could be accused of obstructing formal procedures, which may lead to problems with the institutions. In this respect, the parent receives no professional help from the institutions that are responsible for the protection of the child. We believe this is a serious violation of Articles 18 and 19 of the Convention on the Rights of the Child, which dictate that States shall provide assistance in the implementation of the responsibility of parents in the upbringing of children, and that States shall adopt such protective measures that will ensure the necessary support to the child and those who care for them.

**SUPERVISED CONTACT**

Supervised contacts are established on the basis of a court ruling and if requested by a parent that is willing to protect the child. Decision on whether supervised contact should be established can take up to 6 months or more, in the meantime child can be appointed to numerous expert opinions interrogations. Both slow judicial procedures as well as the fact that the offenders exploit supervised contacts for the psychological manipulation in order to completely confuse the child, enable a secondary victimization of the child.

However, if a Court decides that the contacts of the abusive parent will be supervised by the Center for Social Work, the manner of execution of said contacts is left completely to the social worker or a number of workers, who will be supervising an individual contact. practice shows that on numerous occasions perpertrators have used contact to continue their phihological mannipulations, confuse the child to try and hide their criminal act. Therefore we have warned the Ministry of Labour, Family and Social Affairs in 2011 that the practices that have been observed, mainly resulting in the abuse of supervised contacts by suspects[[30]](#footnote-30), call for the establishment of basic rules of supervision and consequently actions of professionals from Centres for Social Work when implementing supervised contacts and training of experts for the implementation of these contacts must also be ensured.

The Ministry has confirmed that validity of our demands, but only issued a short directive to Centres for Social Work, called "Recommendations on the Implementation of Supervised Contacts", which highlighted the open issues and concluding the document with a promise of the Ministry to “begin work on a proposal of the regulation on supervised contacts, in order to systemically regulate these issues." However, up until now, the situation has not changed. We believe that the children have the right to the establishment of rules on the implementation of supervised contacts and training of professionals, who will be performing these supervisions.

**ADOPTION OF EUROPEAN CONVENTION ON CONTACT**

It is also necessary to adopt and sign the European Convention on Contact, which clearly defines what contact is, which would resolve many issues, pertaining to the lack of contact, although it may offer an alternative way of maintaining contact, when faced with insurmountable difficulties.[[31]](#footnote-31) By complying with the Convention and the clear definition of contact, it would also be easier to prevent abuse of communications media (telephone, e-mail, mail, Facebook, etc..), through which offenders convicted of sexual assault on children or perpetrators of violence against children, communicate with children, for example despite the prohibition of contact , even from places of incarceration.

**COURTS - Department of Family Justice AND EXPERT OPINION**

Judges at Department of Family Justice should have to be specially trained and have specific competences on child protection enabling them to take decisions in best interest of the child. Specific specialization program is needed. Departments of Family Justice did not meet the expectations with their operations. Judges of these specialized courts should have specific additional expert knowledge in the area of protection of children's rights that would enable them to make appropriate decisions that would benefit the child. This would require them to undergo special training and not just occasionally participate at elective courses, as they do now. In practice, therefore, court decisions rely mainly on expert opinions, which not only further delay the procedures, but too often it turns out that the procedures are not in favour of the child. In cases of suspected sexual abuse of a child and the court’s adoption of a decision about the suspect’s contact with the child, it too frequently the case that children are subjected to harassment, because numerous experts are appointment and different expert opinions acquired. This is most often practiced when the child rejects contact or when the non-abusive parent wants to ensure the safety of the child by terminating contact or enforcing supervised contact. Thus, we have ourselves come across a number of cases, where a child has been subjected to an expert for the purpose of producing an expert opinion on the same subject more than five times. Cases of six children are currently active again, where they will be subjected to the experts for the fifth and sixth time.

The expert often devotes a very short amount of time to the child, a maximum of 1 hour on average, which is also the first time they see the child. What is also of concern is that with the exception of a few experts they most often perform their work with the child in a psychiatric institution. They may perform tests as well as interviews with the mother, father, they may even perform a test involving contact between the child and the parent, who is suspected of abuse and are asserting their right to contact. Violations of the basic rights of the child occur during these procedures, when the expert performs an interview the child, or certain activities (e.g., contact with the child's other parent) without the participation or even the consent of the parent, which is the legal representative of the child.

The current practice of providing expert opinions is not child-friendly. Clear standards for the provision of expert opinion should be determined, thus ensuring that these procedures are child-friendly. The law should limit the number of assessments by an expert as well as the appointment of an expert to no more than twice. Standards would, among other things, also determine how and in what manner the work of an expert should be evaluated, whether an expert opinion on a small child can be provided by a person who, in practice, only works with adults, determine how the expert must enrich their theoretical knowledge with practical work with children, as well as clearly define the procedure for the appointment of an expert by the courts, since now they are subject to a judge’s decision or acceptance of a lawyer’s proposal. Some judges may favour certain experts and consequently repeatedly appoint them.

# PROCEDURES FOR IDENTIFICATION AND PROTECTION OF CHILDREN AT RISK

The anticipated and adopted Prevention of Domestic Violence Act received criticism of NGOs even while it was still being prepared, due to the fact that the Act focused mainly on the protection of children in families, and it did not focus on the protection of all children, for example in the event child abuse and neglect occur in institutions. Other regulations[[32]](#footnote-32) that regulate this area also mostly speak of domestic violence.

It would be necessary to amend definitions of what violence is, as the law identifies child endangerment primarily through the issues specific to violence against adults and very imperfectly through the issues of different forms of violence against children, which results in the absence of categories such as the Munchausen syndrome, peer violence, violence by institutions, neglect – which children may be subjected to as well as emotional abuse and sexual assault on a child, which is also poorly defined.

**PROTOCOLS CONTRIBUTE TO THE IMPLEMENTATION OF CHILDREN'S RIGHTS**

If we want to have materials and documents that would be useful and focused on the needs of the child, in addition to being binding and providing guidelines in identifying child abuse and the protection thereof, a Protocol should be prepared based on the Prevention of Domestic Violence Act, because the existing Regulations[[33]](#footnote-33) play a different role in the protection of children.

Not only do current Regulations[[34]](#footnote-34) not provide the possibility of supervision by users, but also do not highlight the rights of children and their parents or guardians. This represents a violation of the rights of children, parents and users, respectively, who have the right to clear, well defined procedures as well as good understanding of the entire process and within what time frame. It is also unclear who can be invited to participate in a multidisciplinary team. Also, there is no indication as to who can view the materials that pertain to findings of the team in certain situations where a child is in jeopardy or one of the parents is suspected of a criminal act

Since there are no clearly defined procedures and the Prevention of Domestic Violence Act even states that a Center for Social Work can make their own evaluation whether involvement of other bodies is necessary and if a multidisciplinary team should be formed, the child protection process depends on the judgment of an individual expert of the Center for Social Work, as well as whether this procedure will be initiated and in what way. Furthermore, methods of work and timeframes of procedures are also not defined. Therefore, it would be necessary to prepare a Protocol on the basis of the Prevention of Domestic Violence Act, which will clearly define the basis for the determination whether a child is at risk, define all forms of risk and ill-treatment of children as well as the most common consequences; and based on that define actions of authorities and binding procedures to provide protection by Centres for Social Work and other participants. As such, it could also serve as a basis for appeal procedures in cases of violations of these protocols. Our NGO therefore cannot agree with the position that in our country this is adequately regulated, as concrete examples show the flagrant violations of children's rights, due to the absence of concrete protocols.

**CHILDREN’S RIGHT TO PROFESSIONAL TREATMENT AND SUPPORT**

The State does not respect the rights of the child with regard to Article 39 of the Convention on the Rights of the Child, which requires the Contracting State to “take all appropriate measures to **promote physical and psychological recovery of a child** who has been the victim of any form of neglect, exploitation or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment or armed conflict and their reintegration in the society.”

When it comes to different forms of child abuse, the State does not provide specific programs, such as psychological support, counselling, or support and assistance to non-abusive parents, who are at the time of disclosure of sexual abuse for example themselves traumatized. It is mostly NGOs that assume this responsibility, when users turn to them for assistance in this regard. Therefore, the State should, within their respective institutions[[35]](#footnote-35), which come into contact with children when abuse is revealed or a child’s risk level is being determined, make special provisions to ensure greater professionalism and respect for the rights of the child, namely through protocols, guidelines, professional criteria, regulations on conducting interviews with at risk children, regulations on recording conversations with the child, protection and storage of recordings, etc.

**TRACKING OF AT RISK CHILDREN**

There is no record at a State level that would enable tracking of not only at risk children, but rather the work being done with them. This would be important mainly because we have been observed that families move from place to place and from jurisdiction of one Center for Social Work to another, with the intention to conceal threats against and abuse of children. Only when a problem is identified again, is the family subjected to monitoring. Tracking would allow for the monitoring of a child’s protection, identification of the need for the provision of protection and mainly the making of a decision whether the child is no longer at risk and may therefore be excluded from the this list. Those too are the rights of a child.

It is necessary to legalize tracking of children at risk, which would enable a continuity of protection of the child and of course the repeal of protective measures, when they are no longer needed.

**CHILD ADVOCATE – Child’s voice**

Children need an advocate in various areas of their lives (different forms of violence against children which do not yet contain elements of criminal acts, inadequate response to the needs of children in schools and other institutions, support to the child in the assertion of their rights in the proceedings before institutions, etc.). The opportunity for child advocacy should also be provided to the non-governmental sector, the requirement basically being that an advocate can be someone who wants what is best for the child, who believes not only that any and all actions should be in the best interest of the child, but also that one can never do too much in the interest of the child.

We feel current arrangement where Child advocate – Child’s voices monopolized and part of Ombudsman’s office is not appropriate. We also feel that issuing decision on appoint child’s advocate even in cases where there is no conflict of interest Centres of social work show their lack of competence by differing their responsibility to the advocates.

Child advocacy has to be accessible to nongovernmental sector as well. Conditions for advocate should be: acting in best interest of a child and believing that you can never do too much for a child.

**Recommendation under CRC:**

* **The State should implement CRC's Article 12 in order to protect children’s right to their opinion and to take their wives into account in all matters that concern them. In particular in judicial and administrative procedures. Child right to their opinion is violated, as rarely they are being listened to.**
* **According to CRC's Article 18 the State should provide expert support to parents with their parental responsibilities in order to detect conflict situations' background. Professional works have to take child's opinion into account in order to reach maximum protection of children.**
* **In order to protect the child and improve the conditions for a professional investigation of suspected sexual abuse and a forensic interview with the child it would be necessary for the State, utilizing its measures, to implement the suspension of contact between the child and the suspected abuser for a determined period of time.**
* **According to the State’s promise of two years that regulation for implementation of supervised contact will be prepared. We call on that promise.**
* **It is necessary to adopt and sign the European Convention on Contact, which clearly defines what contact is, which would resolve many issues, pertaining to the lack of contact. A regulation on the implementation of supervised contacts should be prepared and adopted, which would provide a systemic regulation of this area.**
* **The current practice of providing expert opinions is not child-friendly. Clear standards for the provision of expert opinion should be determined, thus ensuring that these procedures are child-friendly. The law should limit the number of assessments by an expert as well as the appointment of an expert to no more than twice. Standards would, among other things, also determine how and in what manner the work of an expert should be evaluated, whether an expert opinion on a small child can be provided by a person who, in practice, only works with adults, determine how the expert must enrich their theoretical knowledge with practical work with children, as well as clearly define the procedure for the appointment of an expert by the courts.**
* **A Protocol should be prepared on the basis of the Prevention of Domestic Violence Act, which would clearly define the basis for the determination whether a child is at risk, define all forms of risk and ill-treatment of children as well as the most common consequences; and based on that define actions of authorities and binding procedures to provide protection by Centres for Social Work and other participants. As such, it could also serve as a basis for appeal procedures in cases of violations of these protocols.**
* **The tracking of children at risk should be legalized, which would enable a continuity of protection of the child and of course the repeal of protective measures, when they are no longer needed.**
* **The State should implement CRC's Article 39 where: is expected. Rehabilitation of child victims): Children who have been neglected, abused or exploited should receive special help to physically and psychologically recover and reintegrate into society. Particular attention should be paid to restoring the health, self-respect and dignity of the child.**
* **Child advocacy has to be accessible to nongovernmental sector as well. Conditions for advocate should be: acting in best interest of a child and believing that you can never do too much for a child. Child advocate should be appointedby the State in cases where parents have conflict of interest.**

**11. CHILD PARTITIPATION AND EDUCATION ON CHILD RIGHTS**

**CHILD PARTITIPATION**

**Child participation in formal education**

With the exception of the Children’s Parliament, we are missing legislation which would enable children to be actively involved and part pate in formal education of elementary school..

At the post-secondary education level legislation provides School-students' councils and the election of two representatives of the students in the school council. Formally, this requirement is usually fulfilled, but in practice representatives of the students do not receive either invitation, let alone material for the Council meeting of the school, so their right to active participation is often violated. The State does not have any control mechanisms to detect such violations, nor does it keep databases on the participation of children in school bodies or their efficiency. .

**Child participation at local level**

- There is no legislation on Child participation at local level, that would enable children to participate in matters concerning them (eg, child-friendly spaces and safe traffic, public playgrounds and places of leisure). 9 cities in Slovenia are running UNICEF's project Child friendly city, where system of local governance is committed to fulfilling children's rights, including their right to Influence decisions about their city, Express their opinion on the city they want, Participate in family, community and social life etc. Decision on the active involvement in the project UNICEF Child friendly city is based on municipality's autonomous decision.

**Children’s Parliament (Slovenian Association of Friends of Youth)**

The Children’s Parliament is a project run by the Slovenian Association of Friends of Youth with the purpose to promote participation and to educate children and adolescents on democracy. The project has been underway since 1990. International organisations, Council of Europe, European Union, UN and UNICEF have been in its conventions recommending to governments to give children’s participation and education for active citizenship as much attention as possible.

Child participation means child's active involvement in local communities, families, schools, youth organizations where children can shape decisions in matters that concern them. And adults have to take children’s view into account. Children often feel their opinions are not taken into account; even though the CRC defines the right to participation.

The Children's Parliament is a form of democratic dialogue held at five levels:

- Classrooms level

- Elementary school level in all Slovenian elementary schools,

- Municipal levels,

- Regional level

And at national level in the Parliament of Republic of Slovenia.

While initial sessions take place in classrooms and in school parliament, The Children’s Parliament enables participation to all elementary school pupils. Each school is than represented at the municipal Children’s parliament by selected delegates. Further, the delegation for the regional Children’s parliament is chosen at the municipal Children’s parliament and then the delegation for national Children’s parliament which takes place at the National Assembly of the Republic of Slovenia is selected. Pupils participate in a debate on a selected topic in a manner of National Assembly. Representatives of the Government of the RS and NGOs are also invited to the session.

The Children’s Parliament is an innovative approach in encouraging children to express their opinion on the matters that concern them. Children debate in tolerant manner, taking different opinions into account. Children develop communication and social skills and ability to resolve conflicts.

Around 200 teachers-mentors as well as two thirds of elementary school children are involved in the project.

The Children’s Parliament aims to:

1. Promote implementation of the CRC and particularly its 13. article;,
2. promote and educate for active citizenship and democracy;
3. provide platform for active child participation
4. empower the voice of children
5. develop communication skills
6. develop peer-cooperation
7. develop decision making and taking responsibility
8. encourage children to evaluation, searching and connecting information
9. develop independent, critical and creative thinking;
10. Develop solidarity and responsible attitude toward peers, adults, environment and community.

In 2012 The Children’s Parliament went through some changes for even more active role of children.

Children stressed that:

1. Active citizenship means more than debate, it means action. Children feel that The Children’s Parliament in the past gave more emphasis on the debate, and less on concrete action.
2. The change will encourage more pupils to be actively involved and motivated
3. The change will enable concrete improvement of the key burning issues identified by children
4. The voice of children doesn't get enough attention
5. In The Children’s Parliament more vocal and therefore heard are those children who are more ambitious, as for the vulnerable children who are often left behind. This need so change.
6. We are able to make concrete changes and not only debate on the matters.

**UNICEF Slovenia's Junior Ambassadors[[36]](#footnote-36) message for adults and children:**

**Dear adults:**

- Help us to learn and understand our rights.

- Give us all the same treatment and care, regardless of whether we are rich or poor, tall or small.

- We children know best how it is to be a child. Therefore listen to us when we wish to express our opinion and accept our ideas.

- Kind word and a warm hug means much more to us than new toys. Therefore hug us more often and tell us that you love us.

**Dear children:**

- All children are special and different, but we all have equal rights.

- We have to help each other.

- It cannot always be as we want it to be.

- If we want our ideas to be heard, we need to say them out loud and be persistent.

We Junior ambassadors will continue to strive to help children in need. We want for all children to be given equal treatment, live in peace and have equal opportunities.

**Recommendation under CRC:**

**- The State should put in place control mechanisms to detect violations of the right to participate and prepare a database on the participation of children in school bodies, local communities, as well as on regional and national level.**

**- Changes of Children's Parliament were established, however in order to be meaningful and sustainable the government should create a specific budget for the programme.**

**Recommendations from CHILDREN:**

* **The State should apply necessary measures to empower the voice of children of all age in matters that concern them on all levels. The State should encourage active participation, as children are able to make concrete changes and not only debate on the matters.**
* **The State should listen to children’s opinions, ideas and recommendations as children are best experts on how it is to be a child.**
* **The State should treat all children the same and give them equal attention, care and support.**

**Education on child rights (**Center for Citizenship Education)

Despite the fact that the recommendations by the Committee on the dissemination of provisions and promotion of CRC where included in the legislation, we notice that implementation is being very passive and ineffective.

Since 1996 UNICEF Slovenia is running education on children's rights in kindergartens and schools to raise awareness among children and their parents, as well as general public on children' rights. We observe that children generally know about their rights, but are not aware of how these rights apply to them in practice. We are recognizing weak awareness and understanding of child rights among children and educators.

**Promotion and Education**

* The State should provide financial support to projects for promotion and teaching child rights in formal and non—formal educational system accessible to NGOs. Majority of funds for educational activities and material were part of EU financing (eg. LLL/Comenius).
* NGOs for promotion and teaching children's rights cannot obtain status of public interest in the area of education, which would enable access to funds from income tax (as it is a case with youth and humanitarian organizations). In the area of education there is no procedure that would enable obtaining status of public interest. Currently youth organizations with over 50% youth members can obtain status of association of public interest in the area of youth policy.
* NGOs for promotion and teaching children's rights are also not included in the so called *Catalogue of professional training,* while they don’t have financial support from the State, nor can be included in *Catalogue of supplementary required subjects*.
* According to the White book on education, schools are encourage to include child rights cross curricula. Schools have but limited funds for any external organisation to carry out specific activities.
* The State should develop systematic and sustainable education on child rights in schools. NGOs are the only ones holding this pillar (eg. Center for Citizenship Education, Amnesty International Slovenije, UNICEF Slovenia, Association for nonviolent communication etc.).
* The State should include child rights into university programmes as pre-service teacher training. Further the State should provide In-service teacher training on child rights. Again all activities are left for NGOs to carry out.
* The State should also develop systematic training system of civil servants on the child rights. This includes (judges, lawyers, police, social workers, educators, health care workers etc.). NGOs have a lot of best practices to share.
* The State should support best practices on Child rights education in school system such a project *My rights* published also in ([**Human Rights Education in the School Systems of Europe, Central Asia and North America: A Compendium of Good Practice**](http://www.hrea.org/index.php?base_id=104&language_id=1&erc_doc_id=5305&category_id=2&category_type=3&group=)([**HREA**](http://www.hrea.org/index.php?language_id=1) **,** [**OSCE/ODIHR**](http://www.osce.org/odihr/)**,** [**Council of Europe**](http://www.coe.int/t/dg4/education/edc/default_en.asp)**,** [**OHCHR**](http://www.ohchr.org/EN/Pages/WelcomePage.aspx)in[**UNESCO**](http://www.unesco.org/new/en/unesco/)).

**National curricula**

* The pupils in the 7th and 8th grade of the nine year primary schools have an obligatory subject Patriot and Citizenship education and ethics (35 hours per annum). In the 9th grade the optional subject Citizen’s culture, which is only one of the 84 optional subjects that the school can offer if it has appropriate staff and space conditions.
* In the secondary vocational education (technical highschools, gymnazium age 15-18 years) the pupils have (within the frame of the subject Social sciences) the contents Citizen’s culture in which human rights are mentioned (15 hours per annum). In grammar school programmes they have the obligatory subject Citizen’s culture, while children and human rights are also dealt with at Sociology.
* In the post-secondary vocational education there are no subjects in which human or children’s rights are mentioned, leaving future professional workers without any knowledge on the developing key social and citizenship competences.

**Recommendations:**

* **The State should develop systematic and sustainable education on child rights system for children as well as for civil servants.**
* **The State should provide financial support to NGOs projects for promotion and teaching child rights.**
* **The State should prepare procedure for NGO to obtain status of public interest in the area of education. The State should amble NGOs to “enter« *Catalogue of professional training and Catalogue of supplementary required subjects*.**

**List of Recommendations**

**Recommendations from CHILDREN:**

* The State should apply necessary measures to empower the voice of children of all age in matters that concern them on all levels. The State should encourage active participation, as children are able to make concrete changes and not only debate on the matters.
* The State should listen to children’s opinions, ideas and recommendations as children are best experts on how it is to be a child.
* The State should treat all children the same and give them equal attention, care and support.

**Recommendation under OP3:**

1. The State should ratify Optional protocol on communication and enable complaint mechanism for children.

**Recommendations under OPAC:**

1. The State shall ensure those persons that fled from war zones rehabilitation and effective social integration programs.
2. The State shall provide suitable security and protection to persons, who would be in danger of (again) becoming victims of armed conflicts upon the return to their home country, which shall not be limited to the period when they are minors.

**Recommendation under OPSCS:**

* The State should adopt all necessary measures for the protection of children that are victims of victims of trafficking, sale of children, (such as forced marriage, forced criminal activity and begging).
* The State should establish suitable safe living quarters such as Safe house that can be used for the rehabilitation, reintegration and compensation of child victims of trafficking, sale of children, sexual exploitation and child pornography victims of sale.
* Mandatory consideration of forced marriage as criminal offences against children and discontinuation of referring to it as Roma culture.

**Recommendations under CRC and additional:**

1. The state should establish an interministrial body, whose priority tasks should include:

1. monitoring and promotion of the implementation of the Convention on the Rights of the Child;
2. preparation of a comprehensive Action plan for children based on the updated Programme for Children and Youth 2006-2016, which will be a concrete and an obligatory document, clearly stating the responsibility of each and every member of the society – the government, public administration, local communities, civil society and non-governmental organizations, individuals as well as children themselves.
3. The state should establish and appoint, respectively, of a Special Ombudsman, who would be responsible solely for the area of children’s rights.
4. The state should establish a monitoring system of situation of children in Slovenia based on quantitative indicators, which could also enable government thorough examination of the effects of any new measures on children and youth prior to the implementation thereof.
5. The government and responsible ministries should support the establishment of a formal coalition of NGO which execute and develop programs for children. This network and the representatives, respectively, should be formally included in the working groups of before mentioned interministrial body in addition to research institutions and individual experts in this field.
6. That government should allocate funds that would allow for the basic functioning of NGOs and that the funding would no longer be tied solely to NGO projects and service delivery.
7. The government should include clear guidelines and targets regarding the prevention of child poverty in its documents, based on quantified goals for the decrease of child poverty. These objectives should be separated from those set for the general public;
8. It would be necessary for family policy to once again become autonomous.
9. The government should preserve the scope of social spending for children and families.
10. The State should apply clear anti-discrimination practice in the school system, with the implementation of Roma language and culture in the school system, education of school workers about ethnically sensitive approaches and implementation thereof,
11. The State should honour the principle of inclusion in the regular school system (as a method of preventing excessive inclusion of children in elementary schools with special curriculum);
12. The State should implement approaches that will ensure regular class attendance and strive to eliminate illiteracy among children.
13. The state should implement existing and create new forms of assistance for the Roma children (that are based on children’s real needs) and additional professional help as a right of every Roma pupil, regardless of the number of Roma children in a school.
14. The State should ensure positive discrimination and additional attention from the Centres for Social Work with regard to assistance provided to the family (with regard to education and integration).
15. The State should implement different languages in schools, and expanding the choice of language in which pupils will learn in compliance with Article 30 of the CRC;
16. The State should provide additional assistance to children, whose mother tongue is not Slovene language, based on real needs of the child;
17. The State should respect of principles of multiculturalism and the opportunity to learn about own culture for every pupil.
18. The State should regulate the restoration of legal statuses ( issuing of permanent residence permits) for all erased and especially the children of the ‘erased’ including those children who were not born in the Republic of Slovenia and all other descentants or family members.
19. The State should take all necessary measures to compensate the children of the »erased«, even though not erased themselves.
20. The state should adopt all other necessary measures to reintegrate the erased and their children in the Slovenian society inclusing employment, education, social and housing measures. Special attention should be given to minors, inclusing relevant psycho-social assistance or counselling.
21. The State shall ensure the keeping of separate records of the number of entries and denied entries of unaccompanied minors that cross the border illegally.
22. The State shall change the provision of the Aliens Act which determines that children can be placed in an Aliens Centre and at the same time ensure placement of all children in suitable institutions, designed for the care of children and provide tailored professional treatment and suitable psycho-social programs. When determined that it is in the best interest of the child, the State must place the child with a foster family.
23. The State shall ensure mandatory training of legal guardians of unaccompanied minors.
24. The State shall provide appropriate support to non-governmental organizations that are willing to implement legal guardianship for unaccompanied minors and are trained to do so.
25. The State shall ensure efficient free legal assistance to all children in all instances of the procedure.
26. Applications by a child shall be dealt by the State in a positive, humane and expeditious manner.
27. The State shall change the legislation and enable reunification of unaccompanied children with their parents even after they turn 18.
28. The State shall define in the International Protection Act and the Aliens Act as well as ensure in practice an age assessment procedure, using methods that are ethically acceptable, not harmful to the child and culturally appropriate.
29. The State shall prescribe the issuing of a declaratory decision on the child’s age in the International Protection Act, which the child can appeal.
30. The State shall provide effective preparatory programs that will facilitate the child’s inclusion in school and the learning process itself by ensuring intensive and continuous literacy training and learning of the Slovene language as well as adapted learning materials.
31. The State shall change the provision of the International Protection Act granting children, who applied for international protection, access to vocational training immediately after their arrival.
32. The State shall uphold the provisions of the International Protection Act and process applications of unaccompanied minors as a priority and adopt a decision in six months.
33. The State shall conduct procedures in child-friendly premises
34. All those working with unaccompanied children must receive appropriate and on-going training. Such training should focus specifically on the rights and needs of unaccompanied children, but also on cultural factors and the development of the appropriate skills for communicating with them.
35. The State should re-establish an interdepartmental working group with the aim of solving problems pertaining to unaccompanied children, which will consist of representatives from all competent Ministries and non-governmental organizations. At the same time, the State shall consider all recommendations proposed by the interdepartmental working group regarding changes of the legislation and practice.
36. Even though marriages and common-law marriages are equal to marriage the practice shows that is not the case from the point of view of the enforcement of children's rights. The State should ensure that children from common-law marriages received equal protection in cases of dissolutions of common-law marriage.
37. The State should enable children to participate in a legal procedure and claim contact with both parents and child support.
38. The State should ensure that contacts under supervision become more children friendly.
39. The State should regulate the area of maintenance recovery in an effective manner. And implement recommendations that the Committee included in the 2nd periodic report, that have still remained unrealized.
40. The State should enable children of all age to exercise their right to express their opinion and to be taken into account.
41. The decisions of Social work centres and courts (the family justice) should be made with the consideration of the best interest of the child.
42. The state should improve the situation of foster families and children placed in foster families by giving them more independence in decision making with child’s every day’s routine.
43. The relevant state parties should fully implement foster care legislation.
44. The State should identify and standardize social workers’ best practices in the area of foster care.
45. School personnel need to protect children from homophobic violence and be open and sensitive not to produce it.
46. Homosexuality should be discussed in education process within different subject and not in a form of workshop or lecture once in the school time (for example, once during the secondary school).
47. Schools need to cover topics that are important for children who are growing up – these topics need to cover diversity of families and relations in families, experiences of children living in families with same sex parents, peer violence, pressure and peer support, partnership, sexuality, reproduction ways and transformation of family types (ibid.).
48. The State should implement CRC's Article 12 in order to protect children’s right to their opinion and to take their wives into account in all matters that concern them. In particular in judicial and administrative procedures. Child right to their opinion is violated, as rarely they are being listened to.
49. According to CRC's Article 18 the State should provide expert support to parents with their parental responsibilities in order to detect conflict situations' background. Professional works have to take child's opinion into account in order to reach maximum protection of children.
50. In order to protect the child and improve the conditions for a professional investigation of suspected sexual abuse and a forensic interview with the child it would be necessary for the State, utilizing its measures, to implement the suspension of contact between the child and the suspected abuser for a determined period of time.
51. According to the State’s promise of two years that regulation for implementation of supervised contact will be prepared. We call on that promise.
52. It is necessary to adopt and sign the European Convention on Contact, which clearly defines what contact is, which would resolve many issues, pertaining to the lack of contact. A regulation on the implementation of supervised contacts should be prepared and adopted, which would provide a systemic regulation of this area.
53. The current practice of providing expert opinions is not child-friendly. Clear standards for the provision of expert opinion should be determined, thus ensuring that these procedures are child-friendly. The law should limit the number of assessments by an expert as well as the appointment of an expert to no more than twice. Standards would, among other things, also determine how and in what manner the work of an expert should be evaluated, whether an expert opinion on a small child can be provided by a person who, in practice, only works with adults, determine how the expert must enrich their theoretical knowledge with practical work with children, as well as clearly define the procedure for the appointment of an expert by the courts.
54. A Protocol should be prepared on the basis of the Prevention of Domestic Violence Act, which would clearly define the basis for the determination whether a child is at risk, define all forms of risk and ill-treatment of children as well as the most common consequences; and based on that define actions of authorities and binding procedures to provide protection by Centres for Social Work and other participants. As such, it could also serve as a basis for appeal procedures in cases of violations of these protocols.
55. The tracking of children at risk should be legalized, which would enable a continuity of protection of the child and of course the repeal of protective measures, when they are no longer needed.
56. The State should implement CRC's Article 39 where: is expected. Rehabilitation of child victims): Children who have been neglected, abused or exploited should receive special help to physically and psychologically recover and reintegrate into society. Particular attention should be paid to restoring the health, self-respect and dignity of the child.
57. Child advocacy has to be accessible to nongovernmental sector as well. Conditions for advocate should be: acting in best interest of a child and believing that you can never do too much for a child. Child advocate should be appointedby the State in cases where parents have conflict of interest.
58. The State should put in place control mechanisms to detect violations of the right to participate and prepare a database on the participation of children in school bodies, local communities, as well as on regional and national level.
59. - Changes of Children's Parliament were established, however in order to be meaningful and sustainable the government should create a specific budget for the programme.
60. The State should develop systematic and sustainable education on child rights system for children as well as for civil servants.
61. The State should provide financial support to NGOs projects for promotion and teaching child rights.
62. The State should prepare procedure for NGO to obtain status of public interest in the area of education. The State should enable NGOs to «enter« *Catalogue of professional training and Catalogue of supplementary required subjects*.
1. ZIPOM stands for Advocacy and promotion of the right of children and youth [↑](#footnote-ref-1)
2. Repord card 10 – Measuring child poverty <http://www.unicef-irc.org/publications/pdf/rc10_eng.pdf> [↑](#footnote-ref-2)
3. 6 Financial Social Assistance Act (Official Gazette of the RS, No. 40/2012) [↑](#footnote-ref-3)
4. 7 Exercise of Rights to Public Funds Act (Official Gazette of the RS, Nos. 62/10, 40/11, 40/12-ZUJF, 57/12-ZPCP-2D) [↑](#footnote-ref-4)
5. <http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti__pdf/sociala/ocena_ucinkov_soc_zakonodaja_2013_priloga.pdf> [↑](#footnote-ref-5)
6. <http://www.mf.gov.si/fileadmin/mf.gov.si/pageuploads/sporocila/NRP_-_ENG.pdf> [↑](#footnote-ref-6)
7. <http://ec.europa.eu/social/BlobServlet?docId=8756&langId=sl>. [↑](#footnote-ref-7)
8. 8 Fiscal Balance Act (Official Gazette of the RS, Nos. 40/12, 55/12 Skl.Us: U-I-162/12-5, Up-626/12-5, 96/12 – ZPIZ-2, 104/12-ZPRS1314, 105/12-ZUJF) [↑](#footnote-ref-8)
9. 9 In the field of parental protection and family benefits, the rights of children and parents are regulated by the Parental Protection and Family Benefit Act (PPFBA) (Official Gazette of the RS, No. 97/2001; amendments: 76/2003, 110/2003-UPB1, 56/2005, 111/2005, 21/2006, 47/2006, 110/2006-UPB2, 114/2006-ZUTPG, 122/2007, 10/2008) – amendments to the Parental Protection and Family Benefit Act are in preparation. [↑](#footnote-ref-9)
10. Official web page of the Ministry of the Interior: http://www.mnz.gov.si/si/o\_ministrstvu/manjsine/romska\_skupnost/, (8.4.2013). [↑](#footnote-ref-10)
11. KZ-1-UPB2, Official Gazette of RS, no. 50/2012 [↑](#footnote-ref-11)
12. Data sent via e-mail by the secretary of the Ministry of Education in 22. 12. 2010. [↑](#footnote-ref-12)
13. “*in compliance with international agreements (...) the teaching of their respective native languages and cultures shall be organized for the children of Slovene citizens living in the Republic of Slovenia whose mother tongue is not Slovene. The instruction of the Slovene languages can also be offered*.” [↑](#footnote-ref-13)
14. Rules on norms and standards for the implementation of the elementary school programme, Official Gazette of RS, no. 57/7, 65/08, 99/10 [↑](#footnote-ref-14)
15. Pedenjped, Niko Grafenauer: 1983. [↑](#footnote-ref-15)
16. A discriminatory division of the Roma community into a group of Roma who traditionally live in the area of the Republic of Slovenia (autochthon Roma) and a group of Roma that moved to the Republic of Slovenia from other Republics of the former Yugoslavia (non-autochthon Roma). [↑](#footnote-ref-16)
17. Population by nationality, national census 1961–2002, web site of Statistical Office of the Republic of Slovenia: http://www.stat.si/letopis/2009/04\_09/04-03-09.htm (13.4.2013). [↑](#footnote-ref-17)
18. “*in compliance with international agreements (...) the teaching of their respective native languages and cultures shall be organized for the children of Slovene citizens living in the Republic of Slovenia whose mother tongue is not Slovene. The instruction of the Slovene languages can also be offered”* [↑](#footnote-ref-18)
19. We have come across a case of a single-parent family, in which the mother obtained a temporary residence permit that she received based on her employment. She moved to Slovenia with her child, whose alien status was unsettled for a long time and was consequently without rights arising from said status. Procedures aimed at uniting families take a long time and do not favor the benefit of the child. IN such cases, children that immigrate to the Republic of Slovenia together with their parents are considered by the State to be either tourists or illegal immigrants (in case they do not leave the country within the legally determined period). [↑](#footnote-ref-19)
20. We have also encountered a case of a family, in which the mother had a valid permit for permanent residence in the Republic of Slovenia, whereas her child, who has lived in the Republic of Slovenia since birth did not have a settled status, because of family circumstances and bureaucratic obstacles (admission of paternity in own country, lengthy procedures). When the parents settled the child’s status in their own country (citizenship), the child applied for a temporary residence permit under the same conditions as all other aliens. Because the family could not demonstrate sufficient means for living, the child was denied a permit for temporary residence. Such a child is considered either a tourist or an illegal immigrant by the State (in case they do not leave the country within the legally determined period), despite the fact they have been residing in this county since birth and living with their parent, whose permanent resident status is settled. This child does not have the right to claim social benefits, mandatory health insurance and assert other important rights. [↑](#footnote-ref-20)
21. [↑](#footnote-ref-21)
22. [↑](#footnote-ref-22)
23. [↑](#footnote-ref-23)
24. Data by the Association of Centers for Social Work [↑](#footnote-ref-24)
25. The lawsuit was filed with the EC by Johann Ivan Eberhard, whose partner prevented contact with his daughter after their separation. The father also sought help at the Center for Social Work Šentjur pri Celju, which in the middle of 2011, at his urging, issued a decision, determining the extent of contact between him and the girl. But this was not much help, because the mother did not comply with the decision and contacts were not enabled. Decisions on ensuring contacts have thus proven to be totally ineffective, since the administrative authority fined the mother for failure to fulfill her obligations with approximately 21 euros. Based on the number of all issued decisions, granting contact between the father and the daughter, the mother was in total fined about 500 euros. "On top of that, according to his records, she never paid those fines and the administrative authority never seized the assets. He is also convinced that legal means available in the administrative procedure are completely ineffective, penalties are not being enforced, and there is no mechanism that would ensure an effective implementation of the administrative decision – so the father and the daughter could have contact they were entitled to. “The consequence of such regulations is the fact that they haven’t had contact for three and a half years, thus causing irreversible damage, since the child is growing up without contact with her father, and their mutual bond has been weakened due to the lack of contact and is dangerously compromised. The European Court of Justice in its judgment states that Slovenia violated the eighth paragraph of the Convention on Human Rights, and more specifically, that its conduct violated the right to family life. Therefore, the State, as a defendant in this case, must within three months pay Johann Ivan Eberhard compensation in the amount of 7,500 euros and 3,000 euros in legal costs.

Later this procedure, which was in the beginning handled only before the administrative authorities moved to the court, but which also did nothing, even though the mother evidently avoided contact, she was obligated to ensure. It was expected that the decision of the European Court would be even more important, because it would force the State to start implementing its own legislation. What is absurd in all this is that all the necessary legislation has been adopted, numerous international conventions ratified, yet we have to go the European Court to demand from Slovene courts to implement the said legislature. [↑](#footnote-ref-25)
26. Per our request, the Supreme Court of the Republic of Slovenia provided us with a decision no. Su 36-03/2012-6, dated 18 January 2012 containing information that 3,629 decisions on enforcement of maintenance were issued in the Republic of Slovenia **between 22.04.2010 and 31.12.2011, in the amount of 5,072,747.97 EUR.**

In the same time period, 575 decisions on enforcement of maintenance were issued in the amount of 1,034,607.05 EUR, where the creditor was the Maintenance Fund [↑](#footnote-ref-26)
27. On 05.02.2010, the Office of the Human Rights Ombudsman issued a report no. 6.4-211/2007-51-VO for a minor child, which attempted to recovered maintenance with the assistance of their mother, who is a member of the Ostržek Association. The report stated: “Despite all the complexity of the procedures that even professionals are sometimes unable to tackle, the petitioners were able to take advantage of all options made available to them by the legal system. Additionally, they showed an extreme level of persistence, determination and ingenuity and have devoted significantly more time that could reasonably be expected from a creditor – a minor, even if they are represented by one of the parents. The petitioners continuously reminded the court, the bailiff and the Police of a reasonable suspicion that that debtor performs undeclared work and consequently has revenue…. In various criminal proceedings against the debtor, it was retroactively confirmed that their claims were correct. It was established that the debtor received income, but all these findings pertained to past actions and the debtor and his funds were insufficient to even partially repay the creditor’s claim. In this particular case, it can be determined that the debtor had sufficient funds that would enable him to also pay the required maintenance. The creditor has done everything that could possibly be expected of them and more, yet his claim was still not properly settled. All risks for all possible errors in the various proceedings bears the minor child, who is already part of the most vulnerable of categories of the population. We believe that this is unacceptable....... In accordance with Article 54 of the Constitution every child has the right to be supported by their parents. In this particular case, the State did not ensure the fulfillment of the father’s obligation to the child to maintenance, even though he was capable of it. That represented an interference with the right of the child. [↑](#footnote-ref-27)
28. [↑](#footnote-ref-28)
29. KUHAR, R., KOGOVŠEK, ŠALAMON, N., HUMER, Ž., MALJAVEC. S. Obrazi homofobije. Ljubljana: Mirovni inštitut, 2011.

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30. A small tent was brought to the room where the visit took place. They played with the child in it and were not visible to the social worker while doing so, the child was photographed; physical contact was forced by placing them in their lap, and kissing the child. They brought juices with them, making the child have to use the bathroom, where they were taken by the suspect alone, etc. [↑](#footnote-ref-30)
31. The mother had to fly the child to Slovenia every week to enable the father contact, because that was the only option. Contact via telephone and e-mail was not considered contact by court. [↑](#footnote-ref-31)
32. Rules on the Treatment of Domestic Violence for Educational Institutions, Rules on procedures for dealing with domestic violence in the implementation of health activities, Rules on cooperation between the police and other authorities in the detection and prevention of domestic violence and Rules on the organization and work of multidisciplinary teams and regional services and on actions of the social work centers in dealing with domestic violence [↑](#footnote-ref-32)
33. Rules on the organization and work of multidisciplinary teams and regional services and on actions of the social work centers in dealing with domestic violence [↑](#footnote-ref-33)
34. Rules on the organization and work of multidisciplinary teams and regional services and on actions of the social work centers in dealing with domestic violence [↑](#footnote-ref-34)
35. Center for Social Work, the Police, Office of the Public Prosecutor, Court [↑](#footnote-ref-35)
36. • Project Junior Ambassador runs in schools and encourages children and young people to explore how they can use their active and critical engagement to change society for the better. Encourages young people to become actively involved and have an impact on changing the situation for which they consider to be harmful to them or their peers. [↑](#footnote-ref-36)