RECOMMENDATIONS OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

Halfway through — What has been done so far and what lies ahead of us

Proposals of the Coalition for Monitoring Child Rights in the Republic of Serbia

Preporuke Komiteta za pravu deteta

Na pola puta — stižu nam predrasude!
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PROPOSALS OF THE COALITION FOR MONITORING CHILD RIGHTS IN THE REPUBLIC OF SERBIA
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INTRODUCTORY REMARKS

The United Nations (UN) Committee on the Rights of the Child monitors implementation of the Convention on the Rights of the Child (Convention) by its State parties. In their regular reports the states are required to inform the Committee on the Rights of the Child on the progress made in implementing the Convention and difficulties they face. The Committee on the Rights of the Child analyses the reports and other available sources of information and, following the procedure, issues recommendations to the states — “concluding observations” in which it identifies the areas of child rights that a state should pay particular attention to and proposes measures for improvement.

The UN Committee on the Rights of the Child considered the Second and third periodic report on the implementation of the Convention in the Republic of Serbia, and adopted Concluding Observations in February 2017, outlining what action should be taken to advance the rights of the child in Serbia. The measures to be taken are primarily the obligation of the state which results from the ratification of international treaties and the state subjectivity itself. However, the states are not alone in this process, but other actors such as international organizations, civil society organizations, national human rights institutions and individuals play an important role in it.

The Child Rights Centre is an association of citizens whose primary objective is implementation of the rights of the child in Serbia in accordance with the Convention. Together with the Coalition for Monitoring Child Rights in the Republic of Serbia (Coalition), the Child Rights Centre regularly monitors and reports on the status of the rights of the child to the Committee on the Rights of the Child. As part of the project Child Rights in Policy and Practice implemented by the Child Rights Centre in collaboration with Save the Children International, the Coalition has prepared this document to show the process of implementing the Committee’s recommendations in the period 2017-2019 and to set targets for their implementation by the next reporting cycle.
ABOUT THE COALITION FOR MONITORING
CHILD RIGHTS IN THE REPUBLIC OF SERBIA

The Coalition was established in 2007 upon the initiative of the Child Rights Centre, which coordinates its activities. The Coalition advocates the implementation of all the rights enshrined in the Convention. The first joint activity of the Coalition was drafting of an Alternative Initial Report on the Implementation of the Convention in Serbia. The Coalition`s activities continued after the submission and presentation of the report to the UN Committee on the Rights of the Child through the preparation of Alternative Reports on the Implementation of Optional Protocols to the Convention on the Rights of the Child and their presentation to the Committee on the Rights of the Child. The Coalition prepared and presented to the Committee on the Rights of the Child the Second and Third Alternative Periodic Reports on the Implementation of the Convention on the Rights of the Child in the Republic of Serbia for the period 2008-2014, which was compiled by 16 civil society organisations.

The Coalition also participated in the second and third cycle of the Universal Periodic Review, in which it prepared reports to the Human Rights Council, as well as other human rights monitoring bodies, and it regularly submits contributions for the reports on Serbia’s progress in the European Union accession process.

The Coalition today consists of five civil society organizations specialized in monitoring and reporting in different areas of human rights: Child Rights Centre, Užice Child Rights Centre, Belgrade Centre for Human Rights, ASTRA — Anti Trafficking Action and Center for Social Policy.

In this document, the Coalition has singled out the recommendations of the Committee on the Rights of the Child that it considers as the highest priority, without diminishing the importance of all other recommendations of the Committee on the Rights of the Child for which a number of measures need to be taken to comply with them. It should be noted that some of the recommendations of the Committee on the Rights of the Child are given in a shortened form in the text, followed by a brief description of the current situation in Serbia, and finally Coalition’s concrete proposals for implementing the recommendations.
ABOUT THE CHILDREN’S INFORMATION 
AND CULTURAL SERVICE

The Child Rights Centre continuously supports a group of children and young people who are gathered at the Children’s Information and Cultural Service (DX Club) where they have the opportunity to learn about their rights, but also organize public debates, public actions and various self-advocacy activities. As part of regular workshops, the children gathered at the DX Club have prepared a publication “IT’S ABOUT YOU — A book for children and youth aimed at helping them to understand the recommendations of the Committee on the Rights of the Child” in which the recommendations are adapted to the language that is clear and understandable to children. Considering that child participation is one of the key principles of the Child Rights Centre’s work, in this text we have also presented the recommendations that the children themselves formulated to encourage their peers to be informed and advocate for implementation of their rights.
LEGISLATION

Recommendation of the Committee: While the Committee welcomes the efforts made by Serbia to reform legislation related to the rights of the child, it remains concerned at the inadequate harmonisation of legislation, combined with the absence of a comprehensive children’s Act noting that the reluctance to enact such an Act poses a significant challenge to advancing children’s rights. Therefore, the Committee encourages Serbia to continue harmonising its legislation with the principles and provisions of the Convention and recommends Serbia to enact a comprehensive children’s Act and introduce a child rights impact assessment procedure for all new legislation adopted at the national level (paragraphs 6-7a).

Current situation:
In Serbia, a number of legal texts important for the rights of the child are currently being applied, but due to their inconsistency, legal gaps emerge as well as the regulation of legal situations in which children can participate in different and inconsistent ways. Not a small number of such situations leads to the lack of possibility to reach a reliable legal solution and uneven practice, that is, to legal uncertainty.

The Work Plan of the Government of the Republic of Serbia for 2019, as in the previous year, stipulates that among the laws proposed by the Government to the National Assembly there will be the Draft Law on the Rights of the Child and the Protector of the Rights of the Child, with a deadline in July 2019.

In the previous period, the Ministry of Labour, Employment, Veteran and Social Affairs (MLEVSA) formed a working group to prepare the Draft Law on the Rights of the Child and the Protector of the Rights of the Child, which passed the public debate phase in June 2019. No representatives of civil society organizations active in the field of child rights have been involved in the activities of the working group. The main goals of this law are: implementation of the rights of the child and identification of obligations of public authorities, legal and natural persons regarding
implementation of the rights of the child, ways and procedures for protection of the rights of the child, establishment and regulation of work of the Protector of the Rights of the Child, as an independent institution for promotion, advancement and protection, and implementation of the rights of the child, the establishment of uniform criteria and standards for the realization of the best interests of the child in all areas of child’s life and development and creation of conditions for their implementation, establishment of measures for implementation and protection of the rights of the child, identification of special rights of the child and basic principles in the procedures in which children participate before the courts, state bodies and other organizations exercising public authority, etc.

Proposals of the Coalition:

It is necessary to adopt, as soon as possible, a basic and general law on the rights of the child, which would determine basic principles and catalogue of the rights of the child and establish general binding standards in the field of the rights of the child. Adoption of this law would contribute to the harmonization of the entire legal system relating to children, coordination of all sectors involved, and it would bring the existing legislative solutions in all sectoral laws in line with the solutions contained in this law.

DX Club: “The Committee recommended that the State adopt a comprehensive law on children and harmonise all its laws with the Convention on the Rights of the Child.”

COMPREHENSIVE POLICY AND STRATEGY

Recommendation of the Committee: The Committee expressed concern over the fact that the National Plan of Action for Children has expired in 2015, and a new one has not been developed nor has the former been adequately evaluated to assess its impact. Therefore, the Committee recommends Serbia to adopt a policy framework that will replace the National Plan of Action for Children and serve as a basis for effective budgeting and monitoring of policies, to ensure consultations with all relevant
stakeholders, including children, to assess the impact of the previous document and identify any potential shortcomings for improvement; and to ensure that any new plan is applicable in terms of sufficient human, technical and financial resources (paragraphs 8-9).

Current situation:
The National Action Plan for Children was adopted in 2004, for the period until 2015. This document was not comprehensive because it did not cover all areas of the rights of the child, which was a serious drawback. Although in April 2018 the Minister of Labour, Employment, Veteran and Social Affairs issued a decision on establishing a working group to develop a new National Action Plan for Children, the working group has not yet formally commenced its work or determined the scope of this plan and dynamics of its development.

Proposals of the Coalition:
Adopt a new National Action Plan for Children that includes a comprehensive and coherent policy of the state towards children in all areas. This document should be the basis for effective identification of the budget needed to implement the rights of the child.

DX Club: “The National Action Plan for Children is a plan that outlines the measures and activities that the state should pursue in the coming years in order to create the most favourable conditions for the life of children and youth, for their upbringing and inclusion in society. The Committee recommends that the Republic of Serbia develop such a plan.”
COORDINATION

Recommendation of the Committee: The Committee recommends that Serbia strengthen the role of the Council for Child Rights as the principal institutional coordinating mechanism at the inter-ministerial level, giving it a clear mandate and sufficient authority to coordinate all activities related to the implementation of the Convention at cross-sectoral, national and local levels, as well as to ensure that the Council is provided with the necessary human, technical and financial resources for its effective operation (paragraphs 11 a and b).

Current situation:
Although there was an initial positive momentum for the Council for Child Rights of the Government of Serbia in the first half of 2018, announcing the long-awaited changes in terms of strengthening the role of the Council for Child Rights as the main institutional mechanism for coordination at the inter-ministerial level, budgetary resources for the functioning of this single coordination body in the country have not yet been ensured, and it has only an advisory role. Therefore, it is necessary that the Government of the Republic of Serbia provide adequate human, technical and financial resources for its efficient operation.

Proposals of the Coalition:
The function of the Council for Child Rights of the Republic of Serbia as a multisectoral coordination body needs to be strengthened and adequate human, technical and financial resources should be provided for its effective and continuous operation.

DX Club: “There are a number of institutions in the Republic of Serbia taking care of respect of child rights. It is important that there is a body that coordinates their activities. Therefore, the Committee recommended that the Council for Child Rights of the Government of the Republic of Serbia play such a role and be active.”
Recommendation of the Committee: In the light of General Comment 19 on public budgeting for the realisation of children’s rights, the Committee recommends that Serbia establish a budgeting process which includes a child rights perspective and specifies clear allocations to children in the relevant sectors and agencies, including specific indicators and a tracking system; to establish mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the implementation of the Convention; to ensure transparent and participatory budgeting through public dialogue, especially with children, and for proper accountability of the authorities at all levels; to conduct a comprehensive assessment of the budget needs for children and allocate adequate budgetary resources, that is, to increase the budget allocated to social sectors, in particular in the areas of education and social assistance, as well as to address disparities on the basis of indicators related to children’s rights (paragraph 13).

Current situation:
It is currently partially possible to track the allocation of funds for children and families with children in the budget system. Functional classification has been in use for years, but there are problems with the application of this classification, especially at the local level in the category of social protection. Program budgeting was introduced in 2015, nationally and locally. At the national level, there is the Family Legal Protection program, while at the local level there is a program activity called Supporting Children and Families with Children, while at both levels there is the sector Education. Performance monitoring indicators have been determined but improvements in classification and indicators are needed, especially at the local level. The Standing Conference of Towns and Municipalities (SCTM) has prepared a proposal for a program classification of social protection and education with elaborated performance indicators that fully allow for the monitoring of adequacy, efficiency and equity, but at the time of writing this document, this proposal has not yet been adopted by the Ministry of Finance.
Proposals of the Coalition:

It is necessary to insist on the application of functional classification of the budget system, particularly within the category *Social protection*, in which one of the classes is *Family and children*, especially at the local level. Also, it is necessary to adopt the draft program budget prepared by the SCTM for the area of social protection and education at the local level, taking into account the shortcomings of the existing classification and accompanying indicators.

**DX Club:** “The Committee recommends that the state clearly set aside how much money will be earmarked exclusively for children to exercise their rights.”

**INDEPENDENT MONITORING**

Recommendation of the Committee: In the light of its General Comment No. 2 (2002) on the role of independent human rights institutions, the Committee recommends expediting the adoption of the Law on the Ombudsperson for the Rights of the Child to specifically deal with children’s rights and ensure that such a body has the mandate to receive, investigate and address complaints by children in a child-sensitive manner and allocate sufficient human, financial and technical resources to support the work of this institution (paragraph 17a).

**Current situation:**

The Protector of Citizens has broad powers and jurisdiction, in accordance with international standards. The Law on the Protector of Citizens has two important drawbacks when it comes to protecting the rights of the child. The first drawback is that the complaints procedure is not adapted to child — children cannot independently address or file complaints regardless of their age; and the second is that the area of child rights is not separated within the institution, but is dealt with by the Sector for the protection of child rights, gender equality and rights of the persons with disabilities. Both of these drawbacks are not in line with international standards or with the requirements of the Committee on the Rights of the Child.
Proposals of the Coalition:

It is necessary to establish a specialized institution of the Protector of Child Rights/Child Ombudsperson, who will be responsible exclusively for the protection of the rights of the child and whom children could address independently, in a proceeding and in a manner adapted to children. This institution should be highly specialized in effectively monitoring and promoting the rights of the child and acting in a manner that respects the basic principles and standards of the rights of the child, above all: the best interests of the child, non-discrimination, participation of children in various actions affecting them, visibility and prioritizing the rights and needs of the child in an interdisciplinary manner.

DX Club: “The Committee recommended that Serbia adopt the Law on the Ombudsperson for the Rights of the Child that would specifically deal with the rights of the child and that could receive, investigate and resolve child complaints in a child-friendly manner. The Protector of citizens or Ombudsperson is an independent government body whose job is to protect the rights and freedoms of citizens.”

DISSEMINATION, AWARENESS-RAISING AND TRAINING

Training of professionals working with children on children`s rights

Recommendation of the Committee: The Committee reiterates its previous recommendation of 2008 and encourages the State party to: strengthen its efforts to provide adequate and systematic training and/or sensitization on children’s rights to professional groups working with and for children, such as parliamentarians, judges, lawyers, health personnel, teachers, school principals, academics, social workers, media professionals and others (paragraph 19a).
**Current situation:**

Improving the competences of professionals working with children has been prioritized as it is considered a prerequisite for effective implementation of the Convention. This refers to training of professionals in all sectors whose scope of work includes contact with children. By the very act of adopting the Convention, adults, especially primary school teachers, have been faced with an obligation and challenge called consistent respect of the rights of the child. Emphasizing the fact that the state is primarily responsible for respect of the rights of the child, the Convention also emphasizes the responsibility of all adults, and especially professionals working with children, to respect the rights of the child in all situations, as they carry the responsibility for respecting rights and teaching children about their rights.

In previous years, the Republic of Serbia has made efforts to provide training for professionals, especially those employed in the judicial system. Also, the Ministry of Education, Science and Technological Development, in cooperation with the Užice Child Rights Centre, has continued providing trainings on child rights for education advisers and school inspectors. So far, this training program has included a total of 178 advisers and inspectors from almost all municipalities in Serbia. Additional trainings have been planned during 2020 and 2021 with the aim of educating all education advisers and school inspectors on child rights. However, these efforts did not systematically introduce vocational training on the rights of the child, especially for those professions, such as employees in the education system, who have the most intense contact with children.

In the context of the education system, this implies the responsibility of all its employees to respect child rights in contacts and relations with children. In the Law on the Foundations of the Education and Upbringing System, Serbia established a separate section of the law relating to respect of the rights of the child under the Convention (Article 79), thereby integrating the provisions of this international treaty into national legislation in the field of education.

These, not small responsibilities, require appropriate knowledge and skills of all employees of the education system, especially those related to the content of the Convention, as well as an adequate understanding of individual rights and basic principles. This also implies genuine acceptance of the values on which the human and child rights system is based, as well as any change in personal beliefs accordingly. By developing intensive relationships with children, education staff are exposed daily to situations where there may be a violation of the rights of the child, and therefore knowledge of the Convention provisions and their deep understanding is imperative in the professional training of teachers.
According to the results of the aforementioned research conducted in 2019 by the Užice Child Rights Centre with the aim of determining whether and to what extent primary school teachers in Serbia have competences for implementing children’s rights in the education system, we conclude that most teachers do not know the content of the rights of the child, do not recognize situations in the educational context in which rights are violated, nor the procedures for dealing with violations of rights and preventive activities to prevent violations of certain rights. The results indicate that the respondents’ knowledge of the areas relevant to the rights of the child in the educational context is rather poor, i.e. that they are far below the possible average achievement. The lack of knowledge about the rights of the child and skills to apply that knowledge in the implementation of actions to prevent violations of the rights of the child in the educational context is accompanied by attitudes/values that indicate incomprehension of the meaning and importance of individual rights of the child and the Convention as a whole. Teachers express views that often (implicitly) support the system of inequality and justify discrimination (even some forms of violence), they see a child as an incompetent and immature being who first needs to develop his/her competencies and only then can be asked for an opinion and who has yet to earn his/her rights (which can be taken away from him/her). Contradictions in attitudes concerning different areas of education for children’s rights indicate that primary school teachers do not have a unique and consistent system of values that fully supports the concept of human rights and children’s rights, but base their views on child rights on individual affinities for each individual situation, or right. Such a unique and consistent system of values is necessary, and it stems from the nature of human rights and the rights of the child as a unique and indivisible concept. This constitutes a significant obstacle to the realization of the rights of the child and a significant deficiency in terms of the capacity of teachers to fulfil their responsibilities as duty bearers for upholding the rights of the child.

In this sense, the results of this research contribute to the review of existing and the creation of new education policies related to the professional competence of teaching staff in compulsory primary education in the Republic of Serbia. They can be one of the starting points for decision makers in the education system and policy makers to: a) appropriately (re)define requirements for teacher’s competencies, b) improve the system of professional development, and c) work to establish systemic solutions for education of teachers and other employees in the education system on the rights of the child.

It is unacceptable to have a system that regulates child rights issues only at the legislative level, and where the accompanying measures to support the implementation of these legal solutions are missing. It is essential to integrate child
rights education into the program of initial education of teaching staff, whether they are primary or secondary school teachers and regardless of what subject they are trained for. Quality training on the rights of the child delivered to teaching staff is a prerequisite for successful work in the education.

**Proposals of the Coalition:**

1. Introduce education for the rights of the child into initial education of pre-school teachers and school teachers as a compulsory subject/content for all students as a separate subject, but also through the contents of other subjects during all years of study, in accordance with the standards of the Convention which include teaching on principles and provisions Convention and the rights-based approach.

2. Develop master programs on child rights.

3. Improve the existing Rulebook on competency standards for the teaching profession and their professional development, which will identify competencies for the realization of the rights of the child in a way that reflects realistic requirements in this regard from the teaching profession.

4. Prescribe the obligation that the state exam (license exam) contains a mandatory part related to the field of protection, exercise and respect for the rights of the child.

5. Amend the Rulebook on continuous professional development and promotion to the titles of teachers and professional associates, with the provision on compulsory professional development related to child rights and human rights.

6. Programs, accredited trainings (seminars) dealing with education for the rights of the child and various aspects of the rights of the child should be included in the list of programs of public interest to be financed by the Ministry.

7. Strengthen the structures that monitor the realization of the child’s rights in the education system, including:

   7.1. Implement adequate and systematic training of school inspectors (republican, provincial and municipal), external associates and education advisers on the rights of the child;

   7.2. Recommend the use of the documents “Indicators of implementation of the rights of the child in education” and the “Model schools for the rights of the child” in the domains of action and competence of school inspectors, education advisers and external advisers.
8. Initiate discussions with faculties that educate teachers (future education professionals) about the systematic inclusion of child rights education for all students.

9. Work on the development and accreditation of new training programs and other forms of professional development on child rights and affiliated-related topics (e.g. education for democracy, inclusive education, education on non-violence, non-discrimination, gender equality, etc.)

Teaching of the rights of the child

Recommendation of the Committee: The Committee reiterates its previous recommendation of 2008 and encourages the State party to pay particular attention to the systematic inclusion of teaching of the Convention’s principles and provisions, at all levels of the school curricula (paragraph 19b).

Current situation:
In 2017, the Committee reiterated its recommendation of 2008 on a provision of the Convention that obliges Member States to make learning about the rights of the child available to all children through the mainstream education system. This obligation stems from the provisions of Articles 29 and 4, and the Committee gave a detailed interpretation of the provisions as well as justification for the importance of these provisions in Comment No. 1.

By introducing the subject Civic Education, the Republic of Serbia has only partially responded to this international obligation, which the Committee noted in the previous reporting and report reviewing cycles. Civic education contains topics related to learning about the rights of the child, yet it is not a compulsory subject but an elective, and therefore does not meet the standards of the Convention stipulating that child rights education is accessible to all children at all levels of education. Also, insufficiently developed curriculum of this subject, insufficient professional competence and lack of teaching staff for this subject, as well as the objectively irresponsible attitude of the authorities towards this subject (as a rule, civic education classes are realized in the last hour of the school day, often as a pre-school class or seventh class, often the classes are not even delivered, and school management and the relevant ministry tolerate this), have contributed to the fact that the effects of introduction, that is, education on the rights of the child, do not allow children to acquire knowledge and skills that would help
them understand their rights, protect them effectively and respect the rights of other children and adults.

It is necessary to head towards providing conditions for training appropriate staff for civic education in the manner and with the competencies that teachers of other subjects have. The teaching of civic education is carried out by teachers of other subjects after they passed a short training, which is not sufficient for the quality delivery of the content in this field, and often without any training. There is no teacher specialised in civic education in Serbia, which is a systemic problem for the effective introduction of child rights education into mainstream curricula. The above facts are supported by the data from the survey “Monitoring the Rights of the Child in Secondary Education” conducted by the Užice Child Rights Centre, where only 29% of students estimate that they know the field of children’s rights well, but also by the data of the research on the effects of Civic Education conducted by the organization Civic Initiatives, according to which:

- school curricula within which civic education topics are being taught are not particularly successful when it comes to adopting the principles of democratic political culture and promoting the views that underpin its foundations;
- most students did not express interest in social engagement. The above results indicate that civic education should be a compulsory subject for all grades of primary and secondary schools, that the content should be elaborated, especially sections relating to tolerance and human and minority rights;
- impact of civic education on students is not satisfactory, and curricula and teaching competencies should be revised and improved.

The Law on the Fundamentals of Education and Upbringing System (LFEUS) has the potential for introducing education on the rights of the child into mainstream teaching through cross-curricular competencies, i.e. cross-curricular learning about children’s rights within other teaching subjects. This provision certainly contributes to the improvement of quality and establishment of education for the rights of the child in accordance with the standard defined in the Convention and General Comment No. 1. However, implementation of this provision has not been put into practice in the intended scope and adequate form. According to a survey conducted by the Užice Child Rights Centre, less than half of teachers report that they apply some of the child rights education content in the teaching of their subject, or in extracurricular activities/homeroom teacher`s classes. Of these, only one quarter states specific examples that indicate planned and meaningful inclusion of the child’s rights education content in class or extracurricular activities. This finding can be interpreted by the fact that teachers do not have
sufficiently developed competencies to implement the rights of the child nor to teach the rights of the child.

**Proposals of the Coalition:**

1. Change the status of the subject Civic Education from compulsory elective to compulsory subject at all levels of education, from pre-school to secondary education, accessible to all children without exception.

2. Improve the Civic Education subject curriculum so that it is in line with the standard defined in the Convention and the current understanding of education for the rights of the child.

3. Review and, if necessary, expand the curriculum with a child rights education program and other affiliated/related topics (e.g. education for democracy, inclusive education, education on non-violence, non-discrimination, gender equality, etc.) especially with regard to the integration of the rights-based approach and compliance with Convention standards.

4. Review and redefine the method of professional training of civic education teachers, the status and position in the education system and consider introducing a special department at teacher/pedagogical faculties for educating civic education teachers.

5. Take support measures for teachers to apply child rights education in the teaching of their subjects through appropriate training and development of supportive educational materials and guides.
Recommendation of the Committee: The Committee urges the State party to ensure full implementation of relevant existing laws prohibiting discrimination, by strengthening public education campaigns to address negative social attitudes towards Roma children, children with disabilities, minority children, refugees and asylum seeking children, migrant children, children living and working in the street, LGBT children and children with HIV/AIDS (paragraph 23).

Current situation:
The Law on Prohibition of Discrimination stipulates that discrimination in the field of education and professional training is a particular form of discrimination. The Law on Prevention of Discrimination against Persons with Disabilities also provides additional safeguards, but they are directly related to Article 23 of the Convention and are addressed in the part related to this article.

Particularly important steps forward have been made within the education system in the last couple of years. The right to protection against all forms of discrimination is guaranteed by Article 110 of the LFEUS, which is defined in accordance with the standard prescribed by the Convention. Two rulebooks have been adopted to further assist the professionals. The Rulebook on procedure of educational institutions in the event of suspected or established discriminatory behaviour and insulting the reputation, honour and dignity of a person, and the Rulebook on detailed criteria for recognizing forms of discrimination by an employee, child, student or third party in an educational institution, regulate more closely the way of exercising the right to protection from discrimination guaranteed by the LFEUS.

Accordingly, we can conclude that the legal framework for the protection of children against discrimination in Serbia is in place and guarantees the exercise of this right in accordance with international standards. However, the problem arises in the implementation of regulations, primarily because professionals working with children do not have sufficiently developed competencies to recognize and adequately respond to cases of discrimination. According to a survey by the
Užice Child Rights Centre, most teachers (80%) mistakenly identify the right to protection against discrimination with “equal treatment of all in all situations” or “tolerance and humane treatment of all people/children”. Teachers have difficulty recognizing discrimination in the education context and they identify situations of discrimination with conflict among children, or with affirmative action measures (66%). More than half of teachers are able to recognize claims that are stereotypes (51%) or hate speech (56%).

As regards the rights of the child, when it comes to the right to non-discrimination, the majority of teachers (more than two thirds) agree that the support to children in schools should be individualized with regard to their specificities and needs. Yet, nearly two-thirds of teachers do not understand the role of unequal starting positions and agree with the statement that any child can succeed if they make the effort. When it comes to the perception of diversity, half of the respondents believe that differences do not necessarily lead to conflict, but the same number are undecided or think that differences lead to intolerance. Only a third of the respondents agree with affirmative actions, while one third are undecided and one third think affirmative action is undesirable. Almost two thirds of teachers (65%) are not able to distinguish personal characteristics, i.e. aspects that need to be considered to plan additional support for children in order to achieve their equality in the classroom/school, however, most of them (82%) know how to act when a concrete case of discrimination happens.

These data suggest that more intensive and high-quality support needs to be provided to teachers to implement the positive legal framework in their practice.

**Proposals of the Coalition:**

Measures and activities need to be taken to train professionals working with children in the education system to identify, respond to and undertake preventive activities to ensure equality in the exercise of the rights of the child, i.e. to acquire the competencies necessary for the effective implementation of the existing positive legal framework in this field.

**DX Club:** “The Committee recommends that the State actively combat discrimination, in particular, discrimination against: Roma children, children with developmental difficulties, children of migrants, children of refugees and asylum seekers, children of minorities, children living in remote areas, children living and working in the street, children with HIV/AIDS and LGBT
children. The Commissioner for the Protection of Equality is an independent state body that prevents all types, forms and cases of discrimination. The Committee recommends that the Commissioner have a special unit to deal with child discrimination cases.”

**BEST INTERESTS OF THE CHILD**

**Recommendation of the Committee:** In the light of its General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State strengthen its efforts to ensure that this right is appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions as well as in all policies, programmes and projects that are relevant to and have an impact on children. In this regard, the State is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving the interests of the child due weight as a primary consideration (paragraph 25).

**Current situation:**

The Committee recognized the importance of establishing the principle of the best interests of the child within the health care system, but also stated that it has not been integrated into other laws relevant to the exercise of the child’s rights. A positive example is the Family Law, which stipulates that “everyone is bound to be guided by the best interests of the child in all activities concerning the child” (Article 6 paragraph 1). The principle is also recognized by the General Protocol for the Protection of Children from Abuse and Neglect.

The most significant drawback in terms of legal guarantees for the application of the best interests of the child concerns the education system. This principle of the Convention has not been sufficiently recognized by the LFEUS. Elements of this right and the principles of the Convention are referred to in certain articles of the LFEUS, where duty bearers are instructed to make decisions “in the best interests of the child” (Article 18 paragraph 7, Article 76 paragraph 5), but the provision applies only to a particular, concrete situation. In addition, the Draft Law on the Rights of the Child and the Protector of the Rights of the Child focuses primarily
on securing an “individual right”, while there are no procedural guarantees, that is, a dimension related to the right to the best interests of the child as a mandatory rule of action of public authorities. In this sense, the Draft does not establish this right in accordance with the standard given by the Convention. The best interest of the child, as defined by the Convention, has two classical roles, the control role and the solution finding role. Without the proposed, this article of the Draft does not ensure these roles. Also, another dimension is not sufficiently emphasized — the best interest of the child as a fundamental principle of the Convention. It implies that interpretations, assessments and procedures for the exercise of all other rights under the Convention cannot be viewed and implemented separately and without respecting this principle. The right of the child to respect his or her best interests under Article 3 of the Convention has three dimensions: as an individual right, as a principle and as a rule of procedure. In General Comment No. 14 the Committee on the Rights of the Child has clearly defined these three different dimensions of this right.

The absence of a sufficiently clear and direct guarantee for the implementation of this principle in these two particularly important laws results in a failure to respect this right and the principles in practice. At the same time, it is necessary to provide precise instructions for the application of this principle through by-laws. According to a survey conducted by the Užice Child Rights Centre, the majority of teachers (74%) do not understand the principle of the best interest of the child, nor its connection with the right to participate (63%) i.e. an obligation to obtain the opinion of the child when determining the best interest of the child. A slightly larger number of teachers (50%) understand the connection of the best interest with other rights and the basic purpose of its implementation. When it comes to attitudes towards the implementation of the rights and principles of the best interest of the child, almost all teachers (90%) agree that decisions concerning the child should be based on their best interest and that children should participate in determining their own interest (74%), however, most teachers think that adults are better able than children to determine what the best interest of the child is (only 13% of teachers disagree with this statement, others agree or are undecided). A significant proportion of teachers are not familiar with the procedure for determining the best interest of the child (43%) and do not recognise decisions in which it is necessary to apply the procedure for determining the best interest of the child (49%).

The Child Rights Centre, in collaboration with UNICEF, has developed Guidelines for the Child Participation in Civil Proceedings and Assessment of the Best Interests of the Child, aimed at providing judges with a basis for proper interpretation and implementation of the rules regarding child participation in
judicial proceedings through the expression of opinion and implementation of the best interests of the child principle. In addition, Guidelines for the action of centres for social work in the context of civil court proceedings concerning the rights and interests of the child have been developed, with the aim of assisting the professionals of centres for social work to successfully fulfil the procedural roles and tasks they have in these proceedings.

According to the findings of the Child Rights Centre study “Child-Friendly Justice — Research of the Effectiveness, Participation, and Determination of the Best Interest of the Child in Civil Proceedings” conducted in partnership with UNICEF in 2017, it was found that the produced guidelines themselves have not brought the desired shift in qualitative consideration of the principles of the best interests of the child, neither with the judges nor with the guardianship authority. This further suggests that it is necessary to continue working on the developed instrument and upgrade it with other activities.

**Proposals of the Coalition:**

1. Improve the legal framework pertaining to the education system with provisions on the implementation of basic principles of the Convention that are missing, modelled on the way it was done with the principle of non-discrimination (from Article 110 of LFEUS), as follows:
   1.1. Amend the LFEUS with the provisions on the implementation of the rights and principles of the best interests of the child in accordance with the standard stipulated by the Convention and General Comment No. 14 of the Committee on the Rights of the Child;
   1.2. Adopt the Rulebook on the implementation of the rights and principles of the best interests of the child in the education system;

2. Improve the current Draft Law on the Rights of the Child and the Protector of the Rights of the Child by defining the right and the principle of the child’s best interests in accordance with the provisions of the Convention and General Comment No. 14.

3. Strengthen the capacities of experts in the justice and social care systems to ensure that the principle of the best interests of the child is consistently respected in practice.
**DX Club:** “The Committee recommends that the best interests of the child be paramount and represented in each area. The state should develop guidelines and procedures to ensure that the best interests of the child are applied in all actions that concern the child, in policies, projects and programs that are important for children and affect them.

**RESPECT FOR THE VIEWS OF THE CHILD AND CHILDREN’S PARTICIPATION IN MAKING DECISIONS IN THEIR BEST INTERESTS**

**Recommendation of the Committee:** In accordance with Article 12 of the Convention and in light of its General Comment No. 12 (2009) on the right of the child to be heard, the Committee encourages the State party to ensure that children’s views are given due consideration, in the family, at schools, in the courts and in all relevant administrative and other processes concerning them through, *inter alia*, the adoption of appropriate legislation, the training of professionals, the establishment of specific activities at schools and general awareness-raising. The Committee further encourages the State party to work in collaboration with relevant stakeholders to disseminate information about the Convention and to strengthen the creation of meaningful spaces through which children can influence public policy (paragraph 29).

**Current situation:**

The right of the child to participate is one of the four basic principles of the Convention. The LFEUS recognizes the importance of involving all participants in the education process by defining participation as one of the basic principles of education, but only partially, or only in certain situations. Elements of this right are recognized through the involvement of all participants in the education and upbringing system in the creation and implementation of education policies, respecting the needs and rights along with the obligations and responsibilities; involvement in both the design and implementation of education policies has been proclaimed (Art. 7 (p.1), point 9). Participation of children in the creation of education policies, and to a certain extent in their implementation, is further
elaborated through the institution of the Student Parliament, which includes 7th and 8th grade elementary school pupils and secondary school students. No institutionalised form of participation in the creation of education policies has been foreseen for younger children/pupils. The LFEUS did not devote a specific article to establishing this principle as a principle of action in all situations concerning children in the education system. Thus, this principle of the Convention has not been established in accordance with the standard.

Provisions concerning the child’s right to be heard and his/her opinion taken into account, contained in the Family Law, should also be improved in accordance with General Comment No. 12 of the Committee on the Rights of the Child.

Also, the Draft Law on the Rights of the Child and the Protector of the Rights of the Child does not sufficiently emphasize another dimension — the right of the child to participate in decision-making as a fundamental principle of the Convention. It implies that interpretations, assessments and procedures for the exercise of all other rights under the Convention cannot be viewed and implemented separately and without respecting this principle.

Failure to establish principles in legal solutions results in the lack of implementation of the principle of participation in practice.

Researches show that the participation of children, both in primary and secondary schools, is low and that the existing legal solutions do not ensure the enjoyment of this right as guaranteed by the Convention. According to the survey conducted by the Užice Child Rights Centre, more than half of teachers (60%) do not understand that the principle of participation in the context of implementation of the provisions of the Convention implies that the interpretation and exercise of other rights must be based on this principle/right, and only a few are familiar with the levels of participation (19%) and can distinguish between real and false student participation (16%). More than half of the teachers (54%) know which school decisions children should be involved in. Fewer teachers are aware of the content of the child right to freedom of association and assembly (23%), and the right to assembly (38%), while they are best aware of the content of the right to freedom of thought, conscience and religion (60%). In terms of participation and civil/political rights, teachers in primary schools consider the consultation process with children important (50%), but that the child’s opinion cannot have the same weight as that of an adult (43% of teachers agree, while 25% are undecided), as the child is not competent enough (37% of teachers agree, while 32% are undecided). Although most teachers (two-thirds) believe that children’s privacy should be respected, opinions are rather divided when it comes to the fact that children should have the same civil and political rights as adults (34% of teachers agree with this statement, and 21% are undecided). Most teachers believe that
children should not be allowed organized protests and civil disobedience (more than half of the teachers agree with this, and one quarter are undecided). Most teachers do not recognize situations in which the child’s right to freedom of expression (71%), the right to privacy and the protection of personality and dignity (77%), as well as the right to be protected from arbitrary or unlawful interference with the child’s privacy (69%), and collecting information about the child’s private and family life that is not necessary (69%) are violated. The exception is the right to freedom of thought, conscience and religion, as more than half of teachers recognize the violation of this right (56%).

Furthermore, according to the findings of the Child Rights Centre research “Child-Friendly Justice — Research of the Effectiveness, Participation and Determination of the Best Interest of the Child in Civil Proceedings”, conducted in partnership with UNICEF in 2017, it was found that children’s hearings are performed in accordance with the relevant provisions of the Family Law on the right of the child to express their opinions freely in 6 of 40 court cases examined (15%). The court usually entrusts identification of the child’s opinion to centre for social work, which provides the findings and opinion in a particular case. In order for the court to know the authentic content of the child’s opinion, it is necessary that the child’s opinion be clearly separated from the findings and opinion of the centre for social work, which is not usually the case in practice. In order to overcome this practice, judges are expected to request from the centre for social work to submit a transcript of the interview conducted by a professional with the child when identifying his or her opinion.

**Proposals of the Coalition:**

1. Improve the legal framework pertaining to the education system with provisions on the implementation of the principles of the Convention that are missing, modelled on the way it was done with the principle of non-discrimination (from Article 110 of the LFEUS):

   1.1. Amend the LFEUS with provisions on the implementation of the rights and principles of participation in accordance with the standard stipulated by the Convention and General Comment No. 12 of the Committee on the Rights of the Child;

   1.2. Adopt the Rulebook on implementation of the principles of participation in the education system.
2. Improve the current Draft Law on the Rights of the Child and the Protector of the Rights of the Child by defining the right and principle of participation of children in decision-making (participation) in accordance with the provisions of the Convention and General Comment No. 12.

3. Amend the provisions of the Family Law relating to the right of the child to participate in order to harmonise them with the provisions of the Convention and General Comment No. 12.

4. Continuously strengthen the capacities of professionals in the justice and social care systems to ensure that the principle of participation is consistently respected in practice.

**DX Club:** “The Committee recommends that particular attention be paid to the views of children in the family, at schools, at the courts and in all actions involving the child. It also encourages the state to adopt laws, train professionals, conduct activities in schools to disseminate information on the Convention and the importance of children’s participation in all activities and public policies.”
VIOLENCE AGAINST CHILDREN

FREEDOM OF THE CHILD FROM ALL FORMS OF VIOLENCE

Recommendation of the Committee: With reference to General Comment No. 13 on the right of the child to freedom from all forms of violence, and Sustainable Development Goal 16.2 to end, *inter alia*, all forms of violence against children, the Committee recommends Serbia to establish legislative and other measures to ensure mandatory compliance with the General Protocol and the Special Protocols on the Protection of Children from Abuse and Violence, and ensure that sufficient human, financial and technical resources are available to ensure implementation. In addition, the Committee made a number of recommendations regarding the protection of children from violence in institutions, alternative care, schools, as well as recommendations regarding the organization of zero tolerance campaigns for violence against children (paragraph 33).

Current situation:
Working Group established by the MLEVSA, with the support of UNICEF, has created a Draft Strategy for the Prevention and Protection of Children from Violence from 2018 to 2022 and an accompanying Action Plan. The process of aligning this text with the Law on the Planning System is currently underway and it is uncertain when this strategic document will be adopted.

Proposals of the Coalition:
It is necessary to adopt the National Strategy for the Prevention of Violence against Children and the accompanying Action Plan for the coming period, in order to establish an appropriate comprehensive framework for efficient prevention and protection of children from all forms of violence.

DX Club: “The Committee recommends that all children should be protected from all forms of violence (physical, emotional, electronic, verbal, peer, sexual,
etc). The state should ensure that the child protection system is functional, that the campaigns and trainings for children and adults are developed to contribute to different thinking and better response to violence against children.”

CORPORAL PUNISHMENT

Recommendation of the Committee: The Committee expressed concern that the practice of corporal punishment is currently permitted in the home, and widely accepted in society as a means of disciplining children, and therefore, in light of its General Comment No. 8 (2006) on corporal punishment, it recommends the State Party to: explicitly prohibit corporal punishment in legislation, ensure that the prohibition of corporal punishment is adequately monitored and enforced in all settings, promote positive, non-violent and participatory forms of child-rearing and discipline through awareness campaigns and ensure that offenders are brought before the competent administrative and judicial authorities (paragraph 37).

Current situation:
Explicit ban on corporal punishment of children is still not foreseen by law. The currently available version of the Draft Law on Amendments to the Family Law envisages introduction of this prohibition but does not elaborate on it and it remains to be seen how this will be regulated and when this law will be adopted and enter into force. Also, the Draft Law on the Rights of the Child and the Protector of the Rights of the Child provides for an explicit prohibition of corporal punishment and gives a definition of such treatment.

Proposals of the Coalition:
It is necessary to adequately amend the Family Law, which will foresee the explicit prohibition of corporal punishment in all communities, including the family. In defining the standard of prohibition of corporal punishment, it is necessary to be guided by General Comment 8 of the Committee highlighting the right of
the child to protection from corporal punishment and other cruel or degrading forms of punishment. Also, besides introduction of explicit prohibition in all settings, a series of measures should be taken to promote positive, non-violent and participatory ways of educating and disciplining a child through public awareness campaigns on the harmful effects of corporal punishment on children, and competent state authorities should develop and fund programs for developing parents’ competencies for fulfilling parenting responsibilities and resolving conflict situations in a family without violence.

**DX Club:** “It is recommended that a legal provision explicitly prohibiting corporal punishment of children in the family as a way of education should be adopted as soon as possible. In addition, the state should help and educate adults on how to raise and discipline children non-violently.

**HARMFUL PRACTICES**

**Recommendation of the Committee:** The Committee recommends that the State establish a system to track all cases involving child marriages among ethnic groups, particularly among Roma girls, and provide child victims with shelter as well as appropriate rehabilitation and counselling services, and develop awareness-raising campaigns highlighting the harmful consequences of child marriage (paragraph 38).

**Current situation:**
Although some progress is being made with regard to this recommendation, such as signing of the Memorandum of Understanding on preventing child marriage and improving the position of children and youth in Serbia between the Coordination Body for Gender Equality and UNICEF (2018) and launching a National Coalition to End Child Marriage, consisting of more than twenty organizations and institutions dedicated to the promotion of child rights and efforts to end the harmful practice of child marriages in the Republic of Serbia (2019), there are no major changes in the situation on the ground. It is still estimated that in Roma settlements every sixth girl marries before she turns 15, and more than half marry before they come off age.
The Republic of Serbia does not yet have a system in place to monitor child marriages, and no case records are kept based on ethnicity. As regards children’s shelters, a Shelter for Women Victims of Human Trafficking has started operating in July 2019 within the Centre for Protection of Human Trafficking Victims. It can shelter girls and boys (up to a certain age) but its primary purpose is to house adult victims. At the end of February 2019, the Belgrade Children’s Shelter has started operating at a new address. It is intended for sheltering the most vulnerable categories — neglected, abused and children without parents or guardians, as well as children victims of human trafficking, aged 7 to 18. A part of this facility is a Drop-in Shelter, intended for day-care for street children. Although it also supports children from other cities and municipalities, the Shelter is primarily intended for the most vulnerable categories of youth from Belgrade. Campaigns to raise awareness of the harmful effects of child marriages are generally conducted on ad hoc basis within projects implemented by civil society organizations and have no wider reach or impact.

**Proposals of the Coalition:**

It is necessary to establish a system for tracking child marriage cases and to strengthen cross-sectoral cooperation and coordination in this field.

Funds need to be allocated, a broad campaign designed and continuously carried out at the national level, with the aim of raising awareness of the harmfulness of child marriage.

Adequate funds need to be allocated, support measures should be devised and continuously implemented for girls and women victims of child marriages and their children.
Recommendation of the Committee: In light of its General Comment No. 9 on the rights of children with disabilities, the Committee urges Serbia to adopt a human rights-based approach to disability, and establish a comprehensive strategy to ensure the inclusion of children with disabilities as well as to enhance data collection on children with disabilities, reform the system of social assistance, avoid unnecessary institutionalization and undertake awareness-raising campaigns to combat the stigmatization of and prejudice against children with disabilities; establish legislative and other measures to enable children with disabilities and in need of constant care and assistance to remain with their biological families through services for children and parents and/or through financial support and assistance to parents who are unable to work and generate income because they provide constant care and assistance to a child with a disability (paragraph 44).

Current situation:
There are still no reliable data in Serbia that would contribute to better organization of social and other assistance to children with disabilities and their families or a database through which it would be possible to continuously collect data according to certain indicators. There are no national activities aimed at reducing the stigmatization of children with disabilities or measures at the national level aimed at their inclusion in public life. For children with disabilities from poor families who are a particularly vulnerable group, there are no specific instruments for protecting their financial position within the financial assistance program. There is an increased child allowance (50% increase) which, under the 2018 Law, has become a universal right for all children with developmental difficulties/disabilities regardless of income and property criteria, provided that the child is not placed in an institution. There are two financial assistance options for parents who are unable to work: a) the right to the allowance for care and assistance of another person which, in case of developmental difficulties/disability of
the highest level amounts to about 125% of the minimum net salary, including a social pension for a non-working parent b) absence from work until a child reaches the age of 5 with 100% of income compensation for all five years.

**Proposals of the Coalition:**

A general awareness campaign should be implemented to reduce the stigmatization of children with developmental difficulties and their inclusion in society, public life and education, involving relevant ministries, independent institutions and civil society organizations. In addition, it is necessary to ensure strengthening of social protection services and strengthening of educational capacities, as well as the creation of new services needed for children with developmental difficulties and disabilities, especially in relation to the exercise of the child’s right to live in a family environment. Among other things, it is necessary to redefine and ensure services such as child’s personal assistant, home assistance, pedagogical assistant and the like, as well as to remove obstacles and strengthen the education system to provide inclusive education. Also, it is necessary to establish and intensify intersectoral cooperation and coordination in order to ensure full social inclusion of children with developmental difficulties and disabilities, in all spheres of public life. When it comes to children with disabilities from poor families, increase the weights for the financial social assistance should be increased at least to 0.7 and preferably more. This measure would not have a significant impact on the budget (some estimates say that it is less than 100 million a year).

**DX Club:** “The Committee recommends that the State improve the collection of data on children with developmental difficulties so that it would better know and plan what these children and their families need. It also recommends that the State assist the families of children with developmental difficulties in various ways in order to avoid their placement in institutions whenever possible. Legislative and other measures, campaigns must be undertaken to ensure that these children are fully integrated into community life, that is, respected, equal and accepted by other children and adults.”
STANDARD OF LIVING

Recommendation of the Committee: The Committee recommends that the State party strengthen the support to children living below the poverty line, in particular, single-parent families, families with four or more children and families with children with disabilities, and ensure that social protection measures provide for the real costs of decent living of the children; review the adequacy of cash benefits for children from the point of securing a minimum standard of living and ensure access in terms of information, outreach and user-friendly procedures; simplify the administrative procedures and provisions of support to access cash benefits for families living in the most vulnerable situations (paragraphs 51 and 52).

Current situation:
Although the financial assistance amounts are still low, amendments to the Law on Financial Support to Families with Children as of 2018 has brought some improvements to child allowances (CA): 13th allowance for secondary school children at the beginning of the school year, provided they have attended secondary school regularly and successfully completed the school year; all children with developmental difficulties/disabilities receive an increased CA (regardless of income/property criteria) and the allowance is increased by 30-50% depending on the degree of disability; the right to CA is restricted to a total of four children and not to the first four children in order of birth, which means that a child born after the fourth child will receive it if one of the older children no longer receives it; children from the families beneficiaries of financial social assistance are automatically included in the CA program, which significantly simplifies the process of exercising their rights and the requirement for parents of children receiving CA to have health insurance has been cancelled.

Proposals of the Coalition:
The 13th child allowance needs to be increased to 10,000 RSD and this allowance needs to be introduced also for children of primary school age in the amount of 5,000 RSD and the weights should be increased for children 14+ who are beneficiaries of financial social assistance from 0.3 to 0.5.
Recommendation of the Committee: The Committee recommends that the State strengthen efforts to promote inclusive education for all children, particularly the most vulnerable, and ensure that adequate human, financial and technical support are available to implement the provisions outlined in the Law on the Fundamentals of the Education and Upbringing System. Also, the Committee highlights the need to ensure equal access to early education programmes for all children and provide the necessary funding to establish adequate pre-school and school facilities, along with appropriate training for teachers (paragraph 55 b and g).

Current situation:
Today, there is a significant number of refugee and asylum-seeking children in Serbia. During the first six months of 2019, 1,061 children expressed the intention to seek asylum in the Republic of Serbia, of which 355 were not accompanied by parents or guardians. It is often the case that the education of these children has been either interrupted or that timely inclusion in the education system has not been enabled. Domestic legislation stipulates that it is necessary for all children to be included, without delay, in the formal education system of the Republic of Serbia, including foreign citizens, stateless persons and citizenship applicants, under the same conditions as the citizens of the Republic of Serbia.

Collaboration of the Ministry of Education, Science and Technological Development, the Commissariat for Refugees, UNICEF as well as other international and non-governmental organizations has led to all asylum-seeking children being included in the primary school system in the 2017/2018 school year. In the 2018/2019 school year, a total of 383 children from migrant families, of whom 82 were unaccompanied minors, have been included in the education system in Serbia, in 40 primary, 10 secondary schools, as well as 10 pre-school institutions. The novelty in the 2018/2019 school year is that starting from this school year begins the enrolment of children from migrant families in the compulsory preparatory pre-school program.
Enabling adequate education for all children in the territory of Serbia is essential. Challenges that arise in practice are numerous and parents are often not interested in their children’s educational activities, leading to failure to attend classes. The most common reason for this is the fact that parents do not want Serbia to be their final destination, because they believe that their stay in Serbia is temporary, which further leads to the lack of motivation to enrol the children in school. Also, the problem with the education of this category of children is that refugee and asylum-seeking children often do not speak Serbian, which makes it difficult for them to attend school and acquire knowledge and develop skills. Lack of knowledge of the language often affects the motivation of children, as well as the inability to understand the classes they attend.

Furthermore, children who are most at risk of not attending school are children of pre-school and high school age due to legal regulations, which stipulate that only primary education is compulsory in Serbia.

The inclusion of children and young refugees and asylum seekers in the education system should be one of the main components of integration and migration policies, since education is one of the crucial elements of further integration into Serbian society, which then leads to the decrease of marginalized groups and other problems.

**Proposals of the Coalition:**

Empowerment for schools and teachers is necessary so that they could best deal with the challenges they face in working with refugee and asylum-seeking children. Furthermore, it is necessary to strengthen the capacities of teachers in order to most effectively adapt their teaching and teaching materials to refugee and asylum-seeking children, as well as effective teacher training for working with this category of children. Also, it is necessary to intensify the Serbian language classes for these children in order for them to adapt as readily as possible to the educational conditions in the Republic of Serbia and to acquire knowledge and progress in education.

**DX Club:** “The Committee recommends that the state develop programs to reduce school dropouts. It should also promote education for all children and provide all children with developmental difficulties the right to education in mainstream schools. The state should also strengthen its efforts
to ensure that children from rural areas and small towns and remote places have better access to quality education. It should facilitate the participation and inclusion of Roma children in education. It is particularly important to ensure that every child can attend kindergarten, whether or not his/her parents are employed.”
Recommendation of the Committee: The Committee recommends the State party, regarding treatment of separated and unaccompanied children, to establish fair and efficient asylum procedures which are carried out in a child-sensitive manner and consider amending relevant national legislation, including the Law on Asylum. Also, the State is recommended to ensure systematic identification of unaccompanied and separated children and refer them for appropriate protection system, as well as to provide accommodation for these children in foster families or other accommodation facilities in line with best interests assessments conducted on an individual basis (paragraph 57).

Current situation:
The Law on Asylum and Temporary Protection, which was adopted in 2018, brought significant innovations regarding the protection of the rights of the child in the asylum procedure in the Republic of Serbia. Despite the fact that the legal solutions are largely in line with international standards, Serbia has still not enabled the implementation of certain legal provisions that would lead to the establishment of a child protection system in its territory.

The Asylum Office applies the principle of the best interests of the child in all decisions on asylum applications of unaccompanied and separated children. However, this is not the case when deciding on asylum applications when children are accompanied by their parents, despite the provisions of the Law on Asylum and Temporary Protection, which guarantees implementation of the provisions of the law in accordance with the principle of the best interests of a minor.

Further, the law stipulates that procedures for asylum applications of unaccompanied children should be prioritized over other procedures. Nonetheless, this provision is hardly respected in practice and thus, during the first six months of 2019, a considerable number of children waited for several months for the Asylum Office to schedule an oral hearing in the asylum procedure. Also, no first instance decision was made in the cases of children who applied for asylum in
2019. This leads to the conclusion that procedures for asylum applications of all children take an unjustifiably long time, contrary to legal provisions and international standards.

The principle of providing special procedural and admission guarantees is guaranteed by Article 17, which stipulates that the asylum procedure takes into account specific situation of persons who need special procedural or admission guarantees, including minors and unaccompanied children. Furthermore, asylum-seekers including children are provided with appropriate assistance when, given their personal characteristics, they are unable to exercise their rights and obligations without adequate assistance. However, such a broadly defined provision does not mean much in practice and is almost never applied.

The observed problems with the treatment of unaccompanied and separated children include inadequate guardianship throughout the country as well as insufficient number of adequate alternative child care. The procedure for assigning a temporary guardian often takes several weeks and during this time children stay in an asylum centre or reception centre. The quality of service provided by the centres for social work in these centres is often insufficient due to the insufficient number of employees and too much work that these professionals often have.

Furthermore, on the territory with the largest number of unaccompanied and separated children in Serbia, during the first six months of 2019, one guardian was responsible for taking care of at least 26 children, and one case manager of over 175 children, despite the fact that one case manager should not be in charge of so many children as this has a significant impact on the quality of work.

Another problem that arises in practice is the unlawful placement of children under collective guardianship at the Asylum Centre in Sjenica by a decision of the Centre for social work in this town, despite the fact that the law stipulates that centre for social work may appoint only a temporary guardian to unaccompanied and separated children. Also, collective guardianship of children housed in the Sjenica Asylum Centre is performed by one person, who often takes care of several dozen children. A large number of children placed under the protection of one person raises the question of the quality of the guardianship that should be in the best interests of the child. In addition, funding for the work of the guardians is usually provided through projects of civil society organizations, which leads to the conclusion that it is necessary to increase the funds that the state of Serbia would allocate for the optimal work of guardians.

In spite of legal solutions for alternative childcare, which stipulates that the decision on accommodation is made by the competent guardianship authority, in
practice it is often the case that the initial decision on accommodation is made by the Ministry of Interior, when registering children who express intention to seek asylum in the Republic of Serbia and the decision is made based on the available capacities of the asylum centres. Also, of concern is the fact that the RS police officers register children without the presence of a temporary guardian. This is contrary to the Law on Asylum and Temporary Protection, which requires that the intention to seek asylum in the Serbia be expressed by the parent or guardian on behalf of the child.

The law stipulates that an unaccompanied child accommodated in an asylum centre or reception centre who has already applied for asylum in Serbia is provided with alternative accommodation by a decision of the guardianship authority. Alternative accommodation may be a social care institution, placement with another accommodation provider or a family. However, in practice, alternative accommodation for children is rarely provided, they are most often housed in asylum centres.

Proposals of the Coalition:

All children’s asylum applications must be resolved as soon as possible. It is necessary for the practice to be harmonised with the recommendations of the Committee on the Rights of the Child with regard to the accommodation of unaccompanied and separated children in asylum centres where only children are housed, and which are tailored to their needs and guarantee safety. The practice of placing children in asylum centres where adults are staying must be stopped. In other words, the state must provide special accommodation facilities that fully respond to the needs of unaccompanied and separated children. Further, the state must take the necessary measures to provide alternative care for children deprived of family environment. The state must provide an adequate guardianship system, which is currently, for the most part, funded by the civil sector. Then, the practice of registering unaccompanied and separated children by the Ministry of Interior officers without the presence of a temporary guardian must urgently stop and the provisions of the Law on Asylum and Temporary Protection as well as the Family Law regulating this issue must be applied.

DX Club: “The Committee recommends that the Republic of Serbia ensure that children who have been forced to leave their country are fully integrated into the existing child protection system, especially unaccompanied or sep-
arated children. This means that they should be able to attend school, have accommodation that responds to their needs and receive necessary professional assistance and support."

**SEXUAL EXPLOITATION AND HUMAN TRAFFICKING**

Recommendation of the Committee: The Committee recommends that the State establish adequate and coordinated mechanisms for identification and protection of child victims of trafficking, including systematic and timely information sharing among relevant officials, and strengthen the capacity of police officers, border guards, labour inspectors and social workers to identify child victims of trafficking (paragraph 63a).

**Current situation:**

Compared to the previously observed period, there has been some progress in this area.

(1) Within the Ministry of Interior reform, the competence regarding combating human trafficking has been transferred from the Border Police Directorate to the Criminal Police Directorate, (2) At the end of January 2019, Standard Operating Procedures for Treatment of Victims of Trafficking in Human Beings, have been adopted with the aim to coordinate national activities for combating human trafficking and harmonise actions of the competent state bodies and other organizations and institutions relevant for the fight against human trafficking, (3) Action Plan for the period 2019-2020 of the Strategy for the Prevention and Suppression of Trafficking in Human Beings, Especially Women and Children, and Protection of Victims outlines measures and activities aimed at combating child trafficking, especially within the fifth strategic objective. (4) The Centre for the Protection of Victims of Trafficking in Human Beings continues to build its central coordination role in the system of victim protection and the national referral mechanism, (5) Guidelines for identification of unaccompanied children in the Republic of Serbia (2017) have been developed. However, cooperation between relevant institutions and organizations specialized in the field of prevention and combating trafficking in human beings remains unsatisfactory. In comparison to the previous period, a number of Memoranda of Understanding have been signed, but for most of them, especially when it comes to ministries, it is nec-
necessary to additionally edit by-laws, regulations, instructions on procedures and the like, to ensure the implementation of the basic idea because of which the memoranda were signed.

The need for better communication and data monitoring is also confirmed by one of the activities in the Action Plan, which envisages the establishment of a single data collection model, along with harmonisation of the methodology of data collection and statistical processing in the competent authorities.

Although foreseen in the Action Plan for 2019, at the time of writing this document no specific indicators for formal identification of human trafficking victims have been created for the Centre for the Protection of Victims of Trafficking in Human Beings, nor the indicators for preliminary identification of human trafficking victims among the migrant and refugee population.

The transnational referral mechanism for victims of trafficking in human beings is still, to a large extent, based on informal contacts.

**Proposals of the Coalition:**

1. Continue the work on developing and implementing indicators for identification of children and adult victims at all stages and for all forms of human trafficking.

2. Continue investing resources in enhancing the capacities, skills and knowledge of employees of relevant institutions for more successful outcomes in the field of prevention and combating trafficking in human beings, especially children.

3. Continuously improve cross-sectoral cooperation and cooperation of all organizations and institutions involved in the fight against trafficking and exploitation of children.

4. Improve implementation of the Standard Operating Procedures for Treatment of Victims of Trafficking in Human Beings, based on experiences from the practice and learning through concrete case studies.

**Recommendation of the Committee:** The Committee recommends that the State party ensure that child victims of trafficking are provided with specialized care, support and appropriate accommodation (paragraph 63b).
Current situation:

Compared to the previously observed period, there is a shift in terms of opening the Belgrade Children’s Shelter, which is intended to accommodate the most vulnerable categories, including children victims of human trafficking. Although in exceptional circumstances it also provides support to children from other towns and municipalities, the Shelter is primarily intended for the most vulnerable categories of youth from Belgrade. Also, a child can stay in this institution for a maximum of 6 months and during this period he/she is provided with the support that is considered to be the most appropriate. At the end of the six-month period, the children may be placed in their biological, kinship or foster family, home for children or the Institute for Upbringing of Children and Youth. The issue of adequate housing for child victims of human trafficking in other towns and municipalities in Serbia remains unresolved. One of the measures in the Action Plan of the Strategy for the Prevention and Suppression of Trafficking in Human Beings is related to “raising the capacity for emergency care of child victims of trafficking as well as specialized foster care programs for child victims”.

Also, it is still very difficult to obtain data on the services provided to children in specific cases, as well as on the assessment of the quality of those services. Under the pretext of protecting the privacy of the child, children are rarely referred to specialized services provided by non-governmental organizations, and preference is given to services within the state social protection system, which is often inadequate, not specialized in human trafficking trauma and traditionally lacking human and other resources.

Proposals of the Coalition:

1. Provide adequate accommodation for child victims of trafficking that will be accessible to child victims from all over Serbia.

2. Continuously monitor the needs of child victims of human trafficking and accordingly develop adequate programs for strengthening the capacities of social protection professionals to respond to these needs.

3. Assess which specialized services for child victims of trafficking are missing and, based on the findings, create and implement appropriate programs and services.
**DX Club:** “The Committee recommends that the State develop the best possible means of identifying and protecting children victims of human trafficking. It also stresses the importance of police officers, especially those working at the border, labour inspectors and social workers, being trained to recognize children who are victims of trafficking. The state should ensure that these children receive special care, support and adequate housing.”

### CHILDREN IN CONTACT WITH THE LAW

**Recommendation of the Committee:** While the Committee notes as positive efforts undertaken to reform the juvenile justice system, it remains concerned that due to funding constraints, existing provisions that provide alternatives to detention are not being fully implemented, and it is further concerned at reports of abuse of children deprived of liberty, and therefore, in accordance with its General Comment No. 10 (2007) on children’s rights in juvenile justice, it urges the State to bring its juvenile justice system fully into line with the Convention and other relevant standards (paragraphs 64 and 65).

**Current situation:**

- **Child offenders** — There are still no adequate alternative measures to pre-trial detention, diversionary orders are insufficiently implemented, and there are no adequate programs at the community level to work with juvenile offenders (criminally responsible persons who have turned 14), as well as with children in conflict with the law, who are under 14. All this represents a violation of international standards and a cause for concern. There have been various project initiatives in the previous period, but a sustainable, systemic solution that would be in line with the relevant international standards has not yet been found.

- **Child victims and witnesses of crime** — Children who are injured parties and witnesses in criminal proceedings still have no support, either from the budget of the Republic of Serbia or from project funds. This issue should also be addressed through amendments to the Law on Juvenile Offenders and Criminal Protection of Minors in order to find a sustainable solution to support children who are injured parties and witnesses with the aim of reducing secondary victimization and overcoming the trauma they suffered.
The only step forward is the establishment and active role of the Council for monitoring and improving the work of the authority conducting criminal proceedings and implementation of criminal sanctions against minors, and the preparation of the Draft National Strategy on the Rights of Victims and Witnesses of Crime and the accompanying action plan.

**Proposals of the Coalition:**

The Law on Juvenile Offenders and Criminal Protection of Minors needs to be amended so as to harmonise the provisions on the protection of child offenders and child victims and witnesses of crime with the Convention and General Comment No. 10. Furthermore, adequate financial resources should be ensured and the capacities of professionals improved in order to fully implement diversionary mechanisms, alternatives to detention and support measures for children victims and witnesses in criminal proceedings and their families at a national level.

**DX Club:** Child offenders — “The Committee recommends that judges constantly learn how to work with children and that court proceedings and premises be adapted to children and youth. Children in conflict with the law should be provided with quality and free legal aid. Changes in their behaviour should be influenced first through counselling, mediation, probation or socially beneficial work. Detention should be used as a last resort and be as short as possible. If a child still has to go into custody then it is important to take into account the conditions in which he or she lives, that he/she could continue his or her education and be treated.”

Child Victims and Witnesses of Crime — “The Committee recommends that children who are victims or witnesses of a crime not be repeatedly questioned about the incident, that interviews be conducted without the presence of the accused and that specially trained professionals talk with them in a way that the children understand. This would prevent them from being exposed to re-traumatisation.”
Recommendation of the Committee: The Committee recommends that Serbia, in order to further strengthen the fulfilment of children’s rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (paragraph 73).

Current situation:
The Republic of Serbia was among the first countries to sign the Third Optional Protocol to the Convention on the Rights of the Child on a communications procedure, but five years after its signature, the Protocol has not yet been ratified. Civil society organizations have initiated several advocacy actions for urgent ratification because there is no legal or factual reason for not ratifying the signed international document. Once again, we point out the importance of this document that for the first time gives children and their representatives the opportunity to file a complaint with an international body — the Committee on the Rights of the Child — when they fail to exercise a right at the national level. This mechanism provides concrete protection and satisfaction to a child whose right has been violated, while being useful for improving the practice of States Parties to the Convention on the Rights of the Child, because through this procedure the Committee on the Rights of the Child provides interpretations and recommendations for improving the procedures and substantive provisions of national legislation. In this way the rights guaranteed by the Convention on the Rights of the Child are directly exercised, both in a specific case being decided on and in future similar cases and situations.

Proposals of the Coalition:
The Third Optional Protocol to the Convention on the Rights of the Child on a communications procedure needs to be ratified urgently.
Recommendation of the Committee: Reiterating its previous recommendations the Committee urges the State to expeditiously establish in domestic legislation an explicit definition of the crime of the sale of children and ensure that it is incorporated into relevant legislation in accordance with articles 2 and 3 of the Optional Protocol (paragraph 69a).

Current situation:
In 2018, the Centre for Protection of Trafficking Victims formally identified 32 minor victims (which is 42% of the total number of identified victims). 94% of the victims were girls, mostly victims of sexual exploitation (16), forced marriage (6) and multiple exploitation (7). The vast majority of the identified victims (93%) are Serbian citizens. It is assumed that the number of child victims is greater than the above and that part of them remains unrecognized among juvenile offenders or even prosecuted and punished for offences committed under duress due to insufficient sensitivity of the police, judiciary and other relevant institutions to identify potential victims of trafficking. Action Plan of the Strategy for the Prevention and Suppression of Trafficking in Human Beings, within the Activity 5.1.2. announces that the Working Group for amendments of the Criminal Code will analyse the problems and provide solutions for the implementation of recommendation 69a, however, the few reports on the activities of this Group do not mention incrimination of child trafficking as a topic.

Proposals of the Coalition:
It is necessary to adopt as soon as possible amendments to the Criminal Code to incriminate the sale of children in accordance with Articles 2 and 3 of the Optional Protocol in order to promote the child protection, especially protection of children at risk of becoming victims of crimes with elements of violence.