



A follow up report on Serbia's UPR second cycle

Regarding Child Rights

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Belgrade, Serbia

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

Data used in this Report are results of continues monitoring of child rights implementation performed by Child Rights Centre, Coalition for monitoring child rights in Serbia, consisted of 20 organization, including PRAXIS, ASTRA and Uzice Child Rights Centre whose analyses and data are used in this Report.

Summery

On 24 June 2013 the member States of the United Nations Human Rights Council submitted recommendations to the Government of Republic of Serbia as part of second 4-year cycle of its Universal Periodic Review of Human Rights (UPR). Serbian government accepted all but 5 of these recommendations. The recommendations regarding children were numerous – and all of them accepted by Government. Recommendations were presented on Public hearing in National assembly and Government showed willingness to take them into account in future action.

The hope of civil society engaged in this process was big, particularly towards implementation of those recommendation that were simple, one step action or decision by Government or National Assembly. Yet, hopes were not met within first two years of its implementation. For most parts/recommendations, there is a status quo. In some, such as freedom of media there is a slight retrograde moving. Even though Republic of Serbia is accessing process with EU and all actions in human rights department are closely follow by EU administration, the process of improvement is still very slow.

In general, the good move was that Government appointed the Council for following implementation of international UN human rights mechanisms (Recommendation:131.4. Consider establishing a national organ to monitor implementation of the recommendations of UN human rights mechanisms (Ukraine). Civil society will cooperate with Council in this process. Memorandum of understanding and cooperation with Council shall be signed. During 2015, on several meetings, were discussed models of this cooperation. We expect this process to be finalized at the beginning of 2016. Also, Strategy for combating discrimination and its action plan has been adopted with full cooperation of civil society.

On the other hand, the unpleasant surprises was that Assembly did not accept the amendment of Law on Police that should have allowed Police to provisionary (temporarily) remove violent member of the family from family home without prosecutor order. That means that violent member of the family can stay in a home until this order, custody order or family court decision on such a measure is issued. Consequently, there is no efficient immediate protection from further violence in every case. Between those two margins (of appreciation and disappointment) fell all others registered results within child rights.

Recommendation concerning primarily children and observed development

1. Consider enacting the draft law on the Rights of the Child at the earliest convenience (131.6.)

Not implemented. There is no evidence of any action or intention of action towards drafting such law at present time.

2. Adopt the Law on the Ombudsman for the Rights of the Child (131.8.)

Not fulfilled but taken into action. The draft law is on public debate at the moment. However, the presented draft law goes with a concept of Ombudsman for children as a promoter of child rights and a monitor. The ombudsman would have no power to take complaints from children and their guardians or the issue any kind of order to administrative bodies. Since the civil society is very well developed in Republic of Serbia and already promote child rights and monitor them, this law (if adopted with presented concept) would not add significantly to the state of child rights. Children needs the institution that will take their complains and complains by theirs guardians and can investigate the situation and make effective recommendation and pressure on administrative bodies in order to improve practice and help children to fulfill rights.

3. Remove the barriers that hinder the effective accessibility of boys and girls with disabilities to education (132.87.)

Partially fulfilled. Within Second cycle of UPR debate, Republic of Serbia considered that there are some actions already taken with respect of this recommendation. We share this opinion, since there is a legal obligation for all public facilities to be accessible. However, not all facilities are accessible to the children with disabilities. Some are accessible outside but not inside the schools/facility. We think that, as long as there are local communities in which child has not full access to the school, discriminatory practice exists. It is obligation of a State not only to put some rule and responsibility in law but to insure that responsibilities are fulfilled by all obligated parties.

We again ask Government of Serbia to examine and to inform public on result of examination that is, data for each school on this issue - how many school has all facilities (outside and inside) equipped for children with disabilities

4. Prohibit corporal punishment of children in all surroundings (multiple recommendations)

Not implemented. Family is the only surroundings where there is no clear and explicit prohibition of corporal punishment of children. Still, there is not such law provision. However, working group for drafting new Family law, where this issue shell be regulated, has been appointed. Civil society closely follows the process and lobby for this issue in order to insure that provision is incorporated in the law.

5. Improving domestic violence protection - shortening the of proceedings, improve the effectiveness of criminal sanctions (multiple recommendation)

Small but not enough improvements registered. In a monitored period, most of the efforts regarding further development of protection of domestic violence, and violence overall were directed towards increasing cooperation and coordination of agencies/bodies responsible for the protection in local communities. However, it seems that there is more domestic violence, especially partners' violence. Not to forget that children suffer consequences in these cases as well. The recent decision made by National Assembly not to accept the amendment on Law on Police that should have allowed Police to provisionary (temporarily) remove violent member of the family from family home do not give hope that this issue is fully understood by decision makers. The result of this decision is that there is no measure in Serbian legislation that can provide immediate protection from (further) violence which would last till court decision is brought. Penalties and even more judicial practice are still mild and not efficient to protect victims from secondary victimization and influence of perpetrator during the proceedings. This results in often withdrawing and aborting proceedings when the victim is the only witness and refuses to testify.

We again ask Government of Republic of Serbia to consider new approach to this issue and to encourage measures that can proved immediate and effective protection from domestic violence and to take actions towards promoting zero violence attitude and sending clear message that right to life and safety is more important that ownership (of home).

6. Fully adjust legislation to CRC standards, Palermo Protocol and the Council of Europe Convention against Cybercrime and Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse

Partially implemented. Criminal code does not include all criminal acts that Council of Europe Convention against Cybercrime requires to be included.

Regarding Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, some but not all of envisaged measures are implemented. In 2013 Law on special measures for the prevention of crimes against freedoms involving minors was adopted. The Law prescribes special measures applicable to the perpetrators of criminal offences against sexual freedom involving minors and sets out keeping of special records of persons convicted of these offences. Furthermore, the Law prohibits mitigation of sentence and parole, removes statute of limitation for criminal prosecution and prescribes legal consequences of conviction. The Law is already being implemented in practice, although the records and registers stipulated by the Law are yet to be put in place.

7. Improving protection of trafficking including clear definition of sale of children in criminal court, establishing specialized shelters for children victims of human trafficking and reinforcing reparation measures and reintegration services (multiple recommendations).

Partially implemented

Sale of children penalization – sale of a child is penalized as separate criminal act.

Sexual abuse penalization - even though the legislator has shown a clear intention to protect minors from any form of sexual abuse, there are certain regulatory gaps worth mentioning. The following demeanors' do not qualify as offences: "profiting from or otherwise exploiting a child for such purposes", as a way of committing the crime of pandering, or facilitation of sexual intercourse is not incriminated (i.e. cases in which criminal groups committed different forms of forced prostitution). Also, when it comes to forced prostitution, the facts that the perpetrator had endangered a child's life, committed a crime involving severe violence or caused a serious harm to a child, intentionally or by negligence, are not considered an aggravating circumstance.

Socialized shelters for child victims are not developed. State, even capacities of NGOs that exist are not used by state coordinating mechanism.

SOS phone is run by NGO, not state.

We again ask State to consider amending Criminal code in order to address mentioned gaps and to adopt national strategy for preventing and protection children from trafficking and other kind of exploitation which would pay significant attention to prevention, specialized services and rehabilitation and reintegration of child victims.

8. Improving Roma population rights, including children and eliminate segregation of all minority groups (multiple recommendation).

Improvement registered more efforts necessary. Even though actions towards decreasing discrimination of Roma population have been numerous, Roma children remain the most discriminated among all minorities in Serbia.

Birth registration is slightly improved in regards of documenting birth place and data which allow children born outside of hospitals to be registered. But, a registration of children, whose parents do not possess personal documents and/or citizenship, or are of unknown citizenship, remains unresolved. Majority of unregistered children are still from Roma population.

Rate of Roma children in pre-education is 38%.

Roma children due to lack of preschool education show lower skills before school enrollment which result sometime in enagement in "special schools" for children with disabilities.

Rate of Roma children in enrolled in primary school is in latest years goes between 56% and 73% comparing to 92% in general population.

Only 34% of enrolled Roma children finish primary school.

Still, there are situation of segregated Roma schools especially in community where lives a significant number of Roma children.

We ask Republic of Serbia to put more efforts in programs of early development for Roma children and to introduce new measures in that regards.