

# Second and Third Alternative Periodic Report on the Implementation of the Convention on the Rights of the Child in the Republic of Serbia (2008-2014)



**Save the Children**



**Child Rights Centre**

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**SECOND AND THIRD  
ALTERNATIVE  
PERIODIC REPORT  
ON THE IMPLEMENTATION  
OF THE CONVENTION ON  
THE RIGHTS OF THE CHILD  
IN THE REPUBLIC OF SERBIA  
(2008–2014)**

This Report has been prepared by the  
Coalition for Monitoring Child Rights in Serbia,  
coordinated by Child Rights Centre

## SECOND AND THIRD ALTERNATIVE PERIODIC REPORT ON THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD IN THE REPUBLIC OF SERBIA (2008–2014)

### *Publisher*

Child Rights Centre  
Skender-begova 20/12  
11000 Belgrade  
Serbia  
+381 11 33 44 170  
www.cpd.org.rs  
office@cpd.org.rs

### *For the publisher*

Milena Golić Ružić

### *Editor of all publications*

Milena Golić Ružić

### *Professional Editing*

Marija Petrović  
Ivana Stevanović  
Milena Golić Ružić  
Marija Anđelković

### *Translation*

Milan Marković

### *Design*

Rastko Toholj

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**UZICE  
CHILD RIGHTS  
CENTRE**

**OPEN  
CLUB**

**ATINA**

**PRAXIS**

**NEXUS**

**CHILD RIGHTS  
CENTRE**

**NGO ASTRA  
— Anti Trafficking  
Action**

**I HAVE AN IDEA**

**THE CENTER  
FOR YOUTH  
INTEGRATION**

**NETWORK OF  
ORGANISATIONS  
FOR CHILDREN  
OF SERBIAN  
— MODS**

**VELIKIMALI**

**CENTRE FOR  
CREATIVE  
DEVELOPMENT  
— KNJAŽEVAC**

**BELGRADE  
CENTRE  
FOR HUMAN  
RIGHTS**

**HELP TO  
CHILDREN**

**FAMILIA**

**Association  
PARENT**

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**This Report  
has been prepared by  
Coalition for Monitoring  
Child Rights in Republic  
of Serbia consisted of  
following organisations**

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# Introduction

In 2008, the Republic of Serbia presented the Initial Report on the Implementation of the Convention on the Rights of the Child (hereinafter: Convention) to the Committee on the Rights of the Child (hereinafter: Committee), and in 2010 it presented the Initial Report on the Implementation of the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. The second and third periodic report should have been prepared and presented to the Committee in 2013.

The Committee's concluding remarks on both reports were publicly available at the internet presentation of the competent ministry and, later on, the Office for Human and Minority Rights of the Government of the Republic of Serbia. The Government did not make the Concluding Remarks available in any other way, no child-friendly version of the recommendations was prepared, and there was no broad (expert) debate on the possible ways of implementing the recommendations from the Remarks.

What can be observed after 7 years' reporting period is that the majority of the Committee's recommendations have not been fully implemented, and that the initiated development in certain fields was continued with no special regard for the recommendations. What we would like to stress as particularly worrying is that two significant steps backwards were taken. The role of the Council for Child Rights, as a counselling body of the Government of the Republic of Serbia, in creating and directing the state policies as regards the rights of the child has been considerably diminished since the period between 2005 and 2008 (from 2012 to the beginning of 2014 the Council was completely inoperative). In addition, although the basic strategic document in this field — the National Plan of Action for Children (hereinafter: NPA) becomes invalid as of 2015, not even initial steps have been made by the Government of the Republic of Serbia towards formulating and adopting the new child rights policy.



Preparations of the Second and Third Periodic Report of the Government of the Republic of Serbia on the Implementation of the Convention on the Rights of the Child (hereinafter: State Report) were extensive, and the working group for its preparation also included representatives of civil society. Certain information, observations and views of the representatives of civil society found their place in the State Report; therefore the Second and Third Alternative Periodic Report on the Implementation of the Convention on the Rights of the Child (hereinafter: Alternative Report), submitted to the Committee by the Coalition for Monitoring Child Rights in Republic of Serbia<sup>1</sup> (hereinafter: Coalition), contains those analyses, remarks, and conclusions which were not included in the State Report, and which the Coalition nevertheless finds important for the consideration of child rights in the Republic of Serbia.

Work on the preparations for the Alternative Report began as early as 2012, in expectation of the State Report. First the capacities of the Coalition members were increased for the periodic reporting process,<sup>2</sup> which also involved the development of a specific methodology for collecting the relevant data, based on which the Alternative Report was later prepared.

The Report here presented is comprehensive; it refers to the majority of the Committee's recommendations, and its structure follows that of the State Report. Yet the part related to the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography is for the purpose of clarity given in a separate chapter within the segment referring to Special Protection Measures. The Coalition chose not to include in this Report those recommendations from the Committee which refer to the Optional Protocol on the Involvement of Children in Armed Conflicts.

The data presented here are taken from the official statistical records, various research studies done on the national or local level, practical examples, and general knowledge. The assessment, observations, and formulation of recommendation proposals represent the result of the joint efforts of all Coalition members.

<sup>1</sup> Information on the organizations affiliated to the Coalition can be found in Annex 1.

<sup>2</sup> Organisation for Security and Co-operation in Europe, Mission to Serbia assisted initial training for capacity building of Coalition for Monitoring Child Rights.

# GENERAL MEASURES OF IMPLEMENTATION

## Legislative Framework (Committee Recommendation No. 8)

*The Committee recommendation for the Republic of Serbia was that legislation should be put in full accordance with the Convention on the Rights of the Child, and that a comprehensive law on children should be adopted.*

Ratified international conventions are directly implemented in the Republic of Serbia, and the laws on ratification of international treaties are only second to the Constitution as per their legal force. However, direct implementation of international conventions is still brought into question in practice, due to objective as well as subjective limitations, and in the majority of cases it is not at all possible because most of the provisions are not self-executing. It is important to point out that the Republic of Serbia has signed but not ratified the Third Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.

It is therefore necessary, for the purpose of achieving rights for children, to enable full implementation of the ratified international conventions, primarily by continuing to bring the existing legal texts in accordance with the ratified conventions, or by adopting new laws on ratification of international treaties and implementing them fully in practice. Furthermore, permanent monitoring of the direct implementation of legal measures needs to be one of the priorities in the forthcoming period.

Professionals who practically implement the child rights related laws or bylaws point out the problem of a lack of complete accordance of the numerous exist-

ing laws and bylaws (there are nearly 100 legal texts relevant to achieving rights for children). We are of the opinion that the forthcoming constitutional reform should envisage significant and clear constitutional guarantees regarding the respect of child rights; or rather consider the possibility of including the definition of the concept of the child in the very body of the Constitution, which would thus become a generally accepted definition within the legal system of the Republic of Serbia and allow for the principles of achieving rights for children to be defined as constitutional principles. The same could also be accomplished by adopting the Basic Law on child rights, which has been recommended by the Committee on the Rights of the Child, but still not carried out.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To adopt a normative framework which would provide precise definitions for the concept of the child, principles regarding child rights, independent legal representation for the child, and questions that are of importance to children but not contained within other legislation;
- ▶ By all means to include children among the users of free legal aid within the relevant laws;
- ▶ To ratify the Third Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure.

# National children policy and coordination (Committee Recommendations Nos. 10–12)

## National Children Policy

In 2008, the Committee commended Serbia's National Plan of Action for Children. Based on the concluding remarks, the Republic of Serbia should have "provided for a comprehensive alignment of strategies with the National Plan of Action for Children," ...taken all the necessary steps with a view to providing an adequate and specified distribution of budget funds, indispensable qualified personnel, and mechanisms for monitoring and evaluating the quality (progress/omissions) of NPA implementation.

With the NPA becoming invalid at the end of 2015, the Government of the Republic of Serbia has not even made initial steps towards formulating and adopting new policies regarding children. This means that child-related activities will in the forthcoming period be carried out in accordance with strategies for individual issues. At this moment, the strategies/action plans which are of significant influence to the lives of children include the following: Strategy of Prevention and Protection against Discrimination, Strategy for Education Development in Serbia 2020, National Youth Strategy (2015–2025). The mentioned documents contain the aims directly concerning children, while the total number of strategies in the Republic of Serbia amount to over 60, though the majority of them only have circumstantial influence on children's lives.

According to our evaluation, the greatest problem in the implementation of the adopted strategic documents is the failure of state administration to completely grasp their essence. Problems are also posed by insufficient capacities for designing and preparing both work plans and the accompanying budget. All the aims and measures envisaged by strategic documents should from the moment of their

adoption be consistently reflected in the annual plans of the Government, relevant ministries, interested direct and indirect budget users, local self-governments and civic associations, which would in turn have direct impact on budget planning.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To introduce a new strategic framework for the achievement of rights for children, in accordance with the Committee recommendation, formulated as a clear and comprehensive document which precisely defines state policies regarding children, and is based on the existing strategic commitments and aligned with the international standards of child rights. This document should precisely determine monitoring and evaluation, as well as a framework of the activities, services and work of all the child support services;
- ▶ To improve coordination of the activities of various relevant parties regarding the planning and monitoring of the effects of programme and strategic aims.



**Question for the Republic of Serbia: Based on what document does the Republic of Serbia direct its activities for the improvement of the position of children?**

## Coordination of the Convention Implementation

*The Committee recommended that the Republic of Serbia should invest efforts towards improving the work of the Council for Child Rights.*

The Council for Child Rights was completely inactive in the period between 2012 and early 2014, which as a consequence caused the absence of any activities demanding multisectoral approach towards implementing the NPA. At the beginning of 2014 the new Council for Child Rights was formed, as confirmed in the State Report, but the Council has so far had no activities of major importance.

*Ad hoc* cooperation between different ministries is established when needed, but it cannot in effect be judged as satisfactory or systematic. Due to this, many reforms are not synchronized, which influences the effects of the planned measures. Thus the introduction of inclusive education, for instance, which was envisaged by the Law on the Foundations of the Education System (2009), was not accompanied by measures that would encourage the development of adequate services within the local community, which would in turn allow for the full realization of the rights guaranteed by this Law. The implementation of the Law was therefore inconsistent in practice, leaving room for the critics of inclusive education and strengthening the resistance that was already present in society. All this has resulted in persisting discrimination of children with disabilities.

The cooperation between the central authorities and local self-governments is not satisfactory either, which is particularly visible in those systems with looser hierarchical structure, such as education and social welfare. Let us illustrate this with the example of the so-called interdepartmental commissions. Namely, the Law on the Foundations of the Education System envisages that commissions be formed on municipal level to give recommendations on the content of additional support to which the child and pupil are entitled. The organization, work, and financing of these commissions falls entirely within the jurisdiction of local self-governments. The result of this is frequently that commissions have not even

been formed in certain municipalities, whereas in those municipalities where they have been formed, they are not capable of full practical implementation of all the demands posed by the law and bylaws. The final result of all these omissions is that the rights of some children are not realized even though they are guaranteed by the law.

**We suggest that the Committee should give the following recommendation to the Republic of Serbia:**

- ▶ To improve the work of the Council for Child Rights and strengthen its role in monitoring the effects of the reforms and formulating new policies, through providing adequate resources for efficient monitoring and supervision of the implementation of strategic documents regarding the rights of children.



**Question for the Republic of Serbia: How is the coordination of intersectoral cooperation performed?**

## Monitoring of the Implementation of the Convention, Evaluation, and Independent Monitoring (Committee Recommendations Nos. 14 and 20)

### Independent Bodies for the Protection of Human Rights

*It was recommended to the Republic of Serbia to institute a special Ombudsman for Child Rights, or delegate one person to the General Ombudsman Institution to deal with this issue solely.*

Considerable improvement has recently been made in establishing independent bodies relevant for human rights. Their partnership with other governmental bodies and civil sector has also been established. The Ombudsman and Commissioner for Protection of Equality have mechanisms for including children and youth in their work, as well as materials and special channels of communication with children, but protection procedures are still not available to children to a sufficient extent.

However, the election of Deputy Ombudsman for Child Rights (and gender equality) has shown all the weak points of the existing legal solution and confirmed that the present system does not allow for a sufficient amount of independence, transparency, and clearly defined tasks of the Deputy Ombudsman for Child Rights. Furthermore, the manner in which the capacities of the Deputy Ombudsman are defined, and which we have already criticized, has shown their weakness and confirmed that a person could be appointed Deputy Ombudsman without having enough working experience in the field of child rights. These problems have also been recognised by the Council for Child Rights of the Government of the Republic of Serbia, which resulted in its recommendation that the Ministry of Labour, Employment, Veteran and Social Affairs should prepare Draft Law on Ombudsman for Child Rights and submit it to the Council for further discussion.<sup>3</sup>

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To institute a special Ombudsman for Child Rights;
- ▶ To encourage the establishment of offices of Ombudsman for Child Rights locally.



**Question for the Republic of Serbia: Are the procedures before independent bodies adapted to children and how are they adapted?**

<sup>3</sup> At the moment when this Report is being written, the Draft Law is available on the website of the Ministry of Labour, Employment, Veteran and Social Affairs, with the ongoing public debate.



## **Monitoring of the Implementation of the Convention and Assessment of Policies**

Impact assessment of policies and practices on the realization of child rights is not developed in the Republic of Serbia and there seems to be an ongoing misunderstanding of what such an analysis actually means and how the results of assessment procedures are further applied. Key information is missing, and there are no data or indicators of the impact of laws and policies — either locally or on national level — on the realization of children’s rights. The Government formed the Council for Monitoring the Implementation of Recommendations of UN Human Rights Mechanisms in the course of 2015, and this body should deal with the above stated issues.

Yet at the present moment the competent ministries do not have any mechanisms for continuous monitoring of the undertaken international obligations or concluding remarks and recommendations given by international human rights organizations. The lack of the monitoring and evaluation of the service development in local communities presents a particular problem, which has two major consequences: the community does not provide the necessary services to the users, and the available funds are not disposed of in an adequate and economical way.

Certain improvement was nevertheless made with the institution of the Committee on the Rights of the Child as a special permanent working body of the National Assembly of the Republic of Serbia. Notwithstanding the fact that the competence of the Committee is partly limited by the complexity of its structure (the Committee is presided over by the President of the National Assembly, who also has numerous other capacities), and partly by the way in which acts are scheduled for consideration in compliance with the Rules of Procedure of the National Assembly of the Republic of Serbia, the work of the Committee has in the previous period been of significant importance for monitoring the implementation of certain legal solutions. These solutions were labelled by the Committee

members as disputable, that is, as law proposals the application of which is yet to be approved in practice. To this effect, seven special working groups have been formed within the Committee on the Rights of the Child.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To establish continuity in the work of the Council for Monitoring the Implementation of Recommendations of UN Human Rights Mechanisms;
- ▶ To establish the structure, as soon as possible, and develop the methodology for monitoring the implementation of the Convention on the Rights of the Child, and also strengthen the coordination and monitoring of the implementation of the Concluding observations of the Committee on the Rights of the Child, on the level of ministries (interdepartmental level) as well as local self-governments;
- ▶ To provide a unified and coherent system of governmental support to the bodies established with a view to monitoring the realization of children's rights both locally and on the national level.



**Question for the Republic of Serbia: What did the mechanism for monitoring the Committee on the Rights of the Child recommendations look like, and based on what was the impact assessment of the performed activities made?**

## Data Collection

*It was recommended to the Republic of Serbia that the work on a comprehensive collection, analysis, and monitoring of data should be continued.*

Efforts have in the previous period been made towards improving the data collection process. However, there is no systematic collection of data on children in the field of child rights, and these data are gathered from various sources, mostly from various sectors. The principal purpose of data collection is not to monitor the users (children), but rather the service providers, hence connections among the professionals are not even necessary and any purposeful intersectoral exchange of data is lacking. Non-systematic and incomplete collection of data reflects on the insufficiently precise or comprehensive creation of policies regarding children, and the other way round — the lack of a comprehensive policy regarding children causes the absence of clearly defined aims (purpose) of, or a comprehensive methodology for data collection.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To improve the data collection system in a way that would allow for a comprehensive and coordinated gathering of the data on children on the entire territory of the Republic of Serbia, with special reference to vulnerable groups of children;
- ▶ To include children in the data collection process and in the creation of policies based on the obtained data, both locally and on the national level.

# Distribution of Funds for Children, Including the Funds from International Cooperation (Committee Recommendation No. 18)

## Distribution of Funds

*The direction that the Republic of Serbia should have taken by this time is towards providing a comprehensive revision of the budget funds for children and monitoring of the budget expenditure, while it also should have made full use of the development funds from international cooperation.*

The budget of the Republic of Serbia is not sufficiently transparent and it is obvious that child rights are not one of its priorities. The transition from sectoral to programme financing takes too long and, with all the governmental efforts to introduce the control of the budget, significant improvement in this field has still not been observed. Budgeting does not follow strategic aims, and vice versa. The introduction of new rights and the adoption of measures are still rarely preceded by the analysis and planning of the necessary funds, based on which more precise and effective financial planning could be made. So, for instance, all the children aged between 5.5 and 6.5 have been included in preparatory preschool programmes, either on full-day or half-day basis, but this has not been met by the government with the increase of budget funds for preschool education, despite the strategic plans for extending scopes and increasing capacities. Similarly, a number of the poorest municipalities failed to secure the right to organised transport for the children living more than 4 km away from the school. The analysis made by the Coalition in 2011 shows that municipalities address this obligation in different ways, depending on their budgets, which finally results in the fact that approximately 500 children in the 11 municipalities from which the data have been collected do not realize the guaranteed right, which in turn directly reflects on the rate of the inclusion of children from rural areas into the educational system.<sup>4</sup>

<sup>4</sup> See: Education

The Republic of Serbia is not preparing “children’s budget,” that is, not working on the analysis of the budget funds intended for the children; therefore, it cannot be assessed whether and to what extent the obligations from Article 4 of the Convention on the Rights of the Child are addressed.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To complete the transition to programme budgeting urgently, and thus allow for a more precise monitoring of the allocation of budgetary funds;<sup>5</sup>
- ▶ To introduce the practice of “children’s budgeting” in the form of a special document which would make children more visible in the budget;
- ▶ To develop mechanisms for the alignment of strategic measure proposals in various fields (health care, social welfare, education) with the planning of the realization, control, and evaluation of budget allocations, both centrally and locally;
- ▶ To encourage the development of the mechanisms for the inclusion of users into budget planning locally.



**Question for the Republic of Serbia: What is the percentage of the budget funds that the Republic of Serbia allocates to children?**

## International Cooperation

International support and cooperation have so far been the main reform initiators in the Republic of Serbia, and will continue to provide the necessary stronghold in the forthcoming period, although it is of utmost importance to improve

<sup>5</sup> It is possible that by the time the Committee formulates its concluding remarks this transition will have been completed.

the monitoring and control of expenditure, in order to secure the long-term credibility for international support. The exchange of human resources and experience brings significant benefit to all the ongoing processes. As a negative side to this intensive exchange, the practice of reliance on the international community and financial support has been developed, without taking into account the financial (and other kinds of) sustainability of the project after international partners have withdrawn. Due to this, many good ideas and excellent projects have been discontinued and activities called off immediately upon the termination of international funding.

Still, the Republic of Serbia is not using all the funds and opportunities offered; for instance, it has not joined the EU Rights, Equality and Citizenship Programme 2014–2020, thus depriving itself of the access to the important funds intended primarily for vulnerable groups of citizens, which includes children.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To continue intensive international cooperation;
- ▶ To strengthen the anti-corruption mechanisms and control of the budget utilization;
- ▶ To provide continuity in the development of services by establishing mechanisms for the recognition, selection, and support of those pilot projects that have yielded good results even after the withdrawal of international partners and donors;
- ▶ To join the EU Rights, Equality and Citizenship Programme as soon as possible.

## Cooperation between the Civil Sector and Government — Authorities (Committee Recommendation No. 24)

In accordance with the Committee Recommendations, the Republic of Serbia should have encouraged cooperation with civil society, including the adoption of a law that would define the work of civic associations.

Although the new Law on Associations has been enacted, it cannot be claimed that a stable and clear framework for the operation and financing of civic associations has been established. The framework for cooperation with the competent authorities has been established through the Government Office for Cooperation with Civil Society, and the cooperation functions on several levels, such as joint implementation of partnership projects, training conduction, participation in conferences and round tables, development and improvement of legislation procedures, development and provision of services. Yet a true partnership and the appreciation of civil society as a partner have not been fully achieved. So, for instance, when the principle of pluralism for budget-financed services was introduced,<sup>6</sup> enabling civic associations to become service providers, it was not accompanied by the establishment of a transparent process of spending the budget funds allocated to those services, e.g. clear criteria for their choice and quality control, which in turn created an atmosphere of doubt and distrust, which is not favourable to further development of the pluralism of services. Representatives of the Coalition have come into knowledge of the fact that employees at centres for social work in many local communities found their own associations, which then provide services the funds for which have been allocated from the budget of the Republic of Serbia, and directed by these same employees towards their own associations as service users. Practice has also shown that political parties have their

<sup>6</sup> **The Law on Social Welfare from 2011**

associations, financed from the local self-governments' budgets. It was precisely due to these reasons that an affair occurred at the end of 2014, when the call for the development of services provided via the civil sector, announced by the ministry in charge of social affairs, was cancelled, the funds remaining unused and citizens deprived of those services that should thereby have been financed. Yet no efforts have been made towards avoiding such situations in the future.

In addition to the stated problem, there are other omissions in the process of planning; for instance, the Strategy for Education Development in Serbia 2020 was introduced without prior consulting with the civil society organisations that deal with children and child rights, and the Action Plan for Strategy Implementation does not provide a single clause in which civil sector is recognised as a partner.

The state still fails to provide encouragement for youth led organisations, and these organisations have no impact on the decision-making process on state level, that is, they are still not recognised as significant social subjects.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To make the financing of civic associations completely transparent — to provide the mechanisms that would ensure equal chances for all associations;
- ▶ To encourage the work of children and youth led groups and organisations.



**Questions for the Republic of Serbia: What is the amount of the funds allocated annually from the budget of the Republic of Serbia for the institutional support to civic associations?; What is the number of civic associations that deal with child rights?**



# GENERAL PRINCIPLES

## Non-discrimination (Committee Recommendation No. 26)

*In its Concluding Remarks, the Committee gave recommendation that the Republic of Serbia should invest greater efforts towards allowing all children — and particularly the vulnerable groups of children — to enjoy all the rights contained within the Convention, without any discrimination, as well as towards overcoming the stigmatization of these children. The Committee also recommended that the state should adopt the Law on the Prohibition of Discrimination and work on raising the awareness in this field via the media.*

The Law on the Prohibition of Discrimination was introduced in 2009, and in June 2013 the Government adopted the Strategy of Prevention and Protection against Discrimination, the Action Plan for Strategy Implementation, as well as two additional Action Plans for the implementation of the Strategy for Advancing the Status of the Roma Population in the Republic of Serbia, one for the period from 2009 to 2011, the other from 2013 to 2015.

Anti-discrimination norms are contained within all the systemic laws introduced in the period covered by the Report. Yet discrimination is still present and visible in practice. There are multiple reasons for this, and we shall here refer to three of them which we consider crucial:

- ▶ attitudes of the representatives of public authorities are no different than those of the general populace, that is, the former are not additionally trained or sensitized, hence 22% of the representatives of Serbian executive and legislative authorities do not even know that discrimination is sanctioned by the law;<sup>7</sup>

<sup>7</sup> According to the survey “Attitudes of Representatives of Public Authorities towards Discrimination”, which was carried out at the end of 2013 by the Serbian Commissioner for Protection of Equality.

- ▶ the services through which child rights are realized fall in most part within the jurisdiction of local self-governments, and some of them, due to the general poverty rate and absence of an adequate control system, do not provide the necessary amount of services;
- ▶ court protection in the cases of the breach of the prohibition of discrimination is inefficient and untimely.

In the previous period, the Republic of Serbia has not conducted any significant or comprehensive media training for reporting on the matters of discrimination. Media coverage usually takes the sensationalist approach and does not promote tolerance.

The Report of the Commissioner for Protection of Equality for the year 2014 states as one of the challenges in the Commissioner's work the attitude of the media towards discrimination, claiming that the media do not show enough interest in the problem of discrimination, whereas some of them even encourage and spread prejudice against and stereotypes of some of the minority groups.

The attitudes of children and youth towards non-discrimination, as well as the attitudes of Serbian citizens, are extremely worrying, and comparative analysis of the surveys carried out in 2005 and 2012 only confirms this fact.<sup>8</sup> Also worrying are the attitudes of the youngest members of the population, with 23% of preschool children not wanting to sit next to or play with a Roma child or child with disabilities.<sup>9</sup>

The citizens of Serbia are aware of the existing discrimination: 65% of citizens think that discrimination is present in Serbia to a considerable or large degree, and according to the attitudes of the populace, the groups most prone to discrimination in-

<sup>8</sup> One of the surveys is the one contained in the document titled "Report on the Implementation of Child Rights in the Republic of Serbia from the Perspective of Children and Youth" (2012).

<sup>9</sup> The survey carried out during the school year 2014/2015 by the Children and Youth Support Organisation (CYSO) with children aged three to six and a half in preschool institutions in Serbia.

clude women (42%), Roma (41.5%), persons with disabilities (28.4%), poor people (27%), the elderly (24.5%), children (18.6%) and sexual minorities (16.4%).<sup>10</sup>

Nevertheless, citizens are beginning to recognize the importance of the Commissioner for Protection of Equality as an institution. Thus in 2012 465 complaints were made to the Commissioner, while in 2014 the number of complaints amounted to 666.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To take measures to provide efficient practical implementation of legal solutions;
- ▶ To provide children with an efficient access to courts in cases of discrimination;
- ▶ To improve prevention programmes, establish efficient measures and programmes for the reduction of stigmatization and increase of tolerance, especially within educational programmes;
- ▶ To strengthen the role of the media to this effect and increase the media awareness of adequate reporting on discrimination;
- ▶ To eliminate the choice between civic and religious education in schools and include some of the teaching units from these curricula into the curricula of nature and society or history;
- ▶ To tighten the penal policy for those media that do not act in accordance with the laws relevant to this field.



**Question for the Republic of Serbia: Why are religious and civic education curricula designed to be mutually exclusive?**

<sup>10</sup> A survey of public opinion carried out in 2013 by CeSID, in cooperation with UNDP and Commissioner for Protection of Equality.

## Child's Best Interests (Committee Recommendation No. 28)

Certain efforts have been made in the previous period towards improving the principle of child's best interests. However, problems are posed by the practical implementation of this principle, especially if one bears in mind that the content of the principle of child's best interests is not defined within the Serbian legislative framework, and that there are no instructions whatsoever for the implementation of this principle in individual sectors, which results in the lack of understanding of the principle, even on the part of professionals. This was proved by the survey on the implementation of child's best interests in certain family and criminal law cases.<sup>11</sup>

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To define guidelines and elements for determining the principle of child's best interests in particular fields;
- ▶ To take the necessary steps towards raising awareness of the professionals in all governmental bodies, as well as of those working directly with children, regarding the practical implementation of this principle.

## Participation (Committee Recommendation No. 32)

*The Committee recommended that the Republic of Serbia should invest additional efforts towards the implementation of the principle of appreciating the child's views.*

<sup>11</sup> **Towards Child-Friendly Justice — The position of a child in civil court proceedings in Serbia, Child Rights Centre, Belgrade, 2015, and Towards Child-Friendly Justice — Protection of child victims in criminal proceedings and position of the practice in the Republic of Serbia, Child Rights Centre, Belgrade, 2015.**

*To this effect, special emphasis should be put on the right of the child to be listened to by the family, at school and other institutions, by the authorities and society on the whole, and this refers particularly to the children from vulnerable or minority groups.*

The Republic of Serbia has the legal framework that enables children and youth to express their views at school, through student parliaments in primary and secondary schools, and this legal framework has been additionally improved since 2008. The practical implementation of the concept is, however, faced with numerous difficulties. Since student parliaments were institutionalised in the Republic of Serbia in 2001, the problem of the student motivation for parliamentary engagement has permanently been present, as well the problem of the manner in which the representatives are elected, the scope of the parliament's work, and teachers' and students' understanding of the purpose and idea of student participation. Participation in the work of schools is rather low, with 53.1% of children never having attended a meeting with school representatives.<sup>12</sup>

Participation of children and youth is very low in the decision-making processes within local communities, due to the low motivation of children (only 18.3% interested in participating at the local self-government level and 13.3% at the level of the Republic), and as regards the actual practical experiences (only 2.8% of children have had the opportunity to personally meet the representatives of the local self-government).<sup>13</sup>

A lot has been done recently to improve the youth offices as a mechanism for youth participation at local level. However, considerable politicisation has been noticed in this field, i.e. the youth offices have shown to be insufficiently independent from the politics of the ruling parties at local level.

The participation of children in the decision-making processes of national importance, i.e. in creating national policies, is, similarly to the participation of margin-

<sup>12</sup> The data are obtained from the survey carried out by MODS, "Participation of Children and Youth in Serbia".

<sup>13</sup> Survey of the Implementation of Child Rights in the Republic of Serbia from the Perspective of Children and Youth for the year 2012.

alised groups, in its infancy, and though no resistance has been shown towards it, the point of children's participation and benefits from it are still not entirely understood. The participation process has been initiated by the civil sector and independent state bodies. Children's participation in policy making is not mandatory and therefore depends on the willingness and understanding of policy makers.

The law guarantees children's participation in individual procedures within the family context, and partly in educational procedures. The rules are not so clear when it comes to administrative procedures or children's participation in the procedures carried out by the independent state bodies, so this is a field which calls for additional regulations. Still, a series of irregularities can be seen in practice and confirmed by surveys, pointing out to the inconsistent implementation of legal provisions and violation of rights.<sup>14</sup>

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To strengthen the mechanisms of youth participation in the local community by making the connections between the existing institutions — student parliaments and youth offices — more firm;
- ▶ To actively encourage the activities of student parliaments through promoting good practice examples;
- ▶ To provide for children's participation in making all the relevant decisions within the educational system: curriculum, study programmes, work organisation, etc.;
- ▶ To establish the control of the prerequisites for the work of student parliaments through regular activities on the part of school counsellors and inspectors.

<sup>14</sup> **Towards Child-Friendly Justice — The position of a child in civil court proceedings in Serbia, Child Rights Centre, Belgrade, 2015**

# POLITICAL RIGHTS AND CIVIL LIBERTIES

## Registration upon Birth (Committee Recommendation No. 34)

*The Committee gave the recommendation that the Republic of Serbia should prioritise and intensify the efforts to establish a system to ensure the registration of all the children born on its territory — regardless of their nationality and the status of their parents.*

In the previous period no significant improvement has been made regarding the establishment of a system which would ensure the registration of new-borns in Civil Registry Books (hereafter CRBs) immediately after birth, regardless of their parents' status.

The Law on Extrajudicial Proceedings was adopted in 2012. This law represents a step towards solving the problem of legally invisible persons in the part pertaining to the possibility of registration in the birth registry. The law prescribes that a person who is not entered in the birth registry, and who cannot prove his/her date and place of birth in a way foreseen by the regulations on keeping the registry books, can submit a proposal for determining the date and place of birth to the court. Also, it is prescribed that the court is under obligation to pass the decision on the date and place of birth within 90 days as of the date of submission of the proposal. In practice, however, these procedures last 6 months on average.

However, art. 71k para. 2 of the Law on Extrajudicial Proceedings envisages that 'the competent organ for the implementation of procedures for acquiring the citizenship of the Republic of Serbia is not conditioned by the date and place of

birth.’ This challenges the finality of the court decision, i.e. the effect of the validity, since the same final decision obliges one and not the other administrative organ. Such an unconstitutional ruling deteriorates unity of the legal order and hinders the acquisition of the citizenship of persons in the CRBs based on the final court ruling which poses a threat to a certain number of persons who may not obtain citizenship, i.e. may be exposed to statelessness. Also, the issue of children whose parents do not possess personal documents and/or citizenship, or are of unknown citizenship, remains unresolved. In practice, these children are initially unable to register in CRBs because their parents lack personal documents necessary for the registration of birth and even after the subsequent registration they are left without registration of citizenship.

It is necessary to bear in mind that the adoption of the Law on Amendments to the Law on Extrajudicial Proceedings and the prescription of the procedure for determining the date and place of birth are not adequate to enable the children to exercise their right to register in CRBs immediately upon birth. This procedure cannot be initiated for the children born in national health care institutions (since date and place of birth of these children is determined by the report of birth from the medical institution, but not verified with competent registrars due to the lack of parents’ documents). Also, it fails to meet the *immediately upon birth* standard — the children registered in CRBs in extrajudicial proceedings for determining the date and place of birth, are left for several months, at best, without the actual fact of birth being registered, without a name given or documents issued. The procedures for delayed registration in CRBs and determination of a personal name (which are also initiated for persons who failed to register in CRBs and obtain a personal name within a legal time frame) last several months on average, and therefore are not adequate to enable the children to exercise the right to register in CRBs as soon as possible upon birth. The right to timely registration in CRBs, in accordance with the ‘immediately upon birth’ standard, is possible to realise only in the process of regular report of birth, but regular registration of birth is not available for the children whose parents do not possess personal documents.



Children facing this problem are almost exclusively of Roma ethnicity, since the issues with personal documents are prevalent among Roma population.<sup>15</sup> In this sense, the problem of registration in CRBs does not involve members of other nationalities or national minorities, and this limitation of registration represents discrimination against Roma children.

According to 2014 UNICEF data, 4.7% of children from Roma communities aged 5 and less have not been registered in CRBs.<sup>16</sup> It is estimated that among internally displaced persons from Kosovo, 7% of children under 15 years of age are not registered in CRBs, while in domicile Roma population there are 2% of unregistered children.<sup>17</sup>

**We suggest that the Committee should give the following recommendation to the Republic of Serbia:**

- ▶ To establish a system to ensure the registration of children immediately upon birth, regardless of his/her parents' status, i.e. possession of personal documents.

<sup>15</sup> So, for instance, the Ombudsman states 'among persons without personal documentation or who have never been entered in registry of birth, are predominantly Roma people.' See Ombudsman 'Report on status of legally invisible persons in Serbia', Belgrade 2012, page 11, available at [http://www.ombudsman.rs/attachments/2222\\_Izvestaj%20o%20polozaju%20%20pravno%20onevidljivih%20i%20o%20RS.pdf](http://www.ombudsman.rs/attachments/2222_Izvestaj%20o%20polozaju%20%20pravno%20onevidljivih%20i%20o%20RS.pdf).

<sup>16</sup> Republican Statistical Office and UNICEF, Researches of multiple indicators of women's and children's status in Roma community, July 2014.

<sup>17</sup> Slobodan Cvejić, Needs Assessment of Internally Displaced Roma in Serbia, UNHCR, May 2015

# RIGHTS OF THE CHILD IN THE FAMILY ENVIRONMENT

## Family Environment (Committee Recommendations Nos. 39, 43, 45 & 46)

*In its final observations, the Committee recommended that the Republic of Serbia should strengthen family support by establishing a comprehensive, child-focused policy.*

Neither has a comprehensive policy aimed at family been set up, nor has the support system for the child in the family been changed or improved. Although the amendments to the Family Law are under way, the solutions presented so far do not alter the concept of any of the institutes (there is no concept of joint custody apart from the agreement between parents; there are no guarantees that alimony fund will be formed as a measure of securing claims for child support; competence of guardianship authorities still includes making decisions for a child and his/her representation; monitoring the exercise of the parental right — the content and sanctions remain vaguely and insufficiently defined).

The central organ of support is guardianship authority whose competence is too widely and unclearly defined, leading to non-standardised practice, inefficient utilisation of all the capacities and competences at this organ's disposal. Procedures remain highly formalised, inefficient and untimely. The Law on Social Protection enacted in 2011, introduced the institution of case manager which, in practice, has not improved the family support.

Decisions in the field of family relations (exercise of parental right, deprivation of parental right, support and protection from violence) are under the compe-

tence of the court, but the court largely relies on opinions of guardianship authority which takes unjustifiably long time to form a judgment, usually about 3 and sometimes even 9 months. During this period, family relations remain unsettled, and children are often deprived of support and contact with the other parent<sup>18</sup> Also, this time is not used to establish cooperation with the family, conduct interviews or pay visits to the family. Usually, only one or two interviews are conducted in order to form an opinion, and therefore, this amount of time is unjustified.

Strengthening the system of child protection from abuse and neglect reinforces, to some extent, cooperation between Centres for Social Work (under whose auspices operates the guardianship authority) and other actors in the community which can be seen as one of the improvements on the previous period. Also, fostering service has been improved. However, specialist fostering has not been equally developed, which represents the next big task in this field.

The Law on Social Protection (2011) prohibits admission of children under 3 years of age in residential institutions of social protection and this prohibition is being implemented, so the priority is given to placement of children in foster families. Nonetheless, services in the community have not been developed at the necessary pace and in the required scope to fully prevent placement of children in institutional care. For this reason, when a child 'ends up' in an institution, the prospects of he/she leaving it are minimal because the support services and work with the family on its strengthening for the reunification with the child are insufficiently developed. Potential way out of the institution leads to foster care while the institute of adoption is completely overlooked.

The core problem of all the services in the community including those aimed directly at families is the mode of their financing which is, as stipulated by the law, within the competence of local self-governments. Bearing in mind the ex-

<sup>18</sup> **The court has the instrument to prevent such violation of rights, so called provisional measures, but they are not sufficiently implemented.**

tent of development of services at the moment of passing the law, and the lack of the tradition of community services, this system did not make the desired advance but rather caused unequal development of services at a local level, as supported by the data from the State Report which mentions 17 specialist counselling centres for the entire territory of the country with 169 municipalities.

Family support services, as described in the government report, are inefficient in practice for multiple reasons — counselling is always voluntary and yields no results in disrupted family relationships. According to the data, only 15% of the families received an on-going support before the child was placed in alternative care.<sup>19</sup>

Regarding the part of the recommendation of the Committee referring to stimulation of parent-child relationship, there is a problem regarding the relationship between a child and the parent who does not live with him/her. Also, inefficacy in the establishment and realization of the right to child support poses an acute problem. In this field, the executive procedure is not efficient enough even though the enactment of the Law on Enforcement and Security has eliminated a certain number of legal loopholes and has created better preconditions for a more efficient implementation of the provisions laid down in the Family Law. However, according to the judges themselves and the experiences of guardianship authorities we are still a long way from the desired efficiency in implementation of these decisions. In 2011 the ministry in charge of social affairs issued a legally binding manual for practices of guardianship authorities to standardise and improve the practice. However, guardianship authority does not fully utilise the mechanisms at its disposal and tolerates actions of parents who prevent the other parent from seeing the child or do not pay child support, and does not execute its legal powers and therefore its duties.

<sup>19</sup> Research of the Faculty of Political Sciences, University of Belgrade

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To urgently define national policy aimed at family or to focus, within the national policy for children, on the development of integrated services in the community which are aimed at the child in the family with the primary aim to keep the child in the family;
- ▶ To intensify the efforts to strengthen the services of specialist fostering;
- ▶ By amendments to the Family Law and, if necessary, the Law on Social Protection to redefine and state more clearly the competences of the guardianship authorities, and to distinguish the role of decision maker about the child and a supervisor of exercising parental right, from the role of child's legal representative in the proceedings before other organs;
- ▶ To efficiently define and execute the right to child support through the establishment of alimony fund or a body to support children in the implementation of the said right.

## Abuse and Neglect of Children (Committee Recommendation No. 45)

*In its final observations, the Committee recommended that the Republic of Serbia should ensure efficient implementation of the protective measures and laws aimed at the prevention of violence.*

The Government Report mentions improvements in legal and institutional framework in this field. However, Protocol for the Protection of Children from Violence, Abuse and Neglect which define intersectoral approach as a response to violence, in practice, the cooperation between sectors is inefficient. Mechanisms for the improvement of intersectoral cooperation were not

systematically developed at a local level so, in many cities, this intersectoral cooperation is inefficient and untimely. Lack of professional capacity is still prominent in some sectors in terms of providing adequate response to cases of violence against children, especially in the area of recognition, protection and support. It is also noted that no system has been set up to protect children and youth in case of violence in recreational and sports activities.

Various forms and types of violence still persist — predominant forms of violence are insulting and mocking — 40%, gossiping, spreading lies and social isolation — 38%, making threats and intimidating 21%. However, the report shows insufficient number of prevention programs in schools. For example, 70% of the interviewed children in elementary schools are not familiar with or think that there was no training for the prevention of violence and promotion of tolerance in their schools.

In the previous period, the legal framework has been improved by enacting the new Criminal Procedure Code which enshrines a set of regulations on questioning especially vulnerable witnesses, as well as the Law on Special Measures for the Prevention of Criminal Acts against sexual freedom against minors which prescribes special measures to be implemented against the offenders of criminal acts against sexual liberty committed against minors and prohibits mitigation and conditional release for the perpetrators of the acts against sexual liberty committed against minors, as well as abolishment of the statute of limitation in criminal prosecutions.

The problem is that the Criminal Procedure Code and the Code on Juvenile Crime Offenders and Criminal Protection of Juveniles (hereafter: The Law on Juveniles) are uncoordinated regarding the questioning of the injured parties who have been given the status of especially vulnerable witnesses, as the Criminal Procedure Code does not exclude the possibility of cross examination of especially vulnerable witnesses, including the children holding such status. In addition, facilities set up specifically for testifying and questioning of children are not

sufficiently utilized, or are not provided at all. Also, the problems of independent representation of the child and of the system of free legal aid are still unresolved, especially in civil law disputes and administrative proceedings.

The Republic of Serbia has not established a comprehensive system of psychological and social support and social reintegration system, especially in prevention of stigmatization of the child victims.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To define a mechanism for protection of children and youth in sports and recreational activities and correlate the mechanism with the existing protection system;
- ▶ To strengthen the mechanisms for the improvement of intersectoral cooperation at the local level;
- ▶ To harmonise the Law on Juveniles with the Criminal Procedure Code and to distinctly exclude the possibility of questioning especially vulnerable witnesses;
- ▶ To establish an efficient system of judiciary in the best interest of the child in cases of abuse and neglect;
- ▶ To provide mechanisms to stimulate development of services of psychological and social support and social reintegration.

## Corporal Punishment (Committee Recommendation No. 47)

*In its final observations the Committee gave the recommendation that the Republic of Serbia should urgently and explicitly prohibit corporal punishment within the family.*

In the reporting period, a draft law on rights of the child was prepared which envisaged explicit prohibition of corporal punishment and humiliating treatment of the child as a means of disciplining the child in all the environments as well as use of physical force on the child and corporal restraining of the child. The aforementioned draft was not adopted and there are no indications that it will be within the foreseeable period.

According to the UNICEF data, MICS5 from 2014, when it comes to children between 1–14 years of age in the Republic of Serbia and their exposure to violent methods of disciplining (psychological violence or corporal punishment) during the month prior to the research, the 43.1% of them were exposed to such practices, while in Roma communities this percentage is even higher and amounts to 65.9%.

### **We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To urgently and explicitly prohibit corporal punishment in the family and to implement such prohibition;
- ▶ To initiate awareness raising campaigns and organise educational programs about nonviolent methods of upbringing (especially for the parents).



# BASIC HEALTH AND SOCIAL CARE

## Children with Disabilities (Committee Recommendations Nos. 48 and 49)

The Committee made the recommendation that the Republic of Serbia should collect relevant statistical data in order to develop national policy for children with disabilities, provide full implementation of the policy of equal opportunities in education, full access to health care, provide adequate training for service providers, as well as to provide quality monitoring of services and periodically inform the public about the services and the related activities.

### Health Care

The coverage of children with disabilities with the health care services has remained the same as in the previous period — they are formally entitled to the full scope of health protection as a part of mandatory health insurance, i.e. they are fully protected. However, the problem lies in the availability of the services due to their unequal territorial distribution, insufficient capacities of the services making the wait for certain therapeutic treatments inexcusably long and finally, non-standardised quality of the services. Therefore, should their financial situation allow it, parents often pay themselves for these services (usually speech therapy and psychological and physical therapy).

Serious problem exists in the field of stomatology services which are available only in Belgrade at the Faculty of Stomatology, since dental professionals are not trained to work with children with disabilities.

Additional problem is health care of children in institutional care which is provided by the nurses and insufficient number of staff who are not properly trained for the specific task that their job may involve. Moreover, they have no psychological support, so occupational burnout syndrome is very common (according to the testimonies of the doctors and social workers from the institutions). Insufficient number of staff and inadequate expert profile result in the lack of rehabilitation, physical therapy and adequate medical care. The children remain passive for the most of the day, without activities and movement, which causes atrophy of the limbs, contracture, spine curvature disorders, respiratory and similar problems. In the situation where the child in institutional care develops a severe acute illness and needs to be hospitalised and clinically treated, other problems arise: either the institution is far from major medical centres, there is a problem with transportation, or the doctors are reluctant to admit the child from institution for hospital treatment, particularly a child with severe intellectual disability.

## Services in the Community

The development of community based services in the period after the last cycle of reporting has mainly been focused on the service of day care centre and, to some extent, on fostering. This is not sufficient, especially bearing in mind the practice in day care centres to focus on babysitting and not the stimulation, progress and independence of children. Other more flexible and innovative forms of services are reduced to the good practice examples of initiating cooperation between the institutions and local community and parents. These are mostly initiated by civic associations (sometimes the institution itself) and are financed by means of project financing from donations.<sup>20</sup> Day care centres for children and youth with dis-

<sup>20</sup> Most of the conclusions express positions of the working group formed for the preparation of the draft national plan of action for the implementation of the European Declaration of the WHO entitled 'Better Health, Better Life'. The draft was prepared but the final version has never been adopted by the competent ministry.

ability exist in 62 local communities, day care centres for children and youth with physical disability in 14, **assisted living arrangements for the young people gaining their independence** in 13 local communities.<sup>21</sup>

Despite the fact that the current legal framework prioritises children from vulnerable social groups when it comes to the enrolment in preschool institutions, the real coverage data expressed in numbers show that this is not fully implemented. One of the core problems lies in the system of financing preschool institutions, i.e. is that operative financial resources of preschool institutions are based on monthly participation of the parents (20% of the economic cost). It is safe to conclude that that preschool institutions and local self-governments prioritise working parents who are able to pay the full price since otherwise they would be forced to compensate for a large proportion of operative expenses and subsidies from local budgets.

The Rulebook on Additional Educational, Health and Social Support to Children and Pupils (2012) was supposed to establish an efficient mechanism of cooperation between three sectors for the purpose of providing help in local community to children with developmental problems and other children who need additional services to fully exercise their rights.

According to UNICEF analysis, this mechanism is not recognised in the process of planning the services and measures of social protection and is not a part of local decisions on the extended rights in social protection.

**We suggest that the Committee should give the following recommendation to the Republic of Serbia:**

- ▶ To create and implement the policy for the children and youth with disability in accordance with the European Declaration of the World Health Organization ‘Better Health, Better Lives’

<sup>21</sup> Republic Institute for Social Protection

## Living Standard (Committee Recommendation No. 59)

*The Committee recommended that the Republic of Serbia should strengthen the efforts oriented towards combating low living standard of children and families living in poverty, and to provide means for the poverty combating measures.*

During 2013, nearly 387,000 children<sup>22</sup> have exercised the right to child allowance, which accounts for 30% of the total number of children, out of whom 74,000 receive enlarged amount, under more favourable conditions. The amount of child allowance is extremely low, around €20 per child per month. Additional 120,000 children live in various kinds of deprivation so their families are beneficiaries to financial social assistance or some other material (financial) support.<sup>23</sup> According to UNICEF research, the proportion of children in population of beneficiaries to financial social assistance is above average, bearing in mind that they account for 17.6% of the total population. This surely results in greater poverty of families with children.

Nonetheless, despite the measures mentioned in the State Report aiming to extend the scope of beneficiaries, there are still some important and unfavourable issues. Financial support for the families with children in the Republic of Serbia is far lower than in the surrounding countries.<sup>24</sup>

The coverage of beneficiaries by child allowance in unsatisfactory — expressed in percentage, of all the persons who are entitled to child allowance according to the

<sup>22</sup> Second National report on social inclusion and alleviation of poverty in the Republic of Serbia, Government of the Republic of Serbia, 2014

<sup>23</sup> Joint report on operations of Centres for Social Work in the Republic of Serbia for 2014, Republic Institute for Social Protection in 2014

<sup>24</sup> Total allocations for financial support to families with children in 2011 (parental allowance, child allowance, maternity leaves and leave of absence for nurturing the child) were 37.4 billion, or 1.15% of GDP, which corresponds to the EU allocations for only one program, for example child allowance. Generally, the Republic of Serbia does not invest much in family support programs. In 2011, the total amount of child allowance related costs was 10.4 billion dinars, about 0.3% of GDP, which has not changed for the past several years, and the Republic of Serbia is one of the countries with smallest funds for this program.

criterion, only 40.6% receive child allowance, while 59.4% do not. A family with more than four children cannot count on child allowance for children born after the fourth child. When a child has the nominal right to support granted by court ruling, he/she is often automatically denied the right to other forms of financial social assistance, even if the granted amount is not paid for different reasons (the parent is an addict, alcoholic, does not maintain contact with the child). Another problem in exercising the right pertains to the possession of land, often non-arable land, by the potential beneficiary (in most cases inherited). Property with almost no market value is inadequately treated as a potential source of income.

Beneficiaries most often point at several problems in the field of social and child protection. Inter alia, gathering the extensive documentation and the entire burden of proof throughout the process of enforcement of the right is on the family. It is absurd that the families who exercise their right to financial social assistance, have to gather the documentation again in order to receive the child allowance. The situation is the same with enforcing the right to VAT exemptions for baby equipment, because it is necessary to pay the VAT when purchasing the goods, and then submit an application for refund. The process is painstaking and complicated so many people do not use this possibility.

There are two prominent measures of population policy: parental allowance (lump sum cash benefit only for mothers immediately upon the birth of a child, for the first, second, third and fourth child) and a one-year wage compensation for the employed women on maternity leave paid by the employer, or by self-employed persons, which amounts to 100% of basic earnings, and no more than five average monthly salaries, under the condition that the applicant, prior to exercising this right was in uninterrupted employment for at least 6 months. However, in practice, it is more common that, upon returning from maternity leave, mothers face redundancy. It is also common that compensation payments are irregular and that refunds from the child protection funds are late.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To extend the right to child allowance to all the children in the family, or the right to child allowance for four children in the family regardless of the order of birth;
- ▶ To increase amount of child allowance;
- ▶ To enable the families who are entitled to financial social assistance to automatically become entitled to child allowance, having once gathered all the documentation and proven their status.

# EDUCATION, FREE TIME, AND CULTURAL ACTIVITIES

## Education, Professional Training, and Career Counselling (Committee Recommendation No. 61)

*The Committee gave the recommendation that the Republic of Serbia should ensure full realisation of the child's right to education, prioritising children from vulnerable groups. Moreover, the Committee has recommended more educational and training programs for technical and vocational occupations to facilitate competitiveness of these children in the labour market and to incorporate the rights of the child into the regular school curricula.*

Legislative and strategic framework in this field is for the most part in line with the Convention. Also, the Republic of Serbia has adopted strategy for the development of education by 2020, as well as national strategy for combating discrimination by 2018, thereby setting the developmental strategic goals in this field.

However, the problem in practice is realisation of the right to education by children with disabilities, minor asylum seekers, children from rural areas, deprived children and Roma children. Therefore, it is evident that vulnerable groups do not have equal access to education.

As indicated by the competent ministry's data, in 2014, the coverage of children under 3 years of age was below 16%, and at the age of three to six 38.82%. The number of children from the families of higher social and economic status in preschool education system is substantially larger than of the children from the poorest families (82% against 9%). Access to preschool education in rural areas is halved compared to that in cities: 28.7% against 56.6%. Children with disabilities

are also insufficiently covered by the system. While approximately 5% of children at this age have some type of disability, they account for only 2% of the total number of the enrolled children.

The percentage of children in elementary schools in the Republic of Serbia is 97% — this means that approximately 3% of children are not enrolled in school. The percentage of such children in rural areas is alarmingly low — 77.4% and is declining, which is even more alarming (in 2005 the percentage was 81.15%). The percentage of Roma children rose between 2002 and 2007, from 56% to 69%. However, the rate of truancy in Roma children is very high so only 64% of enrolled children complete elementary education. The state has no reliable data on the percentage of completion of elementary education in children with disabilities or developmental problems. Data are available only for the children who are in the system, while the number of these children who are not in the system is unknown.

According to UNICEF analysis, there are several key problems in all the stages of education including mandatory elementary education. In preschool education, obstacles for the marginalized families are undeveloped network of preschool institutions, unsubsidized transportation expenses, high service fees in preschool institutions and inadequately targeted compensations for poor or vulnerable children. The criteria for admission of children in preschool institutions still favour children of working parents, and gathering personal documents and medical examinations are still a problem for some marginalized families.

In elementary education the critical period is transition from the fourth into the fifth grade which affects children from rural areas, Roma children and children with disabilities and learning problems, due to transportation problems and inadequately trained subject teachers who prepare the children for secondary education, which often requires private tutoring. Affirmative action program for Roma children has successfully facilitated a growing number of Roma children in completion of elementary education and enrolment in high-schools, and even more improvement is expected in female Roma children.



The process of introducing inclusive education, which was intensified in 2009 when the Law on the Fundamentals of the Education System was adopted, was not adequately prepared. Since schools were not prepared to admit children in regular education system, during this school year a large number of children was enrolled in special schools, particularly children approaching completion of elementary education, due to poor performances shown in regular schools.

In the Republic of Serbia there is still no official body or mechanism of periodic coordination between demands of the labour market and educational institutions. The process of initiating new programs of vocational schools is more random and arbitrary than a result of systematic monitoring, research and planning. For this reason, the employment of young people in the Republic of Serbia is difficult, since large number of children possesses vocational knowledge unsuitable for the needs of the labour market, whereas many companies cannot find adequate workforce despite the large number of the unemployed.

Also, there have been no improvements in the previous period regarding the inclusion of human rights education into the schools curricula. Education on the rights of the child is still not equally attainable for all children. As before, the elements of education on human rights and the rights of the child are given as a part of an optional course called Civic Education, so not all the children learn about their rights. Realisation of this school subject in practice is also problematic (this subject is planned to be taught once a week, and given the optional nature of the subject, these classes are often cancelled). Civic Education classes are taught by other subject teachers, having completed short training insufficient for the proper coverage of the content in this field. The result of such practice is that only 25% of teachers and 29% of pupils believe that they possess sufficient knowledge about the rights of the child.<sup>25</sup>

<sup>25</sup> Data obtained from 'Monitoring the Rights of the Child in Secondary School Education' from 2011, Užice Child Rights Centre

Education Development Strategy in the Republic of Serbia by 2020 does not mention education on human rights and the rights of the child, even though it was adopted after the Committee's recommendation was made.

Program for the provision of free textbooks for all the pupils in elementary school education system, initiated by the Republic of Serbia in 2009, was a positive step towards granting the right to free education. Unfortunately, this program was suspended in 2015, so pupils now in addition to textbooks, pay other education related fees, which is not in the accordance with the Convention.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To facilitate full realisation of the child's right to education, so that all the children from the vulnerable groups, including children from rural areas, poor children, children of Roma and other national minorities, child refugees and children of internally displaced persons, can fully enjoy their right to education;
- ▶ To establish an efficient mechanism of constant monitoring of the needs on the labour market and its coordination with educational institutions to educate employable workforce;
- ▶ To make secondary vocational education mandatory;
- ▶ To change the status of Civic Education into mandatory;
- ▶ To provide education on the rights of the child for all the children in primary and secondary school education system by developing cross curricular programs;
- ▶ To introduce mandatory training for the teachers on the rights of the child as part of their basic and professional training.
- ▶ To introduce and implement education for teachers of Civic Education in the same manner and with the same competences as for the teachers of other subjects.

## Rest, Leisure, Recreation and Participation in Cultural and Artistic Activities (Committee Recommendation No. 63)

*The Committee gave the recommendation that the Republic of Serbia should continue to improve children's sports, recreation, play and cultural activities, inter alia, by continuing to allocate financial aid and provide technical cooperation through specialist projects.*

In the previous period, there were not any improvements in this field, particularly with regard to improvement of children sports and recreation. The opportunities for children to participate in sports and recreational activities are minimised. All the activities require financial investments from the parents. Sports clubs and schools are not subject to adequate assessment of their work with children and youth due to the lack of regulatory staff capacity and the lack of standardised training processes, as well as non-existent mechanisms for the protection of children from violence during these activities.

Children spend too much time in schools and in fulfilling their school tasks (extensive and inadequate homework and curricula). This, combined with school attendance divided into shifts (in some places even three shifts), additionally burden children and prevent them from engaging in sports and other extracurricular programs and hobbies. Even in the first grades of elementary school children attend 20 classes per week, children aged 8 attend 24 classes per week, children aged 11-12 attend 28 classes, and children aged 14-15 attend up to 30 classes per week, which exceeds all the pedagogical rules and recommendations.

School sports, i.e. sports in schools, are not organised in a professionally prescribed manner. Classes of Physical Education in lower grades of elementary schools are taught by class teachers who are not objectively capable to organise these classes in a proper manner. More than half of schools in the Republic of

Serbia do not provide adequate conditions for children to engage in sports, i.e. Physical Education classes during the winter months, because they do not have gymnasiums.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ To reform school programs so as to provide children with enough free time to engage in sports, cultural activities and hobbies;
- ▶ To take affirmative measures to promote and support recreational and school sports and to popularise sports among children.

# SPECIAL PROTECTION MEASURES

## Child Refugees (Committee Recommendation No. 65)

*The Committee recommended that the Republic of Serbia should implement any necessary measure to ensure that all children, including returnee children, are officially and fully registered, and thus entitled to social protection services.*

The past period brought no changes to legislative framework in this area. The Law on Asylum (2008) foresees the principle of special care for underage asylum seekers. Legislative framework, as well as practice, however, account for numerous shortcomings which hinder the efficient application of this principle, whereas competent authorities lack adequate and systemic solutions when it comes to asylum procedures, guardianship and housing of underage asylum seekers.

The Republic of Serbia has no specific norms or protocols which would allow for the age of asylum seekers to be determined. From their initial contact with the authorities of the Republic of Serbia, until the procedure is completed, unaccompanied asylum seekers change their legal guardians three times. Such a practice is not the best solution possible because, bearing in mind the number of different legal guardians, it prevents minors to build a relationship of trust with their guardians. Language barrier represents another issue, as well as the absence of a legal representative from the protection procedure and the realisation of rights of underage asylum seekers.

In 2015, Serbia faced the influx of refugees and migrants from Syria, Afghanistan, Iraq, Pakistan and other countries of origin, measured in hundreds of thousands. Preliminary data shows that one in four refugees/migrants is a child. The wave of refugees is marked by an increased number of mothers with young children and unaccompanied children who travel in organised groups (from the beginning of 2015 until late August, 15,000 children submitted asylum applications, out of which 4,000

were unaccompanied; these numbers are growing daily). Unaccompanied children are facing particular threat of abuse which is why protecting their rights, apart from providing them with humanitarian aid, should be one of the top priorities.

Approaching winter raises further issues when it comes to meeting humanitarian needs of these children. In other words, it is necessary to create more small capacity reception facilities to house refugees during their stay in the Republic of Serbia. Apart from the existing reception facilities, the Republic of Serbia intends to increase their number in Vojvodina, while making full use of the reception centre in the Belgrade suburb of Krnjača. For the time being, Serbia has abandoned its plans to build a special reception centre in Belgrade.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ Establish efficient and effective asylum system, drawing particular attention to the appointment of legal guardians to minor asylum seekers while tackling the issue of housing, legal representation and translation;
- ▶ Provide greater support, both material and technical, to the local institutions faced with the increasing influx of minor asylum seekers;
- ▶ Establish age determination procedure for asylum seekers;
- ▶ Relevant authorities, primarily Centres for Social Work and the Commissariat for Refugees and Migration, should step up their efforts in order to establish cooperation with local schools and develop systematic and planned school enrolment and provide every child with full access to education, as well as ensure continuous monitoring and additional support in the process of education.
- ▶ Improve coordination and continuity in humanitarian aid provision among national authorities, international governmental and non-governmental organisations and national citizens' associations;
- ▶ Ensure viability and adequate response to beneficiaries' needs;
- ▶ Take age-specific needs of children into consideration in the process of planning and distribution of humanitarian aid.

## Juvenile Justice (Committee Recommendation No. 73)

*The Committee made a recommendation to the Republic of Serbia to persist in and step up its efforts to ensure full implementation of juvenile justice standards; ensure application of solutions alternative to detention (diversions); conduct training of professionals in the area of juvenile justice; strengthen prevention programmes; and ensure implementation of the current legislation.*

As indicated by the State Report, recent years saw stepping up in the efforts to reform juvenile justice system, particularly in terms of further alignment with the newly established standards, as well as conducting trainings for the professionals engaged in juvenile justice. Despite previous efforts, there is still a series of issues in reaching full implementation of juvenile justice standards.

Even though the Law on Juvenile Criminal Offenders entered into force as early as 2006, certain measures foreseen by this Law are either being implemented partially or not being implemented at all. The aforementioned applies particularly to: the measure of increased supervision by guardianship authority; measure of increased supervision with daily attendance in relevant rehabilitation and educational institutions for juveniles; and measure of committal to special institution for treatment and acquiring of social skills, due to the lack of objective conditions for the implementation of these legal regulations. Also, the Law on Juvenile Criminal Offenders stipulates the possibility of applying diversion orders with the purpose to avoid or suspend criminal proceedings and influence proper development of juveniles and enhance their personal responsibility in order to avoid a future relapse into crime. In reality, however, diversion orders are not either issued or carried out as much as they should be. More accurately, application of diversion orders has not been systematically and regionally developed to the full extent, resulting in higher rate of application of diversion orders in the parts of Serbia where international and non-governmental organisations implement their projects, such as Belgrade, Novi Sad, Niš and Kragujevac. On the other

hand, statistical information indicates that, for instance, in Eastern and South-Eastern Serbia this legal institute is almost never applied.<sup>26</sup>

Also, in the period observed, there were no significant measures taken to ensure the application of alternative sanctioning or reach a satisfying level of application of prevention programmes.

It is important to note that, following the publication of the Screening Report by the European Commission, the Negotiating Group of the Republic of Serbia for Chapter 23 prepared Draft Action Plan for Chapter 23<sup>27</sup> which, under point 3.6, contains a special part dealing with the promotion of children's rights within juvenile justice system. The said document defines a series of actions aimed at the promotion of children's rights through strengthening of relevant institutions, advancement of cooperation between judiciary and social sector, as well as through ensuring full implementation of legislation relevant to juvenile justice system in line with the EU standards. With regard to ensuring full implementation of legislation relevant to justice system in line with the EU standards, in 2015, activities have been envisaged pertaining to improvement of legislation, support to the work of the Council for monitoring and improving the work of authorities in charge of criminal proceedings and enforcement of penal sanctions on juveniles, enhanced application of diversion orders and building accommodation capacity in order to enforce the measure of mandatory psychiatric treatment and custody in medical institutions imposed on juvenile criminal offenders. A project has been launched to support the aforementioned actions: *Strengthening justice and social welfare systems to advance protection of children*, funded by the European Commission, and is implemented in partnership with the Ministry of Justice, Ministry of Labour, Employment, Social and Veteran Affairs and UNICEF.

<sup>26</sup> Communication — Juvenile Perpetrators of Criminal Offences in the Republic of Serbia, Statistical Office of the Republic of Serbia, No. 191 year LXV, of 15 July 2015

<sup>27</sup> Ministry of Justice of the Republic of Serbia, Third Draft Action Plan for Chapter 23 at: <http://www.mpravde.gov.rs/tekst/7715/treci-nacrt-akcionog-plana-za-poglavlje-23.php>



Apart from the steps taken in view of adoption of the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles, this legal text is yet to enter parliamentary procedure, causing certain difficulties in practice because the existing Law on Juvenile Offenders is not in line with the provisions of the Criminal Procedure Code. The Council for monitoring and improving the work of authorities in charge of criminal proceedings and enforcement of penal sanctions on juveniles no longer exists and it seems that the system reform is not being carried out as planned.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ Step up the reform of juvenile justice system;
- ▶ Speed up the adoption of the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles;
- ▶ Take measures to ensure efficient application of all legal solutions in practice;
- ▶ Ensure application of alternative solutions in place of detention;
- ▶ Strengthen prevention programmes.

# IMPLEMENTATION OF THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

## General Observations

Coalition assesses that the Republic of Serbia has made a certain progress in the implementation of the Committee recommendations regarding the Optional Protocol on the *sale* of children, child prostitution and *child pornography*, *but at the same time warns about the State's failure to fully implement the said recommendations*. Annex 3 provides the analysis of the progress made in the implementation of recommendations concerning Optional Protocol on the *Sale of Children, Child Prostitution and Child Pornography with regards to the Committee Recommendations 8, 25, 31b, 43b, 46*.

Serbian national authorities have taken a number of important steps with a view to prevent and combat trafficking in human beings and protect children from child prostitution and pornography. National legal framework in the area of combating human trafficking has been developed in accordance with international commitments assumed by the Republic of Serbia, as well as current situation and trends in human trafficking in Serbia. Legislation in the field of social protection and foreigners' related policy foresees a series of rights available to the victims of human trafficking. By setting up the Centre for the Protection of Human Trafficking Victims, national authorities of Serbia have made efforts to adopt a coordinated approach in identifying the victims. The Coalition takes note of the progress in the

work done by the police and prosecutor's office aimed at efficient investigation and prosecution of human trafficking. Legal framework in the Republic of Serbia, however, fails to make a clear distinction between the sale of children and child trafficking, and lacks a strategy and national action plan on combating child trafficking. The Republic of Serbia should work towards reaching a higher level of efficiency of the referral mechanism for child victims of trafficking and developing special programmes for the prevention of trafficking and protection, accommodation and reintegration of child victims. Also, it is necessary to improve cooperation with civil sector, having in mind its long-standing engagement in addressing these issues.

The Republic of Serbia made a major step forward in the area of protection of children from exploitation in prostitution and pornography by amending criminal legislation and adopting the Law on Special Measures for the Prevention of Crimes against Sexual Freedoms Involving Minors. Nevertheless, it is necessary to achieve consistent implementation of this Law and set up a unique database foreseen by the Law. The State should engage more in the prevention and protection of children who have had such a traumatic experience, as well as develop special (re)integration programmes.

## Existing Legal Framework and Identified Issues

*The Committee made a recommendation to Serbia to amend the legislation and make a distinction between the sale of children and child trafficking. Unfortunately, the Republic of Serbia failed to implement this recommendation prior to publication of this Report.*

In 2010, the Republic of Serbia adhered to another international document and ratified the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse.<sup>28</sup> Despite being comprehensive, legislative framework accounts for several serious issues and omissions.

<sup>28</sup> **Official Gazette of the Republic of Serbia — International Agreements No. 1/2010**

## Trafficking in Human Beings

As a response to its international obligations, Serbia defined trafficking in human beings as a criminal offence within the Criminal Code. Article 388 Paragraph 2 of the Criminal Code foresees that *when the offence specified in paragraph 1 of this Article is committed against a minor, the offender shall be punished by the penalty prescribed for that offence even if there was no use of force, threat or any of the other mentioned methods of perpetration*. Paragraph 3 stipulates that *if the offence specified in paragraph 1 of this Article is committed against a minor, the offender shall be punished by imprisonment of minimum three years*. Besides, the amendments to the Criminal Code made in August 2009 specifically stipulate that *consent of minors to exploitation or establishment of slavery or relations similar to it specified in paragraph 1 Article 388 of the Criminal Code, shall not affect the existence of the crime specified in paragraph 2 of this Article* (Article 388, Paragraph 10 of the Criminal Code).

Undoubtedly, the strengthening of penalties marks considerable progress, compared to the previous legal solutions — minimum sentence for the basic form of this offence was increased from two to five years of imprisonment, whereas maximum sentence was increased from ten to twelve years of imprisonment.

## Trafficking in Minors for the Purpose of Adoption

As a basic form of criminal offence of trafficking in minors for the purpose of adoption, Criminal Code (Article 389 Paragraph 1) foresees the punishment of anyone who abducts a child below sixteen years of age for the purpose of adoption contrary to the enforceable laws, or adopts such a child, or mediates in such adoption.<sup>29</sup>

<sup>29</sup> Pursuant to Article 112 Paragraph 10 of the of Criminal Code, a juvenile is a person who has not attained eighteen years of age.

Defining the victim of criminal offence of child trafficking for the purpose of adoption as a person under sixteen years of age denies right to protection to an entire group of persons entitled to international protection from illegal adoption, i.e. any person between sixteen and eighteen years of age.<sup>30</sup> Unfortunately, Serbian legislator failed to recognise a rather clear international standard according to which “a child” is a person under eighteen years of age.<sup>31</sup>

It needs noting that the legislator failed to explicitly incriminate any attempt at trafficking of minors for the purpose of adoption. Also, endangerment of a child in the event of offence which causes significant distortion in physical and emotional development should have been introduced as an aggravating circumstance.<sup>32</sup> This would considerably increase the level of protection and act as a deterrent to illegal adoption.

The latest Report by Group of Experts, among others, made the following recommendation:<sup>33</sup>

Definition of “human trafficking” — GRETA considers that the Serbian authorities should expand the scope of Article 389 of the Criminal Code to include persons up to the age of 18, in line with the Convention which considers any person under 18 a child.

## **Incriminations Pertaining to Exploitation of Children and Minors**

### *Criminal Offences with Regard to Sexual Exploitation of Children*

The legislator paid particular attention to the protection of children and minors from sexual abuse: sexual assault of a defenceless person, sexual assault through

<sup>30</sup> Under the previous Criminal Code, protection was provided for persons under the age of 14.

<sup>31</sup> See, for example, the UN Convention on the Rights of the Child and The Council of Europe Convention on Action against Trafficking in Human Beings.

<sup>32</sup> In this case, German Criminal Code may serve as an example of good practice.

<sup>33</sup> [http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA\\_2013\\_19\\_FGR\\_SRB\\_public\\_sr.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_19_FGR_SRB_public_sr.pdf)

abuse of office, prohibited sexual act or mediation in prostitution against children or juveniles are all considered aggravating circumstances under the Criminal Code.

Generally speaking, penalties imposed on perpetrators of any of the aforementioned offences are more severe if the offence had been committed against a child or minor.<sup>34</sup> Furthermore, sexual assault against a child (Article 180 of Criminal Code), pandering and facilitation of sexual intercourse (Article 183 of Criminal Code), mediation in prostitution (Article 184 Paragraph 2 of Criminal Code) or causing a child to witness sexual acts (Article 185 Paragraph 1 of Criminal Code) are all defined as separate offences with a sole purpose to protect children and minors. Also, amendments to the Criminal Code in 2009 stipulated significantly stricter penalties for almost any offence against sexual freedoms, especially penalties implementable to the offences against sexual freedoms involving minors as victims. More recently, apart from principal prison sentence, perpetrators of pandering and mediation in prostitution are imposed a fine as well. Finally, in certain cases, the Criminal Code foresees a more severe penalty for offences involving child victims, compared to offences involving another minor.

According to the Criminal Code, attempt at, incitement of and aiding in an offence are also punishable.

Even though the legislator has shown a clear intention to protect minors from any form of abuse, there are certain regulatory gaps worth mentioning. The following demeanours do not qualify as offences: “profiting from or otherwise exploiting a child for such purposes”, as a way of committing the crime of pandering, or facilitation of sexual intercourse is not incriminated<sup>35</sup> (i.e. cases in which criminal groups committed different forms of forced prostitution).

<sup>34</sup> This applies to the crime of rape {Article 178 (3) of Criminal Code}, sexual assault against a defenceless person {Article 179 (2) and (3) of Criminal Code}, sexual assault through abuse of office {Article 181 (2) (3) (4) (5) of Criminal Code}, prohibited sexual act (Article 182 of Criminal Code) and mediation in prostitution {Article 184 (2) of Criminal Code}.

<sup>35</sup> As required under Article 2 of Council of European Union Framework Decision 2004/68/JHA on combating sexual exploitation of children and child pornography, adopted in 2003

When it comes to forced prostitution, the facts that the perpetrator had endangered a child's life, committed a crime involving severe violence or caused a serious harm to a child, intentionally or by negligence, are not considered an aggravating circumstance.

### *Criminal Offences in the Area of Child Pornography*

Article 185 of the Criminal Code introduces criminal offence of “showing, obtaining and possession of pornographic material and abuse of a minor for pornography” whereas Article 185b introduces offence of “abuse of computer networks or other technical means of communication for committing criminal offences against sexual freedoms of a minor.” Following demeanours are labelled as prohibited: showing, obtaining and possession of pornographic material and abuse of a minor for pornography (Article 185); abuse of computer networks or other technical means of communication for committing criminal offences against sexual freedoms of a minor (Article 185b).

By incriminating these actions, Serbia largely responded to the established EU standards. Adopted amendments to the Criminal Code have made punishable not only the abuse of children for pornography, but also obtaining or possession of child pornography, as well as production, selling or otherwise making available child pornography arising from abuse of minors or children {Article 185 (2), (3) and (4) of the Criminal Code}.

In April 2013, Law on special measures for the prevention of crimes against sexual freedoms involving minors was adopted.<sup>36</sup> The Law prescribes special measures applicable to the perpetrators of criminal offences against sexual freedom involving minors and sets out keeping of special records of persons convicted of these offences. Furthermore, the Law prohibits mitigation of sentence and parole, removes statute of limitation for criminal prosecution and execution of sentence,

<sup>36</sup> “Official Gazette of the Republic of Serbia”, No. 32/2013

and prescribes legal consequences of conviction. The Law is already being implemented in practice,<sup>37</sup> although the records and registers stipulated by the Law are yet to be put in place.

At this point, the Coalition would like to draw attention of the Committee to a particular issue concerning cases of “**missing babies**”. In recent years, the cases of “missing babies” in the Republic of Serbia have increasingly drawn public attention. Parents of allegedly stillborn babies in various health institutions in Serbia have doubted these deaths, especially in the period from 1970–1990. Incomplete documentation — discharge sheets, missing or incomplete birth and death certificates and medical reports with unclear or missing stamps, impossibility of burying the remains of a child etc., made these parents doubt hospital staff. Even today, dozens of parents are still trying to find out whether their children were really stillborn or they were actually illegally seized and sent to live with other families, possibly in other countries. So far, the cases have been dealt with by the Committee of Inquiry of the National Assembly, Ombudsman, several NGOs and “missing babies” parents’ associations.

The decision in the case of *Zorica Jovanovic vs. Serbia*<sup>38</sup> before the European Court of Human Rights was adopted on 5 and published on 26 March, declaring

The latest 2015 Trafficking in Persons Report by the US State Department notes that “...Serbian children, particularly ethnic Roma, are subjected within the country to sex trafficking, forced labor, forced begging, and petty crime, often by family members... The protection unit lacked specific procedures for dealing with child trafficking victims ...Specialized shelters for child trafficking victims did not exist; child victims were returned to their families, sent to foster care, or accommodated in one of two centers for orphans...”

<http://www.state.gov/documents/organization/243561.pdf>

<sup>37</sup> <http://www.telegraf.rs/vesti/528522-nastavniku-15-godina-zbog-obljube-ucenika>

<sup>38</sup> Petition No. 21794/08



that Serbia had violated the right to privacy and family life of Zorica Jovanovic, the mother of a baby missing from the maternity ward, who submitted petition to the Court. The judgment became final on 9 September 2013 and, apart from prescribing individual protection of applicant, it had also envisaged an obligation more general in nature. Among other things, Serbia had to take — within one year of the present judgment becoming final — appropriate measures to provide individual redress to all parents in the same or the situation sufficiently similar to the applicant's. As recommended by the European Court of Human Rights within its judgment, this issue should be regulated by a *lex specialis*.

The State has fulfilled its obligations with regard to awarding compensation to Zorica Jovanovic. The Ministry of Justice is preparing a special act, as required under the judgment. In February 2014, a Working Group was set up which later adopted a draft law significantly deviating from the obligations under the judgment: more precisely, the draft law had introduced a time limit, thus making a redress impossible for many parents. ASTRA and YUCOM sent a letter to the Committee of Ministers of the Council of Europe and an open letter to Serbian Prime Minister Aleksandar Vučić,<sup>39</sup> in which they pointed to three main issues in solving the cases of “missing babies”:

1. Lack of consistent method to determine the exact number of potentially aggrieved parents and failure to engage parents' representatives throughout the course of “missing babies” cases, as well as making it impossible for a number of parents to find out what happened to their children;
2. Lack of transparency in the work of all relevant authorities involved in the implementation of judgment;
3. Ignoring the part of judgment which stipulates the establishment of an independent commission tasked with monitoring of the implementation of the Law.

<sup>39</sup> <http://www.astra.org.rs/otvoreno-pismo-predsedniku-vlade-republike-srbije-aleksandru-vucicu/>

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ Ratify the Convention of Council of Europe on the Compensation of Victims of Violent Crimes;
- ▶ Adopt amendments to the Criminal Code in order to make a distinction between child-selling and trafficking and introduce a separate act concerning trafficking in minors; introduce protection of persons under eighteen years of age in the criminal offence of trafficking of minors;
- ▶ Apply provisions concerning record keeping and registering of perpetrators under the Law on Special Measures for the Prevention of Crimes against Sexual Freedoms Involving Minors as a matter of urgency;
- ▶ Adopt amendments to the Law on Personal Data Protection with regard to the needs of children;
- ▶ Fully implement judgement of the European Court of Human Rights in the case of *Zorica Jovanovic vs. Serbia*, petition No. 21794/08, in particular the part which concerns a possible adoption of *lex specialis*.

## Strategic Framework

### National Plan of Action for Children

To date, the Republic of Serbia failed to implement the Committee recommendation (I3a) which had prescribed that all the issues covered by the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, including child pornography on the Internet, should be included in draft National Plan of Action for Children (NPA). Government of the Republic of Serbia fell short of adopting amendments to the NPA for the period from 2010 to 2015. As there had been no

revision of the NPA in line with Committee recommendations, the document kept its original, unrevised form, leaving out the issues covered by the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

## Strategy against Human Trafficking and National Plan of Action against Human Trafficking

The Strategy against Human Trafficking adopted in 2006 and the National Plan of Action against Human Trafficking for the period 2009–2011, consider child trafficking a part of the wider issue of human trafficking, thus applying provisions and actions originally designed for persons of age to child (minors) victims of human trafficking. One of the main faults of these documents is that they lack child-oriented objectives.

Action Plan for the implementation of National Strategy for prevention and protection of children from violence (2010–2012), which defined the activity of preparing and adopting the National Strategy against Human Trafficking, was adopted through the conclusion of 11 March 2010 by the Government of the Republic of Serbia. Unfortunately, at the time of writing this Report, the Committee recommendation (71 g), made in the *initial report* of the Republic of Serbia on the implementation of the *Convention on the Rights of the Child, referring to creation of comprehensive Strategy to combat child trafficking and sexual exploitation of children, remains unimplemented*.

At the time of writing this Report, the Republic of Serbia lacks new strategy and national plan of action against human trafficking. The Strategy to prevent and

The latest Report by Group of Experts, among others, made the following recommendation:<sup>40</sup>

National strategies and action plans — GRETA invites the Serbian authorities to mainstream anti-trafficking action in the next national youth strategy.

<sup>40</sup> [http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA\\_2013\\_19\\_FGR\\_SRB\\_public\\_sr.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2013_19_FGR_SRB_public_sr.pdf)

suppress human trafficking and protect victims, as well as its related Action Plan 2013–2018, are drafted. Draft Strategy defines five specific objectives; the fifth objective reads: “Children are protected from human trafficking and its consequences by specialized participation programs which are carried out in their best interests.”

In 2010 and 2011, Child Rights Centre drafted National Strategy for the prevention and protection of children from trafficking and exploitation in pornography and prostitution,<sup>41</sup> in cooperation with ministries responsible for Human and Minority Rights, Public Administration and Local Self-government, Interior, Information and Information Society, Social Policy, Agency for the *Coordination of Protection of Victims of Trafficking*, *Higher Public Prosecutor’s Office in Belgrade*, *Organisational Unit of Interpol in Serbia* and citizens’ associations Beosupport, Atina and Astra. Both National Strategy for the prevention and protection of children from trafficking and exploitation in pornography and prostitution and Draft Action Plan for the prevention and protection of children from trafficking and exploitation in pornography and prostitution through the abuse of information and communications technology have been referred to Ministry of Interior for further consideration with a view to be adopted by the Government of the Republic of Serbia. Despite the positive opinion obtained from relevant ministries and line organisational units of police, Ministry of the Interior failed to refer these documents to the Serbian Government for adoption. Instead, the Ministry foresaw specific goal concerning children, protection of child victims of trafficking in particular, within Strategy to prevent and suppress human trafficking and protect victims. Thereby, an opportunity to comprehensively define state policy regarding protection of children from trafficking and exploitation of children in prostitution and pornography was missed. Also, adoption of these documents would have contributed to the implementation of recommendation

<sup>41</sup> Draft strategic document foresees the creation of three operational documents –action plans (in the area of prevention and protection of children from trafficking, exploitation in prostitution and pornography). Over the course of 2011, Draft Action Plan for the prevention and protection of children from abuse in pornography through the abuse of information and communications technology. Draft Action Plan has been created by the interdepartmental working group composed of representatives of the relevant ministries, government institutions and citizens’ associations.

(31 a, b, v, g, d) made by the Committee to the Republic of Serbia which concerns the fight against cybercrime, and especially online child pornography.

**We suggest that the Committee should give the following recommendations to the Republic of Serbia:**

- ▶ Adopt comprehensive strategy to prevent children trafficking and sexual exploitation of children;
- ▶ Provide children victims of trafficking with special protection, bearing in mind child's best interest, that is his/her right to participation;
- ▶ Introduce systematic approach to prevention of child trafficking, exploitation of children in pornography and prostitution, primarily through formal education system, by incorporating the issue of human trafficking in the curricula, stepping up awareness raising about the issue of human trafficking with both parents and children; raise awareness and build capacity of experts dealing with children, primarily in the area of prevention of human trafficking;
- ▶ Carry out the analysis of effects and quality of previous prevention activities, as well as the analysis and research of causes and consequences of child trafficking and abuse of children in pornography and prostitution and at the same time define target groups and their needs in order to create the most comprehensive prevention programs.



**Questions for the Republic of Serbia: What does the Republic of Serbia plan to do in terms of systematic prevention of child trafficking, apart from promotional activities during the month against human trafficking? What specialised programs for reintegration of child trafficking victims have been developed? What are the available support programmes, both urgent and long-term? What prevention programs are being implemented with children under particular risk?**

## National Referral Mechanism

National Mechanism for identification, assistance and protection of human trafficking victims was at the heart of the process of creation, implementation and analysis of programmes for the prevention of and direct assistance to human trafficking victims. The Mechanism was set up in 2003, but in 2012, structure and operation of its core body — Centre for Human Trafficking Victims Protection (hereinafter Centre) — changed. Current Mechanism, however, proves to be largely dysfunctional and inefficient. Since the beginning of its operation in June 2012, civil society organisations have encountered the following problems in cooperation with the Centre:

- ▶ Non referral of victims to CSOs' programmes;
- ▶ Nonexistence of the minimum standards for the protection of human trafficking victims within social protection system;
- ▶ Non defined procedures and protocols of cooperation between the Centre and partner organisations;
- ▶ Non-recognition of the legal continuity with the *Agency for the Coordination of Protection of Victims of Trafficking*, while at the same time using human and technical resources of the Agency as well as victims database;
- ▶ Unclear rules on protection and keeping (length and manner) of victims' data.

In 2014, of 125 identified victims, out of which 19 were children, the Centre referred only one child to the programmes of NGO ASTRA, whereas not a single victim was referred to the Centre for Youth Integration. According to the Centre, under the law, centres for social work are in charge of children and they are the ones to refer children to civil society and other organisations' programmes. The Centre, however, gave no reason for not referring adults to civil society organisations.



**Questions for the Republic of Serbia: Where have child trafficking victims been accommodated and what does this accommodation entail/what services does it include?**

## Compensation for Victims (Committee Recommendation No. 44 a CRC/c/opsc/srb/co/1)

In Serbia, a victim may obtain compensation in both criminal and civil proceedings. In practice, compensation in criminal proceedings may hardly ever be obtained, because criminal court judges tend to refer injured parties to exercise their rights in civil proceedings. On the other hand, civil proceedings are expensive, may last for years and include victim's appraisal and its confrontation with the abuser, all of which are the reasons discouraging to the victim. To date, a single human trafficking victim in Serbia, either adult or minor, obtained compensation in practice. Unfortunately, Serbia lacks a fund for compensation to the victims of violent crimes. On 12 October 2010, the Republic of Serbia signed the Convention on the Compensation of Victims of Violent Crimes, but has since failed to ratify it.<sup>42</sup>

## Special Services and Training for the Individuals Working with Child Victims (Committee Recommendation No. 44 b, v, d CRC/c/opsc/srb/co/1)

Centres for social work are in charge of child trafficking victims, but they are still developing services tailored for child trafficking victims. There are no special shelters for the child victims of human trafficking. Children are either being put in shelters (reception centres), homes for children without parental care, or returned to birth/foster families. If unaccompanied, that is if their parents are temporarily or permanently deprived of custody, child victims of trafficking in persons are being put in residential homes for children and youth, together with other groups of children.

<sup>42</sup> <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=116&CM=1&DF=&CL=ENG>

Once there, they are treated as all other children, without creation of special reintegration programmes. In terms of meeting the basic needs of the child victims of human trafficking, civil society organisations remain the sole providers of necessary resources, knowledge, skills, budgets (provided through international donor aid) and mechanisms for timely response and meeting the needs of these children.

## Special Trainings for the Professionals Working with Children

A number of important systemic laws prescribe special trainings for the professionals working with children.<sup>43</sup> The Judicial Academy hosted 89 trainings dealing with criminal law matters for judges, prosecutors, police officers, attorneys and representatives of the institutions in charge of child care. There are 637 public prosecutors and their deputies in 67 public prosecutors' offices in Serbia, who are certificated in handling such cases. There are 1742 police officers holding special certificates. Judicial Academy organised 32 trainings, thus awarding 649 certificates in the area of family law. Still, there is lack of trainings for the service-providing professionals.

**We suggest that the Committee should give the following recommendation to the Republic of Serbia:**

- ▶ Systematic approach to solving the problem of urgent accommodation of the child victims of human trafficking, including continuation of trainings of foster families and intensifying trainings and work to sensitise the staff of child care institutions (establish cooperation between Agency for the *Coordination of Protection of Victims of Trafficking and Centres for Family Placement*).

<sup>43</sup> This, however, is not the case with all the laws within the system; for instance, the Law on Health Care does not prescribe special training requirements for the work with children and young people.





## **Annex I**

### **ABOUT MEMBERS OF THE COALITION FOR MONITORING CHILD RIGHTS**

**CHILD RIGHTS CENTRE (1997)** is a civil association whose aim is the implementation of the Convention on the Rights of the Child. The Centre's activities are focused on the introduction and implementation of laws, policies and practices that enable improvement of the welfare of the child, the protection of their rights and their full participation in society. The Centre organises many trainings in the field of child rights for other civil society organizations as well as professionals in the field of justice, social protection, police, media, education, etc. The Centre has implemented a significant number of important projects in order to amend the legislative practice, to spread the idea of protecting the rights of the child, investigate the situation of children and the situation of vulnerable groups of children. Independently or in cooperation with other organisations the Centre has published over 100 publications.

**NGO ASTRA — Anti Trafficking Action (2000)** is dedicated to the eradication of all forms of trafficking in adults and children, both active in the provision of direct assistance to victims, education, prevention, public awareness raising, reintegration, research and reporting. Within the program of direct assistance to victims ASTRA provides to its clients psychological, medical and legal assistance, emotional support and other forms of assistance in the long process of recovery and social reintegration. As of May 2012, ASTRA is managing a unique European number for missing children.

**UZICE CHILD RIGHTS CENTRE (1998)** — has a mission to improve the position of children in society. All the Centre's activities are based on principles promoted by the Convention on the Rights of the Child, which makes the Convention promoted as the fundamental document on the rights of the child. The Centre is particularly engaged in issues of respect for the rights of the child to education and respect for the rights of the child in the education system. It organises trainings, conferences and other professional gatherings on the subject of child rights for teachers, professional associates and other persons employed in education, children and parents.

**OPEN CLUB** (1996) began its work under the name of Association for the Protection and Promotion of Mental Health of Children and Youth. The mission of the Club is to create equal opportunities for the development of children and youth by affirmation of diversity and empowerment for active and responsible participation in a democratic society. Activities are carried out through the education of children and young people and development of their social skills, empowerment and inclusion of marginalised groups of children and young people and strengthening of civil society organizations for children in Serbia networking, international cooperation. The organisation implements a number of programs aimed at changing the awareness of citizens about democratic values and empowerment of youth to participate in social and political processes

**ATINA** (2004) — The organisation's objectives are the establishment and development of mechanisms for early identification, assistance and support to victims of trafficking, sexual and labor exploitation in order to ensure their physical and psychological recovery, empowerment and sustainable social inclusion. Atina carries out programs for a comprehensive and long-term social integration of victims of trafficking, with full participation of the beneficiaries and active involvement of state institutions in order to system of help to become a viable solution for complete recovery and full integration through direct work with victims, as well as the organization of education in order to strengthen institutions and civil society organizations to provide adequate support to victims of trafficking and participation in research and policy making aimed at combating trafficking in human beings.

**PRAXIS** (2004) is a national non-governmental and non-profit organisation that protects human rights by providing legal protection and advocating for elimination of systemic obstacles in access to rights. Praxis acts in the area of status and socio-economic rights, antidiscrimination, gender equality, migration and child rights. In addition to providing free legal aid, Praxis achieves its goals through monitoring of public policies, research, analysis and advocating for systemic solutions and the elimination of obstacles to accessing rights by raising awareness of the problems of integration of marginalized and socially excluded communities, education, publishing activities, and providing expert support to reforms, as well as through networking and cooperation.

**THE CENTER FOR YOUTH INTEGRATION** (2004) works with children who are involved in the life or work on the streets in the city of Belgrade, and since 2009 develops and implements the Prevention program that focuses on inclusion in education and the preclusion of stay of children in the street. The Centre for Youth Integration is currently working with over 400 minors, but interventions also include the family members of beneficiaries so the number of indirect users is significantly higher. Also, the Centre for Youth Integration cooperates with relevant institutions and organizations in other cities in the region, and the programs are recognised by professional and general public as models of good practice.

**VELIKIMALI** (2000) — Initiative for Inclusion VelikiMali works on protection and promotion of rights of children with disabilities in accordance with principles promoted by the Convention on the Right of the Child. The main areas of organisation's work are right to quality education and right to life within the family — setting conditions for inclusive education and de-institutionalisation of children with disabilities both on local and national level.

**BELGRADE CENTRE FOR HUMAN RIGHTS** (1995) is a non-partisan, non-political and non-profit association of citizens concerned with the advancement of theory and practice of human rights. The principal goals of the Centre are advancement of knowledge in the field of human rights and humanitarian law, development of democracy, strengthening of the rule of law and the civil society in Serbia and other countries in transition from authoritarianism to democracy. During decades of its existence the Centre has endeavoured to raise the awareness of citizens on the importance and dimensions of the idea of human rights and individual freedoms and to establish a favourable climate for their full respect and enjoyment.

**HELP TO CHILDREN** (2004) is a non governmental and non-profit organization that works to promote child rights, creating an environment in which there are hope and respect for children and youth, in which children and young people have the opportunity to achieve their maximum and where children, young people, parents and those who work with and for them have acces to practical support and resources to change for the better. The three main program lines are the focus of work: Quality education for all Youth Mobilisation and Protection of Child and Youth from Trafficking.

**FAMILIA** (1998) is a non-governmental, non-profit, non-partisan organisation that through developed professional network operates at the level of the Republic of Serbia in order to provide foster care for children without adequate parental care by initiating, developing and affirming a variety of comprehensive models of support for children, biological and alternative families as well as professionals in accordance with the best interests of the child.

**Association PARENT** (2006) is a civil association established to support successful parenting and with full respect for the rights of the child. The association is engaged in providing immediate support to parents in all stages of growing up children, informing and influencing public policies aimed at the family.

**CENTRE FOR CREATIVE DEVELOPMENT — Knjaževac** (2004) is a civil association whose aim is to improve the position of children and youth. The headquarters of the association is in Knjazevac and most activities are implemented at the local level. The organization's mission is to strive for the advancement of position of children and young people at all levels based on democratic values and the principles of partnership between the civil, public and business sectors.

**NETWORK OF ORGANISATIONS FOR CHILDREN OF SERBIAN — MODS** (2014) — in the preparation of the report, a support to the work of the Coalition was given by the Network of organisations for children in Serbia. MODS includes over 50 organisations that deal with children. The largest number of members of the Coalition for Monitoring Child Rights are also members of MODS. MODS is aimed at realising child rights, improving the situation of children and their quality of life.

**NEXUS — Vranje** (2005) was founded with the purpose of contributing to the creation of humane society through the creation, coordination and implementation of projects and programs aimed at improving the quality of life of people in need, encouraging citizen activism, research and education. NEXUS works to strengthen civil society, fostering a multicultural and multi-ethnic cooperation, poverty reduction through empowerment of vulnerable groups; promoting and supporting processes of decision-making and public policies and active collaboration with numerous international and non-governmental organisations and civil associations.

**I HAVE AN IDEA** — **Kraljevo** (2006) is an organisation established to improve the situation of children and young people in the local community, in terms of their non-formal educational and creative development, all in order to raise the quality of social and cultural life of this sensitive segment of the population, and to encourage their participation in public community life. The organisation has realised a number of significant projects, seminars, trainings and other activities, either independently or in network projects, collaborating with other organisations of a similar type, but also with numerous social organisations and institutions. These projects were supported by local and international donors. Conceptual framework of most of these projects is informal education in a number of areas: interculturalism, child rights, gender equality, non-violent communication, overcoming stereotypes and prejudices, teamwork, writing project proposals etc.

## Annex 2

### CHILD TRAFFICKING STATISTICAL DATA

**Service for Coordination of the Protection of Human Trafficking Victims** — in the period between 2008 and 2011 the total of 157 cases of trafficking in children was recorded, this being 44% of all the cases of trafficking (359 victims were identified during the period).<sup>44</sup> The data for 2012 — 34 underage victims identified (this was the time that the new Centre for the Protection of Human Trafficking Victims began with its operation), while in 2013 the total of 92 victims were identified, 45 of these being underage. In 2014, Centre for the Protection of Human Trafficking Victims identified 19 underage victims (3 boys and 16 girls), within the total number of 125 identified human trafficking victims.<sup>45</sup>

**NGO ASTRA — Anti Trafficking Action:** in the period between 2008 and December 2014 the total of 63 underage victims were identified (4 boys and 59 girls). Only three of the underage victims identified during this period had foreign citizenship, and these were citizens of Bosnia and Herzegovina (2) and Montenegro (1). The most prominent was sexual exploitation (37), followed by forced marriage (13), beggary (7), and coercion to crime and banditry (1). In some of the cases combined exploitation occurred, sexual exploitation and forced beggary (3), and sexual and labour exploitation (1). For three of the victims there are no data pertaining to the type of exploitation. Male children were exposed to labour exploitation and forced beggary and they were exploited in Serbia and Macedonia. In 11 of the cases, the trafficked girls were sent abroad (5 to Germany, 1 to Kosovo, 1 to Italy, 1 to Spain, 1 to Austria, 1 to Bosnia and Herzegovina and 1 to France). In 78% of the cases, internal trafficking occurred.

NGO ASTRA also manages universal European Hotline for Missing Children 116000 in Serbia, which began its operation on the International Missing Children's Day, 25 May 2012. Serbia thus became the first non-EU country in which this hotline op-

<sup>44</sup> Data per year: year 2008 — 30; year 2009 — 59; year 2010 — 42; year 2011 — 26

<sup>45</sup> [http://www.centarzztlj.rs/images/statistika/2014/Osnovni\\_Statisticki\\_Podaci\\_o\\_Identifikaciji\\_Zrtava\\_za\\_2014.pdf](http://www.centarzztlj.rs/images/statistika/2014/Osnovni_Statisticki_Podaci_o_Identifikaciji_Zrtava_za_2014.pdf)

erates. Simultaneously, Serbia became one of 27 European countries in which this type of support and assistance is available to parents/carers and missing children.

The main activities of the European SOS Hotline for missing children include receiving calls pertaining to missing children and forwarding them to the police and other competent services and organisations, providing support to their parents/carers, as well as assisting in investigations in the cases of and searches for missing children. SOS Hotline for missing children is available non-stop, 24 hours a day, 7 days a week, throughout the year (24/7/365).

In the period between 25 May 2012 and 31 December 2014, this Hotline received 482 calls which pertained to 27 cases of missing children (21 girls and 6 boys).

On 14 February 2014, the Memorandum of Cooperation was officially signed by ASTRA and the Ministry of the Interior of the Republic of Serbia. The signing of the Memorandum by Astra and the Serbian police was aimed at the development of the existing practice in the cases of missing children, while it was also meant for these actors to build on their cooperation thus far which included the exchange of the data gathered via SOS Missing Children Hotline, and jointly develop the standards and operational instructions pertaining to the emergency reaction of the police in the cases of missing children.

In 2014, in agreement with the father of tragically deceased Tijana Jurić, ASTRA started an initiative for the introduction of a system for the alarming of public in the cases of missing children, which would be called Tijana Alert. For this purpose, two meetings were organised (the latest in April 2015) with the representatives of the Ministry of the Interior, Public Prosecutor's Office and Ministry of Labour, Employment, Veteran and Social Affairs, in order to make a detailed outline of the steps to be undertaken in order for the mechanism to be established, yet, unfortunately, no concrete results were achieved in this respect.

**NGO Atina** — In the period between January 2008 and December 2014, 67 underage victims (46 girls and 21 boys) were referred to the social inclusion programmes for the victims of human trafficking implemented by the Atina NGO, including three different sub-programmes: Field Support Team, Reintegration Centre and Temporary House. All the victims were formally identified by the Service for Coordination of



the Protection of Human trafficking Victims/Centre for the Protection of Human Trafficking Victims. Out of the total number of the victims referred, seven were foreign citizens: two citizens of Afghanistan, two citizens of Montenegro, one citizen of Macedonia and two Albanian citizens. All other children supported in this period by the NGO Atina (60 of them) were Serbian citizens. The most prominent type of exploitation was sexual (43 victims in total), followed by forced marriage (13 victims), labour exploitation (5), forced beggary (2), while four victims were identified based on intended exploitation. The countries of final destination in the cases of beneficiaries supported by the Atina Ngo in this period were: Sweden, Switzerland, Germany, Austria, Kosovo, Italy. Based on the data gathered by NGO Atina through direct work with the referred children during the report period, there was a noticeable increase in internal trafficking, while sexual exploitation of girls aged 12–14 was the most prominent type of exploitation.

The programme of sustainable social inclusion of human trafficking victims and victims of other types of exploitation is aimed at full social inclusion and economic empowerment of the victims of human trafficking and other types of exploitation in the conditions of economic crisis and decreased state interventions. As one of the consequences of the economic crisis is dramatically lowered capacity of the existing systems, through their interventions, to enable the process of (re)integration of human trafficking and other victims, especially by means of their sustainable social inclusion and empowerment through their full inclusion into the system of education and labour market, the programme of NGO Atina offers a sustainable solution for the provision of comprehensive protection for the victims and their families, as those suffering due to the transition and crisis. The approach aimed at amending consequences of human trafficking and other types of exploitation, while simultaneously affecting the root causes for becoming the victims of trafficking, is the advanced one compared to other approaches in the field, while it also guarantees success, durability and sustainability of the programme and this type of protection in general.

Bearing in mind the lack of standards in assessing the success of the existing programmes, but also the results of the research which examined the reasons which influence the victims to refuse different support programmes, NGO Atina reached the conclusion that it is best to tailor programmatic activities according to individual de-

mands and needs of each victim. Furthermore, NGO Atina is quite successful at performing all the activities of monitoring and measuring of the effects of inclusion to each individual beneficiary — among other things, NGO Atina employees are permanently in contact with 90% of ex-beneficiaries of the programme, so the effects of the programme are also measurable through their achievements and rate of inclusion.

The entire programme is conceived so that it empowers the beneficiaries for independent living, overcoming the experienced trauma and violence and recognising high-risk situations. The system of psychological support is particularly well developed in this field as it includes membership in the self-help group, when beneficiaries show interest for it (the self-help group of NGO Atina is recognised as an example of good practice on international level).

Together with the NEXUS Institute from Washington and King Boudouin Foundation from Belgium, NGO Atina and other organisations belonging to the TVRP Network which deal with the social inclusion of human trafficking victims in the region, developed a tool for monitoring of the success of the social inclusion programme. The tool has been used since 2009 and represents an instrument for monitoring of the services' success, as it provides quality and quantity monitoring of the services provided to human trafficking victims.

## Annex 3

# ANALYSIS OF THE DEVELOPMENT IN IMPLEMENTING THE RECOMMENDATIONS FOR THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

### Committee Recommendation No. 8

Serbia has no organ to coordinate the data gathered on human trafficking and the related crimes. There are few sources of information pertaining to human trafficking victims, including the Ministry of the Interior which records the data based on the number of criminal charges filed during any given period for this crime, Centre for the Protection of Human Trafficking Victims which keeps records of the identified human trafficking victims, CSWs, as well as non-governmental organisations which provide support to the victims and keep records of their clients and beneficiaries. These data are not harmonised so they cannot be compared, primarily due to different recording criteria.

Statistical Office of the Republic of Serbia also keeps some kind of records for the crime of human trafficking and other crimes, yet the data they publish represent the sum of the judgements adopted, without any details pertaining to the type and severity of the pronounced punishments. The data on the severity of the punishments pronounced against human traffickers remain unavailable in a centralised manner.

The Law on the Protection of Personal Data<sup>46</sup> stipulates the conditions for the collection and processing of personal data. This law unfortunately cannot keep pace with all the practical needs of the service providers (i.e. SOS Hotlines), the principle of urgency (in the cases of missing children) and principle of child participation. The issues which are still left open deal with the protection of the databases of human trafficking victims, including children. The concerns include ways in which these databases are protected, who has access to them, in what way are the data used, and in what way the consent of a victim is obtained<sup>47</sup> for the entry and keeping of these data.

<sup>46</sup> "Official Gazette of the Republic of Serbia", No. 97/2008 & 104/2009 — other legislation

<sup>47</sup> A number of victims said that they had signed their approval for the entry, keeping and processing their personal data within this database, believing that the assistance and aid they should receive depended on it.

## **Committee Recommendation No. 25**

Cooperation between the state organs and institutions and CSOs is still unsatisfactory in scope and leaves space for improvements. This cooperation is reflected primarily in the inclusion of CSOs in the preparation of strategic documents' drafts. However, even in the cases in which this cooperation is implemented, recommendations and criticism issued by the CSOs are rarely adopted. The cooperation is even less implemented in the area of support and care in the direct work with human trafficking victims. Civil society organisations are still perceived as competition organisations, rather than as collaborators working on the same task. CSOs still do not receive support for assisting victims from the budget of the Republic of Serbia, but their work depends exclusively from the donated resources. Institutions in the system, which work with human trafficking victims, rarely refer their beneficiaries to the services offered by the CSOs with many years of experience in working with victims. Only in the first nine months of 2013, out of 65 identified victims, less than 25% were referred to the support programmes implemented by the CSOs. The long tendency persevered for the state institutions to agree to cooperate with CSOs, but simultaneously be unwilling for their work to be criticised in any way. In this way the autonomy of work of CSOs is influenced, which leads to the damage for the end users of the services.

Based on Article 189, paragraph 4 of the Law on Social Protection<sup>48</sup> the Ministry of Labour, Employment and Social Policy of the republic of Serbia had adopted the Rulebook on Issuing Licences to the Professionals in Social Care,<sup>49</sup> which became effective as of 2013. All the conditions stipulated by this Rulebook put organisations' representatives in an unfavourable position in relation to the employees in the social protection system, thus largely marginalising extensive experience which CSOs possess in the area of violence against children. The final consequence is that the most of the civil society representatives are excluded from the system of social protection because they are formally unable to fulfil the conditions envisaged by the aforementioned Rulebook.

<sup>48</sup> "Official Gazette of the Republic of Serbia", No. 24/11

<sup>49</sup> "Official Gazette of the Republic of Serbia", No. 42/2013 issued on 14 May 2013.

The issue of human trafficking is rarely discussed in schools, and this mainly as a part of civic education classes (chosen in alternation with religious education classes), and mainly depending on the interest, knowledge and capacity of a teacher to deal with this subject.

### **Committee Recommendation No. 31b**

When the reporting by domestic media about sale of children, child pornography and prostitution is concerned, the media in Serbia mainly observe certain ethical principles. However, still the biggest problem is the issue of protecting children's identity, which is thus abused. Near the end of 2012, the research was presented about the reporting of media on violence against children, which had been carried out by the Journalists' Association of Serbia and UNICEF. The research showed that the majority of the leading media observe basic ethical rules when reporting about children, especially the child victims and perpetrators of violence, but that the infringements of the right of the child to privacy and protection of identity are present. Ethical violations are less present on television, since TV stations rarely undertake the risk of reporting on concrete cases in which children were the victims of violence. When press is concerned, though the cases of direct disclosure of children's identities are rare, the ethical codices are breached by publishing the photos and data which render a child victim of violence relatively easy to identify indirectly.

### **Committee Recommendation No. 43b**

Roma Population is highly discriminated against in Serbia. Unavailability of the systemic services makes their position even harder. On top of this, Roma population also lives in extremely unfavourable socio-economic conditions. All this makes them especially vulnerable and susceptible to all sorts of risks, especially the risk of being caught in a human trafficking ring. According to our experience, discrimination is present in all social spheres — from health care and education systems, to the system of social care. As a consequence of this fact, as well as of the fact that the children and their families often lack information on their rights, it is quite frequent in practice for these rights to be breached.

The children involved in living, or working on the street are mainly representatives of the national minorities and marginalised communities. According to the experience of the Centre for Youth Integration, majority of these children belong to the Roma national minority (97% of the total number of children involved in living and working on the street). The efforts made by the system to integrate the members of Roma population independent of the fact whether they live in Belgrade, or belong to the group of internally displaced persons and returnees, are not sufficient. Unfavourable position of the Roma communities to which the children living and working on the street belong, is also contributed by a high level of discrimination against Roma. The life in isolated informal settlements without basic living conditions, multigenerational poverty, the lack of education and limited employment options, contribute to the deepening of the differences and social exclusion of this population in the Republic of Serbia.<sup>50</sup>

#### **Committee Recommendation No. 46**

National Children's Line<sup>51</sup> is a confidential and free of charge SOS hotline working 24 hours a day, which can be reached by dialling the numbers which can easily be remembered by children — 116111 or 0800 123456. The operation of this line started in mid-October 2005 as a project by HRH Princess Katarina's Foundation in cooperation with the Ministry of Labour, Employment and Social Policy, People's Office of the President of the Republic of Serbia, Ministry of Education and Sport of the Republic of Serbia, Ministry of Health of the Republic of Serbia, and with the support of the Centre for the Protection of Infants, Children and Youth. Today, this is a national hotline which operates as a part of the Centre for the Protection of Infants, Children and Youth — Zvečanska.

<sup>50</sup> *Analiza stanja i kapaciteta Nacionalnog sistema prevencije i zaštite dece koja su uključena u život ili rad na ulici od iskorišćavanja i zloupotreba (Analysis of the Conditions and Capacities of the National System of Prevention and Protection of the Children Involved in Living and Working on the Street from Exploitation and Abuse)*, Ivana Stevanović et al., Belgrade, September 2012.

<sup>51</sup> <http://www.zvecanska.org.rs/linija.php>

Year	Number of calls	Calls related to abuse and violence
2008	10.147	9.4%
2009	11.115	13.5%
2010	15.130	8.8%
2011	33.600	10.7%
2012	203.896	14.36%
2013	119.435	11.7%

By the finalisation of this report, a three digits' hotline has not been introduced, even though this was advised by the Committee Recommendation No. 46. In 2013, Universal European SOS Hotline for Missing Children 116000 was founded. Since then, 750 calls have been taken by this line.<sup>52</sup> This hotline was founded and is managed by NGO ASTRA. By the finalisation of this report, the Republic of Serbia has failed to support the operation of this hotline, even though the Ministry of the Interior had formally signed Memorandum of Cooperation with NGO ASTRA, pertaining to the establishment of the European Missing Children Hotline. Operation of the hotline is facilitated entirely through the support of international donors.

<sup>52</sup> 25 May 2012 to 31 October 2015