



**SUMMARY OF
THE ANALYSIS
OF THE REPUBLIC
OF SERBIA'S
LEGISLATION
FROM THE PERSPECTIVE
OF CHILD'S RIGHT TO
A HEALTHY ENVIRONMENT**

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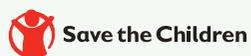
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BRIEF OVERVIEW OF THE CONTEXT

Violation of the child's right to a healthy environment has serious consequences for children's lives. According to the **World Health Organization's** report, between 1.7 and 5.9 million deaths of children under age five each year are related to environmental pollution that could have been prevented. Air pollution alone caused 570.000 deaths in children under five due to respiratory infections such as pneumonia.¹

The Committee on the Rights of the Child, in its [Report of the 2016 Day of General Discussion on Children's Rights and the Environment](#), pointed out that violations of child's rights to a healthy environment have lifelong and transgenerational consequences, posing a human rights challenge. This document stresses that the violation of the child's right to a healthy environment is a global problem and that due to the states' failure to protect the environment, children everywhere in the world suffer violations of many rights, in particular the right to life, development, health, food, water, education, culture, play and other.²

The UN Special Rapporteur on human rights and the environment also clearly recognises the value of creating a healthy and sustainable environment and special protection of children as a vulnerable group. The 2018 **Report of the UN Special Rapporteur** on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment points out that states' human rights obligations relating the environment must be strengthened especially with respect to children who are particularly vulnerable to environmental pollution and often unable to protect their rights³. The report points out that states have a duty to take efficient measures to protect children from real and foreseeable environmental damage, while primarily taking into account the best interests of the child in every decision-making process. The report also stresses the importance of education in the field of environmental protection, transparency of information and children's participation in decision-making, as well as strengthening mechanisms for protecting the child's rights to a healthy environment in case of violation of their rights.

The child's right to a healthy environment is guaranteed by international documents that recognise and stress the importance of environmental protection and the creation of a healthy environment for children.

Article 24 of the **Convention on the Rights of the Child** guarantees the child's right to health and obliges States Parties to prevent the dangers and risks of environmental pollution, having in mind that environ-

1 The World Health Organization's report "Don't pollute my future!" — available at <https://www.who.int/publications/i/item/WHO-FWC-IHE-17.01>

2 The UN Committee on the Rights of the Child's "Report of the 2016 Day of General Discussion — Children's Rights and the Environment" — available at <https://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2016/DGOutcomereport-May2017.pdf>

3 UN Human Rights Council, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 24 January 2018, A/HRC/37/58, available at <https://undocs.org/A/HRC/37/58>

mental pollution endangers the health and well-being of children. This document recognises the importance of the education of children about environmental protection. Article 29 of the Convention, which refers to the child's right to education, requires States Parties to direct the education of the child, inter alia, to the development of respect for the natural environment. The child's right to a healthy environment is closely linked to the implementation of the basic principles of the child's rights (the right to non-discrimination, the right to the best interests of the child, the right to life, survival and development and the right to participate), but also to the exercise of many other rights guaranteed by this document, such as the right to identity, the right to freedom of expression and access to information, the right to freedom of peaceful assembly and association, the right to leisure, play, recreation and cultural activities and other.

The practice of the **UN Committee on the Rights of the Child** also points to the importance of respecting and protecting the rights of the child to a healthy environment. The **Concluding Observations of the Committee on the Rights of the Child** for various countries also contain recommendations for improvements related to violations of the right to a healthy environment, such as environmental degradation and pollution, toxic waste, air pollution and greenhouse gas reduction, climate change, environmental education, the right to access information, children's participation in decision-making and the business sector's environmental impact⁴.

The UN Human Rights Council Resolution on the Rights of the Child: Realizing the rights of the child through a healthy environment⁵ also recognises and stresses the importance of exercising the child's right to a healthy environment. This document highlights that denying the child's right to a healthy environment prevents the full enjoyment of many other rights by children, such as the right to life, health, living standards, education, the right of the child to be cared for by his or her parents, the right to rest and leisure, to engage in play, as well as the right of the child to be protected from economic exploitation. **The States parties are obliged to take measures to prevent environmental harm and to protect the rights of children, given that they are particularly vulnerable to the effects of environmental harm.** These measures include improving legislation and policies, but also preventing harmful practices of air, soil, water, food pollution, the loss of biodiversity, preventing climate change and other, as well as investing efforts by states to meet their obligations under multilateral environmental agreements and to achieve the **2030 Agenda Sustainable Development Goals.**

One of the important aspects of exercising the child's right to a healthy environment, which is recognised in this document, is the active participation of children in making decisions about the environment. **The Resolution encourages States parties to ensure children's inclusive participation in environmental decision-making processes that are likely to affect their development and survival.** The child's right to a healthy environment is also recognised in the framework of guaranteeing the child's right to education and recognising the importance of raising young people's environmental awareness and improving education that prepares them for the future.

4 UNEP, Children's Rights and the Environment Guidance On Reporting To The Committee On The Rights Of The Child, available at <https://wedocs.unep.org/bitstream/handle/20.500.11822/34181/CRE.pdf?sequence=1&isAllowed=y>

5 Human Rights Council, Rights of the child: realizing the rights of the child through a healthy environment, 5 October 2020, A/HRC/45/L.48/Rev.1, available at <https://undocs.org/A/HRC/45/L.48/Rev.1>

The EU Strategy on the rights of the child⁶ also recognises the importance of raising awareness about the importance of a healthy environment as a basis for changing and improving a democratic society, as well as the participation of children in building it. This document provides various measures for achieving participation and enhancing environmental awareness, such as regular consultation with children in the context of the **Conference on the Future of Europe and the implementation of the Climate Package and Green Deal**, as important strategic documents in the field of environmental protection.

The national legal framework of the Republic of Serbia does not recognise the child's right to a healthy environment or guarantee it as a special right, but it is protected through the legal framework that guarantees everyone the right to a healthy environment. Thus, the **Constitution of the Republic of Serbia**, as the highest legal act, guarantees everyone the right to a healthy environment and timely and full information about its state, which indirectly also applies to children.⁷ In the Republic of Serbia, currently there is no legislative framework that thoroughly regulates the exercise and protection of the child's right to a healthy environment in a systematic way, *but there are a large number of laws and bylaws governing various areas of environmental and nature protection, as well as laws that regulate other legal areas, such as education, health, association, information, etc.*

The Law on the Rights of the Child, as a reference law for exercising and protecting the rights of the child, has not yet been adopted. The latest Draft Law on the Rights of the Child and Ombudsperson for Children contains the provisions that guarantee every child the right to life and development in a healthy and safe environment, as well as the right to be informed about environmental protection, to actively participate in creating and maintaining a healthy environment and acquire knowledge about the environment, flora and animal welfare. It also stipulates the obligation of public authorities to *ensure for all children, regardless of their personal characteristics and different living environments, protection from the pollution of air, water, food, as well as protection from inadequate sanitation, toxic agents, disease vectors, ultraviolet and other harmful radiation and from degraded ecosystems, including flora and fauna*⁸. *The part regulating the right to education, within the goals of education, also prescribes the obligation of public authorities to ensure that the child's education is directed towards the development of respect for the environment, including respect for flora and fauna.*⁹

This [Analysis of the Republic of Serbia's Legislation from the Perspective of Child's Right to a Healthy Environment](#) is aimed at mapping the legislative framework that regulates various areas of environmental protection and to which extent the existing legislative framework recognises the aspect of child rights. It also aims to serve as a reference document for further analysis, practical implementation and advocacy for amendments to legislation in the field of protection of the child's right to a healthy environment. *Having in mind the complexity of this area, we have analysed the Republic of Serbia's legislation regulating the areas of air pollution, waste management, water pollution, biodiversity protection, climate crisis and adaptation to climate change and noise protection, in the context of exercising the child's right*

6 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Strategy on the rights of the child, 24.3.2021. COM(2021) 142 final, available at https://eur-lex.europa.eu/resource.html?uri=cellar:e769a102-8d88-11eb-b85c-01aa75ed71a1.0002.02/DOC_1&format=PDF

7 Article 74 of the Constitution of the Republic of Serbia

8 Article 16 of the Draft Law on Child's Rights and Ombudsman for Children, available at <https://www.paragraf.rs/dnevne-vesti/070619/070619-vesti15.html>

9 Article 68 of the Draft Law on Child's Rights and Ombudsman for Children, available at <https://www.paragraf.rs/dnevne-vesti/070619/070619-vesti15.html>

to a healthy environment, as well as legislation relevant to the exercise of the child's right to information about environmental protection, children's participation in policy-making and the exercise of the child's right to education. These areas have been selected on the basis of the previous mapping of challenges in exercising the child's right to a healthy environment through the perspective of children and youth in the research "[Rights of the Child to a Healthy Environment in the Republic of Serbia](#)", conducted by the Child Rights Centre in March and April 2021 as part of the project "Children's Rights in Policies and Practice", implemented by the Child Rights Centre in partnership with Save the Children International, and funded by the Government of Sweden.

CONCLUSIONS AND RECOMMENDATIONS

The Analysis of the Republic of Serbia's Legislation from the Perspective of Child's Right to a Healthy Environment shows that this area is insufficiently recognised in the legislation of the Republic of Serbia.

There is **no systematic legislative framework** in this area, but the area of the child's right to a healthy environment is indirectly regulated through a legislative framework that governs various areas of environmental protection or other legal areas.

As regards the regulations related to air pollution, waste management, water pollution, biodiversity protection, spatial planning and adaptation to climate change and noise protection, the findings of this analysis have shown that the legislative framework does not sufficiently recognise children as a particularly vulnerable group, nor does it contain provisions that would ensure an additional level of protection for children or specifically apply to children. The legislative framework contains the obligation of adopting strategic documents in all these areas, but this obligation is also of a general nature and does not include a clearly prescribed obligation to define special measures in strategic documents for protecting the rights of the child and ensuring the child's right to a healthy environment. This practically means that **the child's right to a healthy environment at this moment is realised only indirectly through the general protection of all citizens and the exercise of their right to a healthy environment, as guaranteed by the Constitution**. However, this approach indirectly means compromising the rights of the child, because it does not respect the specific characteristics of children as a particularly vulnerable group and the fact that environmental pollution has a much greater impact on the health of children than on other citizens, which means that children need additional protection measures.

An additional problem is the fact that the **legislative framework in the analysed areas is complex and insufficiently systematised and coordinated, which calls into question the efficiency of its implementation in practice**. The complexity of regulating the area of waste management is especially stressed here, but this problem is also present in other analysed areas. Previous reports on all analysed areas point to the problem of inefficient implementation of stipulated provisions in practice, which indicates the problem of poor monitoring, but also raises the question of the quality of legislative solutions, their accuracy, systematicity and coordination. Insufficient implementation of legislative provisions in practice is an additional problem in terms of protection of child's rights to a healthy environment because the legislative framework not only does not recognise the aspect of children as a vulnerable group, but its poor implementation fails to provide a basic level of child protection as part of the general protection of all citizens of the Republic of Serbia.

The legislative framework of the Republic of Serbia neither recognises nor ensures the sufficient participation of children in the making of local policies in the field of environmental protection and sustainable development. Mechanisms for children's participation in local policy making have not been developed, while the existing mechanisms mainly include citizens who have the right to vote and exclude children. However, some new legal solutions, such as the Decree on the Methodology of Public Policy Management, Policy and Regulatory Impact Assessment, and Content of Individual Public Policy Documents, provide a basis for further creation of mechanisms that will ensure children's efficient participation in local policy making and development of strategic and planning documents that concern them personally. At the moment, the legislative framework provides greater opportunities for children to influence the creation of local policies through eco-activism and act through citizen associations or informal associations than through mechanisms developed within local self-governments that are almost non-existent.

As regards the **child's right to information** about environmental protection, which is one of the conditions for efficient participation of children, this analysis shows that this right is exercised mainly by prescribing the obligation for public authorities to make environmental protection information available also by protecting the right to free access to information of public importance through the work of the [Commissioner for Information of Public Importance and Personal Data Protection](#). However, **the legislative framework does not include the obligation of making all information available in a child-friendly language, which seriously compromises the full exercise of the child's right to information.**

The legislative framework neither sufficiently provides a basis for exercising the right to education about environmental protection. This is especially due to the fact that the most important subjects — Civic Education, Nature Keepers and Sustainable Development, whose curricula are directly related to human rights, child's rights, environmental protection and sustainable development, are elective subjects and as such cannot ensure the full exercise of this right. This applies to both primary and secondary education and requires a change in terms of the urgent introduction of a mandatory subject in this area.

All this leads to the conclusion that the **Republic of Serbia has yet to improve the legislative framework in the field of environmental protection in order to recognise and respect the specifics of children as a vulnerable group and provide a framework for effective exercise and protection of children's rights to a healthy environment.**

Recommendations

- 1** **Urgently adopt the Law on the Rights of the Child**, which would contain also the provisions governing the child's right to a healthy environment.
- 2** **Improve the existing legislative framework** in the field of air pollution, waste management, water pollution, biodiversity protection, spatial planning, climate change adaptation and noise protection so that it recognises and respects the specifics of children as a vulnerable group and ensures full exercise of child's rights to a healthy environment in all these areas.
- 3** **Improve the legislative framework in other areas of environmental protection** so that it **recognises the aspect of the child's right to a healthy environment**.
- 4** In the existing legislative framework for environmental protection, **amend the provisions on the obligation to adopt strategic documents, in order to include the obligation to define special measures related to children in all strategic documents**.
- 5** **Improve mechanisms for children's participation in local policy making**.
- 6** **Ensure that all public information in the field of environmental protection is transparent and accessible in a child-friendly language**.
- 7** **Improve the education system related to environmental protection** at all levels of education.
- 8** **Introduce a mandatory subject in primary and secondary schools whose curriculum includes the issues of human rights, child's rights, environmental protection and sustainable development**.

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THE CHILD RIGHTS CENTRE IS AN ASSOCIATION OF CITIZENS ESTABLISHED IN 1997 WITH THE MAIN AIM OF IMPLEMENTING CHILD RIGHTS IN SERBIA IN ACCORDANCE WITH THE UN CONVENTION ON THE RIGHTS OF THE CHILD. THE MAIN COURSE OF ACTION OF THE CENTRE IS AIMED AT CREATING A FAVOURABLE INSTITUTIONAL, LEGISLATIVE AND STRATEGIC FRAMEWORK FOR THE FULL ACHIEVEMENT OF CHILD RIGHTS IN SERBIA THROUGH ACTIVITIES FOCUSED ON THE INTRODUCTION AND IMPLEMENTATION OF LAWS, POLICIES AND PRACTICES THAT CONTRIBUTES TO THE CHILD'S WELL-BEING AND PROTECTION, AS WELL AS TO THE ACTIVE PARTICIPATION OF CHILDREN IN SOCIETY.

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