

**Initial Alternative Report on Implementation of Optional Protocol to
the Convention on the Right of the Child on involvement of Children
in armed conflicts**

Prepared and submitted by Coalition of civil society organizations: Centar za prava deteta, Belgrade (Child Rights' Centre); Beogradski centar za ljudska prava (Belgrade's Human Rights' Centre); Jazas, Belgrade (National anti-AIDS association); VelikiMali, Pančevo; Astra, Belgrade (Anti-trafficking action), Atina, Belgrade; Centar za integraciju mladih, Belgrade (Youth Integration Centre); Familia, Belgrade

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Serbia

1. General measures of implementation

- a. Making the state initial report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts¹

The state did not include civil society organisations in drafting the initial report to the Optional Protocols. Although during the period of consideration of initial report of Republic of Serbia on the implementation of the Convention on the Rights of the Child there was increased cooperation with the relevant Ministry (Ministry of Human and Minority Rights) and regular exchange of information that continues through the preparation of the Core document for Serbia, in the process of creating reports on Protocols, civil society organisations were excluded. The report itself shows the same deficiencies as the Initial report on the Convention – it contains detailed (sometimes overdetailed) description of the legal regulation but does not address the practice, the rights exercise, and does not contain information on which realistic range of displayed norms could be seen.

b. Legal status of the Protocol

All international treaties that the Republic of Serbia ratified are part of the internal legal order and can be directly applied. The Constitution in Art. 16 further says that "Ratified international treaties must be in accordance with the Constitution". So, when an international treaty is ratified, its application is possible without adopting specific laws that would allow it. However, a small number of judgments that call for an international agreement on human rights testifies that awareness of this possibility is still insufficient. However, it is common practice to harmonise domestic legislation with international regulations, by interating rights and standards defined in them in new laws.

The Constitution guarantees the direct implementation of guaranteed human and minority rights (Article 18), and contains a provision that protects the rights of the child (Art. 64).

¹ In the following text: Report

c. Implementation and coordination

Number of bodies deal with implementation of the Protocol. In the Serbian Parliament there is no special parliamentary body that deals with these issues, but in 2009 a working group made from MPs from all parliamentary groups was formed in order to deal with child rights. Results of their activities are still not visible.

After the last parliamentary elections held in 2007 Ministry for Human and Minority Rights was formed, which is responsible for reporting on Protocols implementation. Ministry of Defense, however, can control, and that means implementing and changing if necessary most of the rules that are relevant for the implementation of the Protocol.

A government advisory body, the Council for the Rights of the Child, in the previous period did not particularly deal with issues of immediate importance to the implementation of this Protocol.

d. Dissemination and training of professionals on the protocol and human rights

In the mentioned period, there were no special trainings on matters defined by the Protocol, but there were a number of education programs in the field of child rights for professionals who work with children.

e. Ombudsman and the Protocol

Ombudsman (the Protector of citizens) in the Republic of Serbia has a mandate to deal with the protection of human rights (Law on the Protector of Citizens,² Article 1) and has the authority to suggest a law or to launch initiatives to change laws or other regulations that are, in his assessment, important to improve exercising of certain rights (Article 18). In the domain of rights guaranteed by the Protocol in previous work there were not specific initiatives by the Ombudsman nor recommendations for action addressed to administrative authorities.

f. Civil society and the protocol

Small number of civil society organisations deals with the issues of importance to the Protocol. Belgrade Center for Human Rights is the only civil society organisation engaged in systematic issues relevant to this area, mostly from the aspect of monitoring. However, concerning is the fact that the form of citizens associations is sometimes used to organise groups that propagate violence against particular social groups: the Roma,

² *Official Gazette of Republic of Serbia, No. 79/2005 and 54/2007*

the LGBT population, foreigners, members of national minorities etc. (See: Awareness of children on the hazards of involvement in armed conflicts).

2. Prevention of recruitment and use of children in a state of war

In the legal system of Serbia compulsory military service and participation in armed conflicts are defined by the Law on the Army of Serbia and the Law on military, work and material obligation. Regardless the latter was adopted at the end of October 2009, decision of the old law will not be shown from two reasons: the information on this law are contained in the State report, and during the previous period (from the ratification of the Protocol) there were not any armed conflicts in Serbia and the surroundings, so eventually disputed provisions had no impact in practice.

Law on the Army of Serbia was adopted in December 2007.³ The final provisions of the Law on the Army of Serbia determine that the regulations on military, work and material obligation have to be adopted within 90 days of entry into force of the Law on the Army of Serbia (Art. 196). However, even though the law came into force on 1st January 2008, the Law on military, work and material obligation⁴ was adopted only at the end of October 2009. It brings a certain novelties that will be presented at appropriate places in this report.

a. The process of recruitment

According to the legislation in Serbia, military service consists of several stages that follow one another. The first step in fulfilling the military obligation is the recruitment duty, the second phase is the military obligation of serving (provided is the opportunity to replace this obligation with the obligation of performing civil service, but the person in this case is also treated as conscript), and the exercise of civil liability services and obligations of persons in reserve (Article 3 of the Law on military, work and material obligation, hereinafter LMWMO) represent the third phase.

Recruitment obligation lasts until the departure to the military serving and pursuant to Article 13 of LMWMO consists of duties in relation to military evidence, medical examinations and psychological tests, enlisting and sending to military service (Article 13)

³ *Official Gazette of Republic of Serbia, No. 116/07*

⁴ *Official Gazette of Republic of Serbia, No. 88 /09*

The first phase - the entreing the military evidence is done at the beginning of the calendar year in which the recruit becomes 18 years of age (Article 15th LMWMO). Thus, at the time of the entrance into the military evidence almost all persons are minors. The following liability - obligation related to getting medical examinations for evaluation of the ability for military service is done at earliest in the calendar year in which recruit turns 19 years. So, to medical checkups they are going as adults, as well as when going to military service as sending to military service is performed in the year when the person turns 19 years of life (Art.25, LMWMO).

There is no possibility that a person by his own request serves military service before the calendar year in which he turns 19 years and this means that in each case must be an adult.

Tabulation of the execution phase of military service – according to a new Law on military, work and material obligation

Stages in the fulfillment of military obligations	Age according to the Law on military, work and material obligation
Entrance to military records	17-18 (from the beginning of the year in which he turns 18 years of age)
Medical and other examinations and tests	Minimum 18 (earliest in the calendar year in which they turn 19 years of age, at least 6 months before referral to military service)
Recruiting	Minimum 18 (age not prescribed, but can not be done before medical examinations, therefore not before 18 years of age)
Sending to the military service	Age 18-19 (earliest in the calendar year in which they turn 19 years of age; the same goes for making their own request)

b. Document for determining the age

Age is determined on the basis of birth register. If the child is not registered in the books he will not be enrolled in the evidence that lead to conscription.

c. State of Emergency

Declaration of state of emergency, conditions and procedures are defined by the Article 200 of Serbian Constitution; restriction in the area of human rights that can be prescribed for the duration of state of emergency are listed in Art. 202.

It is not envisaged that by order of the President of the Republic the lower limit for referral to military service may be decreased, so minors can not be forcibly sent to military service even in a state of war, that is, they can not be forcibly sent to directly participate in hostilities.

d. Voluntary recruitment and protective measures from voluntary entry into the armed forces

According to the Law on military, work and material obligation, the minimum age for referral to military service is the same as the case when the recruits are indicated by the competent authorities - military service (i.e. physical involvement in the armed forces) starts at earliest in the calendar year in which the recruit becomes 19 years of age, which means that minors can not be physically integrated into the armed forces in any case. The law does not provide any specific guarantees which ensure to make this sending a truly voluntary, but since there is no possibility anymore that a person is sent before the age of majority in the military service, this provisions are not required. The same applies to the special provisions on medical examination.

e. Conscientious objection

Conscientious objection is related to military service which, in the future, is solely the obligation of adult persons and norm that regulates it will not be particularly described.

Military Schools

Education of citizens of Republic of Serbia for military duties in military educational institutions and other professional trainings for officers and non-commissioned officers is considered as service in the Army of Serbia, in terms of rights and obligations regulated by Law on the Army of Serbia (Article 6).

In Serbia, the military training is taking place at the Military Academy in Belgrade and a military high school. Military Academy is an institution of high education and attended by the adults. Military High School is an institution of secondary education. Military School is intended only for boys who have completed primary school, which

corresponds to the age of 14 and a half to 15 and a half. After completion of the Military High School they are required to continue their education in accordance with the requirements of the Ministry of Defense of Republic of Serbia. Military high school students have the status of military personnel in accordance with the Law on the Army of Serbia, and their admission and enrollment in school is considered to be entering the army.

We believe that this arrangement of secondary military education is not in accordance with other provisions governing the military service as well as that they are not in accordance with the standards set in the Optional Protocol. Namely, although the LMWMO refers to the earliest age a person to enroll military service is in the year when he becomes 19 years, as we have already mentioned, high school education is considered a military service and one of the additional training obtained during training is military training with carrying of arms.

At the military academy, 30 girls enrolled for the first time in the school year 2007/2008. Female students have the same curriculum as male. The requirement for admission to a military academy is defined by the tenders. Competition for the 2009/2010 school year, when it comes to age does not specify the minimum age limit. But, the candidate should have completed four-year high school or to attend four-year high school. (Given that the competition call is made during the school year for the next school year, we believe that it applies only to final year students (eventhough it is not explicitly stated)). When they complete high school, students in Serbia are 18 years of age.

Promoting public principles of OPAC

Optional Protocol and its principles and rules are not known to the general public. Only within close professional circles and among those who deals with human rights issues there ware discussions and efforts to raise the age of recruitment.

Peace Education

The new Law on the Basics of Education System is based on principles which are largely harmonised with the principles contained in Article 29 of the Convention on the Rights of the Child. For now, within the schools there is a possibility that children have

civic education as one of the elective courses which is partly involved in tolerance and peaceful conflict resolution. Research conducted by the Child Center Rights during 2009 in 5 municipalities in Serbia on a sample of over 1000 subjects of secondary school age children⁵ showed that children and youth in Serbia still show a modest interest in acquiring new knowledge related to tolerance and nonviolence. So only 7.4% of children and youth up to age 19 have expressed interest in the workshops of this type if they would be organized at the local offices for the youth.

The last 10 years in Serbia and the environment there were no armed conflicts. However, there is still approval for resolving conflicts in violent way and quite a militant culture is developed. The crisis through which the society in Serbia passes, for 30 years now, with stronger or weaker intensity, led to the collapse of system of values and loss of the essential role of the authority of the family and educational institutions in relation to children. It seems that other authorities make greater impact in forming attitudes of children.

Manifestations of this condition are very common: fan/club supporting groups that cause violence at every sporting events and outside them, organizations like "Honour" (Obraz) and "National squad" which openly call for violence against opponents etc.⁶ During the autumn of 2009, due to incidents that these groups cause, threats of violence at Pride Parade announced (which was not held because the Ministry of Internal Affairs estimated that is unable to ensure the safety of participants in the city center) and the murder of French football supporter in Belgrade, the Public Prosecutor's Office has launched initiative before the Supreme Court for a ban of these organisations. Epilogue is still not known, but we believe that the formal banning of these organisations will not achieve the desired effect and thus the state will not gain control of these extreme groups.

Attitudes of children

Part of the questions that were included in research conducted by Children's Coalition deals with issues that are relevant for the OPAC.

⁵ Research 'Interests and needs of young people for the program content in the local community' was conducted within the project "Youth participation in the creation of local offices for youth" which Child Rights Centre realised in cooperation with the 5 municipalities in Serbia and the German Organization for Technical Cooperation (GmbH) - project "Conflict Transformation and Youth Empowerment" and Serbian Ministry of Youth and Sports

⁶ These organisations

The first group of questions concerned their understanding and attitudes related to civil conscription.

Children who participated in focus groups weren't able to explain what the civil conscription was. But when the concept was explained, they expressed approval of these possibilities, although the boys who participated were mainly not interested to use it. It is interesting that in all the focus groups they fully supported the idea of professionalisation of the army: *"There are people who are into the army and shooting, and let me say nicely, they should find a job like that, basically we need such for a defense of the country"; „State can not be without the military force, it must exist, then it is best it to be those who really want. "*

As the most important benefits of regular army service, participants stated opportunity for maturation, independence ("getting stronger") and acquire some knowledge and skills, as well as the opportunity to learn how to handle weapons when situation really requires to defend the homeland, or bare life (*"better to know how to handle with the rifle if a war breaks out, instead of just sitting there"*).

The attitude of children toward arms

Most of the children showed indifference to carry weapons, or even resistance to it. A smaller number of children, mostly boys, said that they would like to have a gun in the house because it would then make them feel safer (for "God forbid" situations). However, among children there is prevalence of discomfort in connection with holding weapons in their hands (*„but I would be able to bring a weapon, but if I'd found myself in a situation, I would not know how to use it, I would be paralysed“*, *"Grandpa says I should wear a weapon sometimes when I walk by some characters, but I'm afraid because there are some situations that a man unconsciously respond“*, *"if I worked as a police officer, I would gladly have it because it would be my job, but not otherwise"*).

Awareness of children on the hazards of involvement in armed conflicts and similar militant activities

Bearing in mind that activities of fan/sport clubs support, militant and other violent groups can affect the formation of attitudes of children, it was of interest to get insights in their members structure, their activities and how children see these groups.

Fan/sport club support groups:

Children as a good side of this type of group saw the supposed unity and solidarity among members of the group, as well as the sense of support they provide to the team

for which they cheer. As bad sides of those groups they see in the violence and destruction, (*„the players adrenaline raises when they see you sing and cheer for them, not when they see you break chairs on the stadium“*).

The largest number of children who participated in focus groups fully put an equal sign between the fans and hooligans. They stated that fans who really do love their sport and the club mostly stay at home in front of the TV, and do not go to the stadiums. Typical fans that go to stadiums, from the sight of children, wear their team colors, usually fan scarves, gather in large groups on the day of the game and ask scuffle with opponents and random passers-by, or they unleash their anger on the property (other people's cars, traffic lights, kiosks) (*„hooligans are those who do not enjoy the spirit of sport, but going to cause any harm“, „when they boo on other anthems, it's just a hooliganism“, „how can he bring the torch in, if there is a policeman standing at the entrance, it is impossible unless the clubs stand behind them“, „they are aggressive, too oppose each other, their mind that anyone thinks otherwise“, „all these fans are on some drugs“, „the worst fans are ***, they go down the street, wear scarves, sing cheering songs, leaping all over the bus after the game“*).

One of the subject in focus groups was whether the children knew how could they become a member of a sport club support group and would they be interested in it. It is interesting that on this issue in all focus groups we obtained the same answer: the candidates interested in joining a sport club support group are expected to first prove themselves i.e. in by demonstrating their willingness to criminal and dangerous acts (*„you have to be invited, to know these people, to prove yourself, just so you can enter the group“, „ the leader of the group see that someone is foolish and have enough courage for various things which he commanded him, and then he accepts him“*).

After an incident during a football match when the police intervened, one of the fans attacked a police officer and injured him. He was sentenced in first instance to the imprisonment of 10 years. The procedure by legal remedies is still in progress. This sentence was assessed by a number of clubs support groups as too severe and the frustration escalated into action "Justice for ****". Participants of focus groups were asked what they think on the above action. Almost no one supports what this fan did (the exception is a girl who believes that the policeman in civilian clothes provoked and got what he deserved), but also the majority thinks that he is determined too high a sentence, because received a higher penalty than is usually portion for example rape,

'injuring of children in traffic' etc... (*"I understand it though, he was a teenager, it was the worst age, insanity, carried away by the company, the situation", „to tell the truth, it was not a policeman, he was in a classic suit, and he began to fight with them", "he was not supposed to smash a torch in his mouth, but he reacted just in self defense, who knows what he's was talking to him", „they say that he was not violent at all as a child, simply got carried away by the atmosphere of the game, and it happened"*).

Also, we asked a question whether they heard about militant groups and movements with discriminatory attitudes towards different social groups and a clear nationalist orientation.

Children know little about these organisations. However, many have heard of "Honour", and someone for "National Machine",⁷ and it all generally related to recent events around the cancellation of the Pride Parade. Children from the Drop-in centre did not know either one of these groups by name, but when we asked them about the skinheads, things were much clearer to them. (*Skins grabbed my mom and began to slap her face “, "most of them could be found in the Students park, there are the worst there, and by“the Horse“ (Belgrade meeting point- statue of Knez Mihailo riding Horse) they sit and drink“, " my friend was wearing dreadlocks, and they closed her in the toilet cabin and cut her dreadlocks"*).

Children see these groups only as the organisations that advocate for eradication of homosexuality, and do not know anything more about their programs. The only exception here are youth from one Belgrade municipality who knew something about Nazi background of these groups, but all other children see organisations such as „Honour“ primarily as groups who are fighting to „preserve the face of Serbia from the scourge of homosexuality“ (*"They are advocating against those unnatural things, but there are plenty of them who use it to create some chaos“, " among them thereare some good ones who really want better for Serbia, but there are some who are literally hooligans", but those sport clubs supporters that want to fight"*). None of the children knew how to access these groups.

We also, wanted to hear whether they think these groups should be banned, but due to lack of information, most children didn't have a clear position. Several children expressed their wish to ban these groups due to violent behavior, threats of violence and writing graffiti on the facades. Children from the Drop in Centre are completely agreed

⁷ See page

with the prohibition of "skins" because they threaten and harass them. However, no one except the group from one Belgrade municipality didn't know what to say about the ideology of these groups as a reason for the eventual ban. Also, they all expressed disbelief in the effectiveness of measures of ban (*"nothing of it, how are they going to ban them, if they prohibit „National squad“ today, tomorrow they will be called, I don't know, the „Patriot squad" if they are actually terminated, they will go on the internet“, "if they ban fans, who will then go to matches, and clubs need someone to go to a game for the money"*).

Internet and militant groups

During September and October 2009 members of the Children's Coalition analysed 72 groups of right-wing and 32 sport-fan groups on Facebook, among whose members are numerous juveniles from Serbia.⁸

There are many groups on Facebook that have quite large membership - almost every group included in this analysis has four-digit number of members and some of them even have a few tens of thousands of members. The biggest groups that we encountered are "Let's gather more people than them living in Albania" and „Milos Obilic is the Serb, not Albanian“, which have nearly a hundred thousand members each. Most members have those groups that do not have extreme views in their name. However, regardless of the possible absence of extremism in the title, most of these groups have a very extremist and violent content on their discussion forums, with many calls to violence, murders and various forms of violence.

Among the analysed fan groups it was not noticed a lot of violent attitudes and texts, and those are mainly groups that actually deal with cheering their teams and motivating members to come to the games and give the fan support. Here, the exception are many groups concerned with supporting the action "Justice for ****", and whose views express hatred for the police.

⁸ The aim of this study was to gain insight into the number of such groups and their membership, and to explore some basic characteristics of these groups: the availability to juveniles, topics they deal with, used vocabulary, organising contacts and actions of members, etc.

The survey was conducted by the members of the Children's Coalition sought the right-wing and sport clubs fan groups on Facebook, numbered these groups and counted their membership. Criteria for selection of groups was refereeing to their title having 'national' or 'fan' in their names or themes, or some form of discrimination. On the basis of such a composed list, the coordinator of Children's Coalition did the content and structure analysis of these groups.

Among the analysed groups that were **not sport fan** groups are those spreading national intolerance (primarily towards Albanians and Croats, but to Montenegrins, Slovenes and Roma as well), religious intolerance (especially towards the Muslims and Catholics and a small religious communities), and intolerance toward homosexuals.

Access to groups

Almost all groups that we analysed, except three, were open, so whoever wants can join. This makes them very accessible to children.

For insight into the presence of children in a violent right-wing groups, we conducted quantitative research among the friends of one profile opened to inform children and youth about programs that are being organised for them in one of the Belgrade's suburbs. With the help of that profile administrator, we analysed the membership in other groups on a sample of 250 children of this profile. We came to the data that 44.4% of children are enrolled in one of the Facebook groups that call for violence. However, these data must be taken with caution because it does not mean that so many young people really ready for violence. This is indicated by several facts. First, most young people do not analyse the group before they join, nor they actively participate in them after the inclusion. They primarily conclude about the groups based on their names and who sent the invitation to join, so most do not at all notice the views of groups that have joined. It is often noted that one person is even a member of Facebook groups with diametrically opposed positions (e.g. in a group that promotes friendship with the Croats and in a group that promotes hostility towards the Croats).

Analysed Facebook groups are very rarely used to organise meetings of members or to call them participate in activities outside the Internet. The exception was the attempt to organise the Pride Parade, to which prevention called numerous right-wing groups on Facebook.

Analysis indicates that one of the characteristics of the analysed groups is a short period of existence, because administrators on Facebook shut it off if got complaints about their content. However, many such groups exist undisturbed, spreading culture of violence, hatred and intolerance, due to the facts that they are not reported and that Serbian language escapes the Internet filters restricting hate speech, which are usually set to English.

In the analysis of gender structure of group members it is noticed that there were no significant gender differences.

3. Prohibition and related matters

Coalition of civil society organisations did not come to the data and knowledge different from the data contained in the State report.

4. Protection of rights of children victims

The Constitution of Serbia in the art. 35, in terms of protection of human and minority rights provides also the right to rehabilitation and compensation. This right is also related to the right to "... remuneration of material and non-material damage inflicted on him by unlawful or improper operation of a state body, entities exercising public powers, bodies of autonomous province and local self-government".

In addition to general provisions relating to the remuneration, system in Serbia does not recognise special measures of protection and rehabilitation of children who would be involved in the recruitment at earlier age.

5. International assistance and cooperation

Serbia cooperates with many international organisations including UNICEF and OSCE, but on the level of implementation of this Protocol, the Coalition of civil society organisations do not know of specific projects or actions towards this direction. We believe that the main cause of this would be the declination of influence that the military has in Serbia, and the fact that it is practically not possible for juveniles to be involved in armed conflicts, as well as the fact that on the territory of Serbia there were not any armed conflicts since 1999.

Anex A

MEMBERS OF THE COALITION

The Child Rights Centre, Belgrade

The Child Rights Centre is a non-political, non-profit and non-governmental organization. Its aim is the implementation of the Convention on the Rights of the Child. This means that the CRC's activities are focused on introducing such laws, policies and practice that enable the improvement of children's well being, protection of their rights and their full participation in society.

The Belgrade Centre for Human Rights was established in February 1995 by a group of human rights experts and activists as a non-profit, non-governmental organization. The main purpose of the Centre is to study human rights and humanitarian law, to disseminate knowledge about them and to educate individuals engaged in these thematic areas. The Centre hopes thereby to promote the development of democracy and rule of law in Serbia, other successor states of the former Yugoslavia and societies in transition from authoritarian to democratic rule.

Association against AIDS – JAZAS was established 1991, having around 2000 members. It is essential to understand that during the past years of a very difficult period for the country, the voice of JAZAS was one of the few distinctive in favor of vulnerable and stigmatized groups and persons like HIV – positive people. We considered a very valuable experience for NGO. Now a days JAZAS turned to an especially vulnerable and highly stigmatized group of citizens – sex workers.

ASTRA (Anti-trafficking action) is a non-governmental organization dedicated to eradication of all forms of trafficking in human beings, especially in women and children, through a comprehensive approach to solving this problem, with the aim of eliminating this specific form of violence, by affirming a society free of exploitation, violence, discrimination, economic and social inequalities.

Initiative for inclusion VelikiMali from the town of Pancevo, Serbia, is an NGO working since 1999 (founded on April 1st 1999) on promotion and protection of rights of children in accordance with the United Nations Convention on the Right of the Child. Areas which our work is focused on are:

- Protection of the right of children with disabilities to optimal development
- Protection of the right of children to have a life within the family, and
- Protection and promotion of the right of children with disabilities to have quality education.

The Centre for Youth Integration (CYI) was founded in late 2004. CYI gathers young people who want to take part in social changes, those who believe that change on a global level cannot happen without changes on local level. We work with the belief that young people of Serbia are immeasurable resource for achieving that change, and with their active participation, every party included benefits. We believe that we all carry part of responsibilities for what is happening in the streets of Belgrade, and within youth homes with children and youth.

Familia was founded in 1998, and works with and for children deprived of parental care, developing alternative care programs and standards for these programs. Familia provides support to biological, adoptive or foster families, and develops programs and models of support in child best interest.

Atina was founded in 2004. The aim of this organization is to assist Serbian society transition towards society that fully recognizes rights of women.