

INFORMATION

On practical implementation of the rules on protection of children from alcohol and cigarettes

The Ombudsman of the Republic of Macedonia as competent organ for protection of children rights beside the work on individual complaints according to Article 29 of the Law on the Ombudsman in the frame of his competencies monitors situations in regard of provision of respect and protection of constitutional and legal rights of children.

The legal regulative forbids advertise of cigarettes and alcohol, serve of alcohol to juveniles and sale of alcohol and cigarettes to children in retail stores with aim of providing protection of children from alcohol and cigarettes.

According to the information which the Ombudsman got from the children members of the Board of Children aforementioned bans are still not respected consistently by all subjects. Media often spreads information that children consume alcohol and cigarettes more frequently. But the most important is that in biggest number of café bars and stores children can be served or can buy alcohol and cigarettes. Because of that the Ombudsman pointed on a need for considering of facts in regard of practically taken measures for realization of abovementioned bans.

Because the Ombudsman according to his competences is not able to make research on this problem independently he asked submission of information from the Ministry on Economy – the State Market Inspectorate and from the Ministry on Interior as competent organs on this issue. The Ombudsman requested information on:

- Their information about respect of abovementioned bans or in other words is the ban on serving alcohol to children and on sale alcohol and cigarettes to children respecting consistently?
- Which and in how many cases were took measures so far towards subjects which doesn't respected those bans?
- What is the efficiency of the taken measures?
- Which difficulties they met when they carrying out legal measures?
- Is there any planned actions and measures that could be carrying on in future regarding to this problem?

As on the request sent last year so this time again the State Market Inspectorate has submitted only declarative answer without concrete data and information on practically taken measures regarding abovementioned bans.

Namely, the State Market Inspectorate has cited again the legal bans on: pouring alcohol to children, sale of alcohol and cigarettes to children and advertising of these products on places accessible to children. By those bans children can be protected from abuse of their recklessness and lack of experience. Regarding to this problem the State Market Inspectorate also stressed that in the frame of competences it makes controls and when concludes some irregularities undertakes measures but it didn't mentioned more concrete data on how often are those controls, how many measures were pronounced, were controls on it's own initiative or on submitted denunciations, are there any effects from the pronounced measures and are there problems in establishing of the facts and during pronouncement of the measures.

With aim to get more concrete data the Ombudsman spoke with the Director of the State Market Inspectorate who informed that they didn't make controls in regard to the sale

of alcohol and cigarettes in retail stores and that there is no objective possibilities for taking of such controls because the inspectors can't follow constantly what is happening in the stores and to conclude is there sale of alcohol and cigarettes to juveniles. According to the Director there are no submitted denunciations on the usage of abovementioned bans and no taken measures so far.

Because of that the Ombudsman concluded that abovementioned bans are not controlled by anyone in practice or in other words implementation of the legal regulations is left to the conscience and responsibility of merchants.

Regarding to pouring of alcohol in the restaurants and barrooms the Director of the State Market Inspectorate stressed that they make controls together with the police but there are many difficulties in establishing of the level of respecting of this ban. Namely they can't conclude and prove was the juvenile served and drunk alcohol in some café without laboratory and other analysis. Thus they can't ensure strong evidences as a base for pronouncing of measures and taking of adequate proceeding regarding respect of those bans. Still it was stressed that they took several proceedings and pronounced some of the measures regarding poured alcohol to children.

Information and answers of the Ministry on Interior were more concrete and expressed in numbers. So, according to the Ministry on Interior during the eleven months in 2007 many controls were made in the restaurants and café bars in the Republic of Macedonia especially regarding pouring of alcohol to children and juveniles. Controls were made by the uniformed policemen in cooperation with clerks from the Crime Technique and inspectors on juvenile delinquency.

In the frame of those controls for example in Ohrid were discovered 10 offences, in Delcevo 5, in Skopje 4, 2 offences in Kavadarci and Struga and 1 in Bitola, Negotino and Stip. The Ombudsman is asking: is this a real picture of situation with pouring of alcohol to juveniles in the café bars?

According to the information from the Ministry on Interior in 13 cases regarding of poured alcohol to children infraction proceedings were started and also the same proceedings were applied against 12 owners of the café bars. After the amending of the Law on Infraction against Public Order and Peace serving of the alcohol to drinkers and juveniles was repealed as an infraction and currently only criminal prosecution can be applied for serving of the alcohol to juveniles but there are no information is any criminal proceeding started regarding to this problem.

Regarding to discovering of such violations the Ministry on Interior is facing with many problems in practice during collecting of evidences. Namely, during the controls in cases of existing of suspicion that some café bars pours alcohol to juveniles complicated procedure for establishing of facts has to be conducted. It includes experts from the Criminal Department and inspectors on juvenile delinquents, who have to take pictures from the café bar, establish presence of alcohol and who of the employee has served juveniles with alcohol. Success of those activities depends of the level of cooperation of the juveniles and their parents who has to be included in the procedure.

About the sale of alcohol and cigarettes to children in retail stores the Ministry on Interior asserts that there are no objective possibilities for collecting of evidences for such violations because in most cases adults buy drinks for children or children buy alcohol for themselves with identification cards of adults. According to this and regarding to abovementioned bans the police obviously is not taking any measures in practice which means that disrespect of the bans is not punished and no body takes measures against persons who didn't respect the bans.

From the all abovementioned unambiguously arises that even there are legal bans for pouring alcohol and sale of cigarettes to children in practice children are not protected from those vices because of objective or subjective reasons which affects their health. Also, according to the information in public the number of children who consume alcohol and smoke cigarettes (starting form early age) is increasing but the society is still weak to protect children from the alcohol and cigarettes beside the legal bans and foreseen measures against all individuals who didn't respect it.

Because all of us as an individuals, parents, clerks, institutions, centers or the state on the whole is obliged to protect children from any kind of abuses and to ensure them normal and healthy development it is necessary to find adequate, efficient and easy applicable ways and methods for protection of children from usage of alcohol and cigarettes and for discovering and punishment of persons who make usage of alcohol and cigarettes possible for children. For that aim the state should take preventive measures and conduct campaigns for arising of the conscience of every citizen (children, parents, clerks) so every one to become conscious that must take care for the children's best interest instead to neglect and abuse children in the race for bigger profit and earnings.

Because of this the Ombudsman appeals every subjects as children, parents and especially organs competent for protection of children rights and punishment of violators of children rights to find ways and methods for quick, timely and efficient protection of children guided by their best interest which should be main sign for every measure taken for children and for protection of children rights and interests.