

OMBUDSMAN FOR CHILDREN  
OF REPUBLIC OF SRPSKA



OMBUDSMAN ZA DJECU  
REPUBLIKE SRPSKE

Number: 413-1-I/13

# **ANNUAL REPORT OF THE OMBUDSMAN FOR CHILDREN OF REPUBLIC OF SRPSKA FOR 2012.**

Banja Luka, March 2013.

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Respected sir/madam,

In accordance with Article 17. of the Law on Ombudsman for Children of Republic of Srpska I submit the Report on the work of the Institution of Ombudsman for Children for the year 2012.

Ombudsman for Children

Nada Grahovac LL.M

A handwritten signature in black ink, appearing to read 'Nada Grahovac', with a stylized flourish at the end.

# I INTRODUCTION

## ***1. UN Convention on the Rights of the Child - basic principles***

UN Convention on the Rights of the Child<sup>1</sup>, among numerous international documents on human rights in general, has a special significance. What makes it special is the fact that it recognizes all categories of human rights and that those various rights of the child establishes in manner that all rights are equally important for development and growth of every child, and that rights are only needs that every child has on his way of growing up, from birth to adulthood.

Importance of the Convention refers primarily to the legal status of the child, because the Convention for the first time introduces a child as a subject of international law and protection, as a person who is entitled to its human rights and for the first time in a comprehensive manner ensures all rights provided for each child.

The Convention establishes universal principles that require new and more quality relation towards children, but also introduces some new legal standards.

All rights enshrined in the Convention are based on four basic principles that bind:

**1. The right to protection from any form of discrimination** - One of the basic principles of the Convention is protection of children from any form of discrimination. States Parties of this Convention shall respect and ensure the rights enshrined in the Convention to each child within their jurisdiction without any discrimination and regardless of race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, financial status, disability, birth or other status of the child or his parent or legal guardian. In this regard, states are obliged to take all necessary measures to ensure protection of children from any form of discrimination or punishment on the basis of status, activities or expressed opinion of parents, legal guardians, or family members of the child<sup>2</sup>.

Right of the child to protection from discrimination basically means also their right to diversity, or their right that under the same conditions they are entitled to rights under the Convention regardless of differences on any basis that the Convention states.

The UN Committee on the Rights of the Child<sup>3</sup> by its new recommendations notes that harmonization of legislation with anti-discrimination law is inadequate, which led to its limited practical implementation, and which is seen from only few reported complaints of discrimination and low level of public awareness of legal remedies available in cases of discrimination.

**2. Best interests of the child** must be a priority, which requires that in all activities concerning children, regardless of whether undertaken by public or private institutions, courts, administrative authorities or legislative bodies, best interests of the child must be in

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<sup>1</sup> UN Convention on the Rights of the Child was adopted by the General Assembly of the United Nations on November 20, 1989. The Convention was ratified by 193 countries, Bosnia and Herzegovina took the Convention by notification on succession in 1993.

<sup>2</sup> UN Convention on the Rights of the Child, Article 2.

<sup>3</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2012, Point 29.

the first place. States undertake to ensure to a child such protection and care that is necessary for his well-being, taking into account the rights and duties of his parents, legal guardians, or other individuals legally responsible for the child and undertake in that aim all appropriate legislative and administrative measures<sup>4</sup>.

Best interest of the child, in addition to being established as a right of the child, particularly stands out as one of the four basic principles of the Convention, or as a condition to exercise every right guaranteed by the Convention.

Best interest of the child is a legal standard that is not defined in advance, and those who implement it in practice point that out as its main deficiency. The Institution was addressed by representatives of various institutions and services with the question what are the criteria for determining what is in given situation best interest of the child, do they have their list of priorities, is one criterion more important than another and similar. Exactly this fact confirms the need for an individual approach and individual assessment of interests of each child individually, so that answers are possible only by proper understanding of the Convention and by adequate engagement of experts of various fields.

The Committee on the Rights of the Child by considering initial report of Bosnia and Herzegovina on the state of the rights of the child has expressed concern and made numerous recommendations and in relation to the exercise of this fundamental principle of the Convention.

The Committee notes that best interest of the child did not find its full implementation in practice and ordered to B&H to intensify its activities and to ensure that this principle is implemented in all legal provisions as well as judicial and administrative decisions, plans, and programs and services affecting children<sup>5</sup>.

In its recommendations<sup>6</sup> the Committee once again urges the state to step up efforts to ensure that the principle of best interests of the child be widely known and appropriately integrated and consistently applied in all legislative, administrative and judicial procedures, and all policies, programs and projects of relevance and with the impact of / to children, especially those deprived of family environment.

Social welfare centers, by acting in specific cases, refer to best interest of the child when they meet requirement (so eg. in Opinion for issuing passport to a child the center states that *"given that child's best interest is to have a passport, the center gives positive opinion ...)* However, it is noticeable that when requirement is not met then call to this legal standard is missing, suggesting a lack of understanding of the essence of " best interests of the child". Because if, based on all necessary facts and circumstances, center finds that it is not best interests of the child to have a passport, then this legal standard must be a part of decision by which the request is denied. The Committee notes in particular that this principle has not been adequately applied in situations where children are deprived of family environment, and that best interest of the child is not primarily considered in regulating placement of children in various forms of alternative care. In the Report for previous year, the Institution has just pointed out to existing problem and fact that the decision by which a

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<sup>4</sup> UN Convention on the Rights of the Child, Article 3.

<sup>5</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2005, Point 29.

<sup>6</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2012, Point 31.

child is referred to home does not contain an explanation which shows that placement to home is his best interests (the decision does not note that all other possibilities have been exhausted, do not determine real reasons for placement, does not determine that it is temporary and for what time, does not regulate contact with family, etc.).

A particular problem is the issue of regulation of visits of a child with the parent with whom he does not live. When decision is passed and when it becomes final (specific decision was passed on the basis of determined that it is best interest of the child), then any failure to execute such decision is contrary to the best interests of the child, is neglect of the child and violence against him.

In one number of decisions, social welfare centers Article 3. of the Convention - the best interests of the child refer by itself as a basis for treatment in a specific case. Legal basis for treatment of institution is substantive regulation which regulates authority of institution, which in specific treatment must take into account all the facts and circumstances, and in given circumstances allow to a child the best possible.

The best interests of the child in any proceeding must be a priority, which among other requires that from explanation of every decision, and for every third party, it is clear why eg. a child is placed in home.

Many decisions made in the earliest age of the child, long-term determine his growth and leave consequences for whole life, therefore the issue of determining the best interest for each child is not only an obligation of competent in treatment, but also a great responsibility.

In most cases which are related to treatment of social welfare centers, the Institution required precisely determining the best interest of the child, and in one number of cases it was present in court proceedings in which court has decided on entrustment of the child to one parent.

**3. The right of the child to survival** and development commits to provide to each child the right to life and development<sup>7</sup>.

States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible survival and development of the child.

The right of the child to life, survival and development is one of basic rights of the child and fundamental prerequisite for realization of all other rights of the child. The Convention establishes it not only as a right of the child, but as one of four basic principles, which once again confirms interdependence of all rights under the Convention and conditionality of one right by realization of other. This only further confirms that the rights of the child are only his needs for proper growth and development, and that in determination of the best interests of the child, regardless of which particular right is decided on, each of the rights under the Convention must be borne in mind, as each of the rights is in function of proper growth and development of the child.

The Committee expects from states to interpret "development" in its broadest sense as a complete concept, including the right of the child to physical, mental, spiritual, moral,

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<sup>7</sup> UN Convention on the Rights of the Child, Article 6.

psychological and social development. Implementation measures should be aimed at achieving optimal development for all children<sup>8</sup>.

The Convention in Article 6. recognizes this right of the child, however, for its exercise additionally is important also the right of every child to use social protection, including social insurance, and undertaking of all measures necessary for full realization of this right in accordance with national law, taking into account resources and circumstances of the child and persons responsible for support of the child (Article 26), but also the right of every child to a standard of living adequate to physical, mental, spiritual, moral and social development of the child and obligation of state to undertake all necessary measures to ensure that the child receives support from parents or other persons who are financially responsible for the child, both within the country and from abroad. (Article 27)

The Convention stipulates that parents and other persons responsible for the child have the primary responsibility, that within their abilities and financial capacities provide living conditions necessary for development of the child. That this right of the child is not understood in its full meaning, best confirm cases of failure to pay child support for a child, by which cares for development and growing up of the child is left only to a parent with whom the child lives, regardless of its actual capabilities. Inadequate reaction to a parent who on this basis neglects its child, and does violence to him, in practice is not recognized as a threat to child's development and growth.

The UN Committee<sup>9</sup>, with the note that the State Party spends three times more than regional average on health and social care, expresses concern that the current social security system does not respond adequately to needs of persons who are the most financially vulnerable.

**4. The right to freedom of expression** - A child who is capable of forming his opinion is entitled to express those views freely in all matters affecting the child, with that the views of the child are given due weight in accordance with age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in all judicial and administrative proceedings related to the child, either directly or through a representative or an appropriate body, in a manner consistent with procedural rules of national law<sup>10</sup>.

The right of the child to express opinions and participate in every proceeding affecting him is one of fundamental rights of the child and also one of four basic principles of the Convention. This means that this fundamental principle, must be included in exercise of every right, in a manner to allow the child to express his opinion and that the child be heard. In doing so, it is not enough only to determine the right of the child, it is very important to give due attention to child's opinion, in manner to understand the proceeding that is lead and his participation in that proceeding, and his role, that trough expression of its own opinions through contributes also in determining what is its best interest in given proceeding.

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<sup>8</sup> UN Committee on the Rights of the Child, General Comment No. 13-The right of the child to freedom from all forms of violence, Point 62.

<sup>9</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations, 2012, Point 60.

<sup>10</sup> UN Convention on the Rights of the Child, Article 12.

The right that the Convention establishes is not a decision of a child, a decision is made by adults (parents, school, social welfare center and other institutions and services), which in these situations need to know and what is the attitude of the child. That does not mean they will adjust to child's opinion and by that practically leave the decision to a child, but it means that by taking into account the opinion of the child, they will make a decision in the best interest of the child.

In this it must be particularly kept in mind that the child's right to freely express his opinion means that a child with no pressure and manipulation by anyone expresses his attitude, so that free expression of opinions of the child is basis in exercise of this right of the child. Manipulations of a child are especially present in divorce proceedings and influence of one parent on the child's opinion of the other parent. However, the responsibility of competent services is also to recognize that problem and respond adequately towards the parent who uses a child in proceeding for exercising of its rights.

The Convention does not specify age of a child, but defines its ability to form its opinion, which means that "state should not start from an assumption of inability of a child to express opinions. On the contrary, states must assume existence of child's ability to form its opinion and must allow expressing this right. A child has no obligation to previously prove his ability<sup>11</sup>", as there is no obligation to express opinions, and that is his choice.

This right requires a clear legal obligation of states to recognize this right of the child, and to ensure its full implementation. The new Law on Social Protection, on proposal of the Institution, it was determined by Article 66. that in the proceedings in which is decided on the rights of the child from this law, competent authority is obliged to enable a child to express its opinion in accordance with age and its abilities. At the same time, by the Law on Secondary Education, this right of the child is recognized, but in practice its adequate implementation is not fully provided its proper application, which was confirmed by a decision of the Constitutional Court of Republic of Srpska. In court proceeding, entrusting the child, the court inter alia states: *"The decision on entrustment XX the court issued keeping in mind desire of under aged XX, while appreciating that the girl was able to express her wishes deeming that a child who is 12 years old is able to express its opinions and in particular ...<sup>12</sup>"*

This right of the child in practice is difficult to understand, and children of different ages state exactly that as a problem, particularly, in educational system. The right to express opinions is often understood in manner that undermines authority of adults. Authority of adults, which is very important in growing up of a child, will not endanger the right of the child to express opinion, if it is aimed to develop in children, from the earliest age, independence and responsibility. Reactions of adults that children have too many rights, that children lost obligations and responsibility because of rights, only confirms lack of understanding of the concept of children's rights and from one number of professionals who should teach children those values.

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<sup>11</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations, 2012, Point 34.

<sup>12</sup> Judgment of the Primary Court from 2011.

The UN Committee on the Rights of the Child<sup>13</sup> expresses its concern that actual implementation of laws that recognize the right of children to express their views in making decisions that affect them is not systematically monitored, and that views of children are rarely taken into account in relation to curriculum and teaching materials, and although Student's Councils are established in most schools there is a limited participation in them, that is, limited possibilities to real impact on deciding on school issues. In this regard, it is recommended to Bosnia and Herzegovina, among other things, undertaking of measures to ensure effective implementation of legislation, including consideration of establishing of system and / or procedures for social workers and courts to monitor compliance of this principle.

Full implementation of each of the rights guaranteed by the Convention is conditioned by meeting stated basic principles. So, regardless of whether it is about child's right to education, health care, protection of privacy and similar, it will not be provided if at the same time the basic requirements contained in four basic principles have not been met.

Implementation of the Convention is a process by which States Parties undertake measures in order to ensure realization of all rights under the European Convention for each child within their jurisdiction. This requires, first and foremost, that the legislation is fully harmonized with the Convention in order that its requirements and basic principles could be directly applied. Exactly in order to assist States Parties in implementing the Convention, the Committee on the Rights of the Child, as a supervisory mechanism in implementation of the Convention, has determined a whole number of measures that states should take to ensure full implementation of the Convention<sup>14</sup>.

Harmonization of legislation with requirements of the Convention requires that rights be clearly determined and that at the same time are also effective legal remedies in case of their violation are provided.

By accepting the Convention a state accepts an obligation and responsibility to:

1. take all appropriate legislative, administrative and other measures for implementation of the rights recognized in the Convention<sup>15</sup>,
2. undertake such measures to the maximum extent of their available resources, for realization of economic, cultural and social rights<sup>16</sup>,
3. achieve international cooperation and exchange of appropriate information where it is necessary for exercise of rights<sup>17</sup>,
4. familiarize children and adults with basic principles and rights of the Convention in appropriate and adequate manner<sup>18</sup>,

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<sup>13</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations, 2012, Point 29.

<sup>14</sup> UN Committee on the Rights of the Child, General Comment No. 5, General measures of implementation of the Convention on the Rights of the Child

<sup>15</sup> UN Convention on the Rights of the Child, Article 4.

<sup>16</sup> UN Convention on the Rights of the Child, Article 4.

<sup>17</sup> UN Convention on the Rights of the Child, Article 23.

<sup>18</sup> UN Convention on the Rights of the Child, Article 42.

5. submit reports to the Committee on the Rights of the Child on measures it has adopted, and which contribute to realization of rights, as well as on the progress achieved in realization of those rights<sup>19</sup>.

In relation to undertaken commitments and responsibilities of state in implementation of the Convention, the Committee particularly emphasizes that realization of human rights of the child should not be seen as charity work or expression of grace, but as a duty of state in fulfilling clear legal obligations towards each child<sup>20</sup>.

## ***2. New recommendations of the UN Committee on the Rights of the Child***

By the Convention on the Rights of the Child and other international human rights documents, a special monitoring mechanism in implementation of the Convention has been established – the Committee on the Rights of the Child.

The UN Committee on the Rights of the Child<sup>21</sup> was established for consideration of achieved progress achieved in implementation of the Convention and fulfilling obligations which States Parties have undertaken by accepting the Convention. In this regard, the Committee on the Rights of the Child, which consists of independent professionals and experts, with particular attention monitors:

- harmonization of legislation in the field of protection of the child with requirements of the Convention and
- situation in practice in realization and protection of the rights of the child of States Parties.

Committee on the Rights of the Child conducts check whether and to what extent the advances are achieved in implementation of the Convention in a manner that it periodically examines reports of States Parties on state of rights of the child. In addition to reports of States Parties, the Committee may invite specialized agencies and non-governmental organizations for "completion" of the picture on state of rights of the child in specific country. Based on their analysis the Committee adopts concluding observations and makes appropriate recommendations for state.

According to Article 44. of the Convention, States Parties undertake to submit reports on measures they have adopted, and which contribute to realization of rights recognized by the Convention, as well as progress made in exercise of those rights, as follows:

- a) within two years of the Convention entry into force in States Parties,
- b) thereafter every five years.

First report of Bosnia and Herzegovina - The initial report of Bosnia and Herzegovina on state of rights of the child, the Committee has considered in May 2005. In June of that year, the Committee adopted Concluding Observations by which it noted that many concerns

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<sup>19</sup> UN Convention on the Rights of the Child, Article 44.

<sup>20</sup> UN Committee on the Rights of the Child, General Comment number 5. General measures of implementation for the Convention on the Rights of the Child, Point 11.

<sup>21</sup> UN Convention on the Rights of the Child, Article 43.

regarding implementation of the Convention, and sent many recommendations<sup>22</sup> to Bosnia and Herzegovina to, in various fields, contribute to improvement of situation of state of the children by systemic solutions.

The Council of Ministers of Bosnia and Herzegovina at 105. session held on 11.18.2009. adopted First Periodic Report of Bosnia and Herzegovina on implementation of the Convention on the Rights of the Child, which was on 02.11.2010. renamed to Combined Second, Third and Fourth Periodic Report of Bosnia and Herzegovina on Implementation of the Convention on the Rights of the Child and submitted for consideration to the Committee on the Rights of the Child. Considering therefore, that Article 44. of the Convention concerning submission of reports within given deadlines was not met, Bosnia and Herzegovina has renamed its first report as second, third and fourth in order to catch up defined in Article 44. Paragraph 1. of the Convention.

According to Article 44. of the Convention, states shall ensure that reports are widely available to broadest public in their countries. Reporting process represents a unique form of international accountability for how states treat children and their rights. However, if reports are not disseminated and constructively discussed, this process is unlikely to have a positive impact on lives of children<sup>23</sup>.

By considering the report of Bosnia and Herzegovina, the Committee has sent to Bosnia and Herzegovina numerous recommendations for improvement of care for children in different areas and noted with regret that some of the recommendations given in 2005. are still not fully resolved.

In addition to report of States Parties observations of the Committee also should be presented to public, including children, and to be subject of discussion in parliament.

The UN Committee on the Rights of the Child has adopted thirteen general comments, which even though not legally binding for the state and all its institutions, they represent additional guide for children and parents for better understanding of the Convention and its more quality implementation in practice.

### ***3. The Law on Ombudsman for Children***

By considering Second, Third and Fourth Combined Report on State of Rights of the Child in Bosnia and Herzegovina, the UN Committee on the Rights of the Child **welcomes establishment of an independent Ombudsman for Children in Republic of Srpska**<sup>24</sup> and believes that establishment of such bodies is one of the commitments undertaken by Parties upon ratification which ensures implementation of the Convention and promotes universal realization of the right of the child<sup>25</sup>. The Committee in its general guidelines for periodic reports requires from States Parties to provide information on "every independent

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<sup>22</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2005.

<sup>23</sup> UN Committee on the Rights of the Child, General Comment number 5. General measures of implementation for the Convention, Point 71.

<sup>24</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2012, Point 19.

<sup>25</sup> UN Committee on the Rights of the Child, General Comment number 2. Role of independent human rights institutions, Point 1.

body established with aim to promote and protect the rights of the child". Primary concern of the Committee is that the institution, whatever form it was, should be able to independently monitor, promote and protect the rights of the child. In this regard, the Committee also establishes a list of recommended activities that these institutions should conduct in implementation of the Convention, bearing in mind general principles of the Convention.

Recommended activities, as the Committee determines it, by the Law on Ombudsman for Children the competences of the Institution<sup>26</sup> are stipulated:

- follows compliance of laws and other regulations in Republic of Srpska which are related to
- the protection of rights of children with the provisions of the Constitution of Republic of Srpska, UN Convention on the Rights of the Child and other international documents related to the protection of rights and interests of children,
- follows implementation of obligations of Republic of Srpska arising from the UN Convention on the Rights of the Child and other international documents related to the protection of rights and interests of children,
- follows implementation of all regulations related to rights and interests of children,
- follows violation of rights and interests of children,
- advocates for protection and promotion of rights and interests of children,
- suggests undertaking measures for protection and promotion of rights of children, as well
- as prevention of harmful acts which threaten rights and interests of children,
- informs public on the state of children's rights,
- performs other activities stipulated by this law.

In the procedure liberated from a number of formalities, the Institution very quickly establishes contact with relevant institutions and services, but also with citizens that point to violations of the rights of the child on various grounds.

Acting in accordance with authority stipulated by the Law, the Institution in 2012. dealt with almost all aspects of children's growing up. What is common in exercise and protection of almost every right of the child is a lot of participants who, each within their respective powers, have an obligation to recognize violations of the rights of the child and react in accordance with its powers and the best interest of the child. If only one of participants – a parent, school, social welfare center, the media, judiciary... does not respond promptly and adequately, consequences for the child may be severe and long-term, not to speak about the situation in which multiple participants simultaneously fails to act in the best interests of the child. Therefore it is very important that jurisdictions of institutions and services for treatment are clearly specified but also responsibility for failure of treatment and inadequate treatment.

Work on individual cases requires extensive work and is time consuming. Each report requires checking whether that issue is and how is normatively regulated, and then whether

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<sup>26</sup> Law on Ombudsman for Children, "Official Gazette of Republic of Srpska" No. 103/08, 70/12, Article 5.

and how competent authorities act in specific situations. Sometimes only one report by which it is pointed to violation of the right of the child sufficient to check whether a certain situation and how is systemically recognized and defined and how is realized in practice. If systemic solutions in certain areas are not adequate, if they are incomplete or incomprehensible, if they leave room for different interpretations and their implementation in practice, all it requires reaction in sense of eliminating situation that leads to violation of the rights of the child, whether it is necessary to adopt a new regulation, or modify existing or modify practice in treatment of relevant.

Although powers of the Institution are clearly defined<sup>27</sup> still there are great expectations from the Institution in terms that it can make or change decision of competent authorities. But it is also responsibility of the Institution to inform citizens on who in the system is responsible for certain issues, where and how to apply, which rule regulates that. Consistent implementation of laws relating to protection of rights and interests of children must be provided by bodies and services within their powers, and the Ombudsman may propose to them undertaking of measures for prevention of harmful conduct and warn to irregularities in treatment, which was done by recommendations to competent authorities.

In addition to quality laws, which will recognize international standards and principles and which will be adequately implemented in practice, quality personnel are crucial. Professional qualification is implied, but for work in the field of children's protection extra sensitivity is necessary, patience, knowledge and understanding, multidisciplinary approach is necessary and ongoing and real cooperation of experts in different fields in search of best possible solutions for each child. In practice, very common reactions are that someone else did not do their part. Even on question to service, what have you undertaken, the answer is - that is under influence of the media, movies ... Nor it was a question nor it is a response to a situation in which the child found itself. Transfer of responsibility from one institution to another, and expectation that the other one reacts does not contribute to protection of the child, but on the contrary but, further complicates the situation.

The Institution is organized to have its headquarters in Banja Luka and offices in Dobož and Foča, and in the reporting period, it organized working days in the towns of Prijedor, Bijeljina and Istočno Sarajevo.

The institution has a total of 19 employees and from that university degree - 14 persons, college degree - 1 person, high school degree - 4 persons, 6 men and 13 women of all nationalities.

The institution is in a rented space, which does not provide a space in which every day activities with children could be conducted, so that these activities are carried out in agreement with school, social welfare center or non-governmental organizations. In order to ensure adequate space and simultaneously avoid rental costs, the Institution sent a request to competent.

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<sup>27</sup> By decision on admission of the Institution to full membership of ENOC- European Network of Ombudspersons for Children, inter alia, is noted that the Law on Ombudsman for Children is in line with essential role of the Institution provided by the Paris Principles and ENOC standards.

## II RIGHTS GUARANTEED BY THE CONVENTION

What makes the Convention on the Rights of the Child special among numerous documents on human rights in general, is the very fact that one document establishes numerous and very different rights related to children, and the child under the Convention is, a human being below the age of eighteen years, unless, based on the law related to the child, adulthood is not attained earlier<sup>28</sup>.

The Convention stipulates:

- right to life, right to non-discrimination, right to know own origin, right to birth registration, right to name, right to acquire citizenship, right to preserve identity, right to family life and parental care, right to adoption, right to freely express one's opinion and right that his opinion is taken into account in all procedures which directly affect him, right to privacy, right to freedom of information, right to freedom of thought, conscience and religion, right of free cultural and artistic expression, right to rest, leisure, play and recreation, right to free association and peaceful assembly, right to honor and reputation, right to education, right to health care, right to adequate standard of living, right to social security, right to protection from violence, abuse and neglect, right to protection from illicit transfer, right to protection from sexual abuse of exploitation, right to protection from abduction, sale and trafficking, right to protection from other forms of exploitation, right to protection from economic exploitation, right to protection from torture, inhuman and degrading treatment and punishment, right to legal and other assistance in case of deprivation of liberty, right to dignity in criminal proceeding.

The UN Committee on the Rights of the Child, in order to facilitate to States Parties submission of report on progress in implementation of the Convention and performance of obligations assumed on that basis, it offered them a special classification. The Committee in addition to civil rights, the right to family environment and alternative care, right to education, health and social protection, the right to leisure and cultural activities and rights of children who are in special situations, particularly specifies definition of a child and basic principles of the Convention.

In addition to stated classification, in practice today persist many other classifications such as, civil, political, economic, social and cultural rights or rights to development, rights to participation and rights to protection, or as preventive, participatory and protective rights.

Numerous classifications of the rights of the child present both in theory and practice are primarily aimed to facilitate information about the rights of the child, monitoring implementation of the Convention and supervision in performance of assumed obligations. Regardless on what basis classification is made, it is made for practical reasons, and in no way questions accepted view of indivisibility of the rights of the child, because of mutual interdependence and of real conditionality real division is not possible.

**A new quality of relations towards children that is required by the Convention, among other things, refers to the fact that all rights are fundamental, that all are**

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<sup>28</sup> UN Convention on the Rights of the Child, Article 1.

**equally important and interdependent and that all are necessary to a child in its proper development, and their uniqueness stems from the fact that they are related to children within their developmental possibilities.**

## ***1. Statistics on children***

By considering the Initial report of Bosnia and Herzegovina on state of the rights of the child in 2005. the UN Committee on the Rights of the Child has expressed many concerns regarding implementation of the Convention, and sent to Bosnia and Herzegovina recommendations related to collection of data on children.

By considering in 2012. the new report of Bosnia and Herzegovina, the Committee remains deeply concerned regarding lack of statistical data related to implementation of the Convention and a clear division of responsibility for collection, consolidation and analysis of data and it reiterates its previous recommendation to the State to urgently perform a census and to develop a coordinated comprehensive system for collecting data that would have to "cover" all children under the age of 18 years and to classify that data by groups of children in need of special protection<sup>29</sup>.

The UN Committee particularly emphasizes importance of possession of comprehensive and current quantitative and qualitative data on all aspects of early childhood and children belonging to vulnerable groups<sup>30</sup>.

From the Institution of Ombudsman for Children answers are often expected on the number of children, of different categories, whose rights are violated on some basis and not just from the media but also from institutions. The Ombudsman for Children in doing research in specific areas (beggary of children, sexual abuse, peer violence, leaving school, children without parental care, etc.) exactly faced with the problem of lack of connection between institutions and services that have a mandate to act in exercise and protection of the rights of the child and in part of keeping of relevant records. In practice, are very common situation that services within their powers have records, however, they are not unified.

Just keeping records without their further classification hardly can point to possible violations of the rights of the child.

**In doing so, it is not enough to only establish a mechanism for data collection, it is especially important to analyze collected data, because continuous monitoring of exercise of the rights of children and their protection in various sectors, among other, is also in function of evaluation of previous measures and activities and at the same time is also basis for proposal of appropriate measures for improvement of those parts of the system to which point the analysis of collected data, but also in determination of priorities in treatment of relevant.**

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<sup>29</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2005, Points 18. and 19, Concluding Observations and Recommendations 2012, Data Collection, Points 17. and 18.

<sup>30</sup> UN Committee on the Rights of the Child, General Comment nr.7/2005, Implementation of the rights of the child in early childhood

The Institution, starting from importance of collecting and processing data related to children, proposed to competent ministry making of annual report on violence among children in educational system. By continuous monitoring of this phenomenon, analysis of data that schools have and strengthening those parts of the system on which the report indicates, the system of protection in general would be improved and those responsible for treatment made more accountable.

By the new Rules of Procedure in case of violence, abuse or neglect of children emphasis is, among others, also on keeping records in various sectors (services that have jurisdiction for treatment have their records) and their compilation and analysis which should direct activities of relevant activities in protection of children in this area.

This approach would enable monitoring of occurrence of various forms of violence against children, identification and monitoring of children at risk on various grounds, defining policies in various areas for improvement of status and protection of children, competent services would, at any time, have indicators on the presence of problem. In the final analysis, all of these measures should contribute to improving the protection of children.

The Republic Institute for Statistics of Republic of Srpska, in the last few years, gave particular importance in many areas exactly to the indicators that relate to child protection system, and also the Ministry of Health and Social Protection and Ministry of Internal Affairs. However, indicators of the Republic Institute for Statistics most often point to the category of children aged 15-19 years, which in the final does not reflect real situation in category of children.

### III TREATMENT ON COMPLAINTS – APPEALS

#### Statistical indicators

In 2012. the Institution has acted in total of 601 cases, of which 464 cases are related to treatment on complaints which indicate violations of the rights of the child on various grounds, and 39 cases carried over from 2011, which means that in work there was a total of 503 cases on appeal.

If one bears in mind the number of received complaints in reporting period - 464, by their comparison with the number of complaints from previous period (in 2011. the number of received complaints was 376 in 2010. - 201, and for six months of 2009. it was 81), than it is clear that in a very short period of time the role and importance of the Institution of Ombudsman for Children in Republic of Srpska was recognized.

In the same period the Institution was contacted by telephone or visiting the office by more than 1660 citizens seeking legal advice for situation they have or information about who and how to contact for exercise of the rights of the child. (In 2011. this number was 1350, in 2010. -760, and for 6 months of 2009.-60 citizens).

Work on each individual case requires verification of allegations from complaint with the authority to which complaint relates, review of current legal regulation in that area and procedure for treatment of competent body and monitoring whether competent acted in manner and within the time that was stated in the response to the Institution.

During the reporting period the Ombudsman for Children was contacted by a number of institutions requesting help and opinion of the Institution for solving cases they have. Addressing the Institution in this manner is not kept as case nor is it shown in statistics, but questions are recorded for the simple reason to have an insight in which area and in which part should be acted on so that citizens have information for situations they have. Citizens in these addressing most often seek clarifications related to competence of some of institutions that care for children, they ask which law defines specific situations, they ask for deadlines within which cases should be finished with one of competent bodies, but also they present their views on engagement of the Institution: *"I would like to express my satisfaction that complaint addressed to you was beneficial. It is a very good feeling to know that in our country there is an institution that works and does its job"*<sup>31</sup>, is stated, among other things, in one of the letters.

The Institution in reporting period was contacted by one number of citizens from Federation of B&H, but also institutions from the Federation that were seeking the Institution's stand for overcoming specific situations related to protection of the rights of the child. Regardless of that the Institution does not have authority to act in these situations, and that immediately stated to parties, parties are directed to the manner of solving contentious situation. In reporting period, the Institution was acting at request of colleagues from the Ombudsman institutions of Vojvodina and Montenegro, and the Institution addressed the Institution of Ombudsman of Serbia with requests for treatment in certain cases.

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<sup>31</sup> Case number: 864-47-PŽ/12

Individual complaints, by its content, most often are of such nature that long-term mutual correspondence and description of situations surely would not give expected results, firstly in a proper and complete understanding of essence of the problem and secondly, the procedure would take much longer. The Institution was in reporting period also in one number of social welfare centers, in order to seek solutions not only for the specific case, but for additional systemic solutions, that would in the interest of a child shorten duration of procedure and make accountable those whose by their actions threaten the rights of the child. With same goal the Institution has contacted one number of primary and secondary schools.

Received complaints not only indicate violation of rights in a specific case. The good thing is that children by addressing the Institution suggest themselves how certain situations, mostly in school, can be solved. Usually whole classes address, for example *"... we are writing to you from class VIIb, or we students of XX school, or non-governmental organization"* and similar.

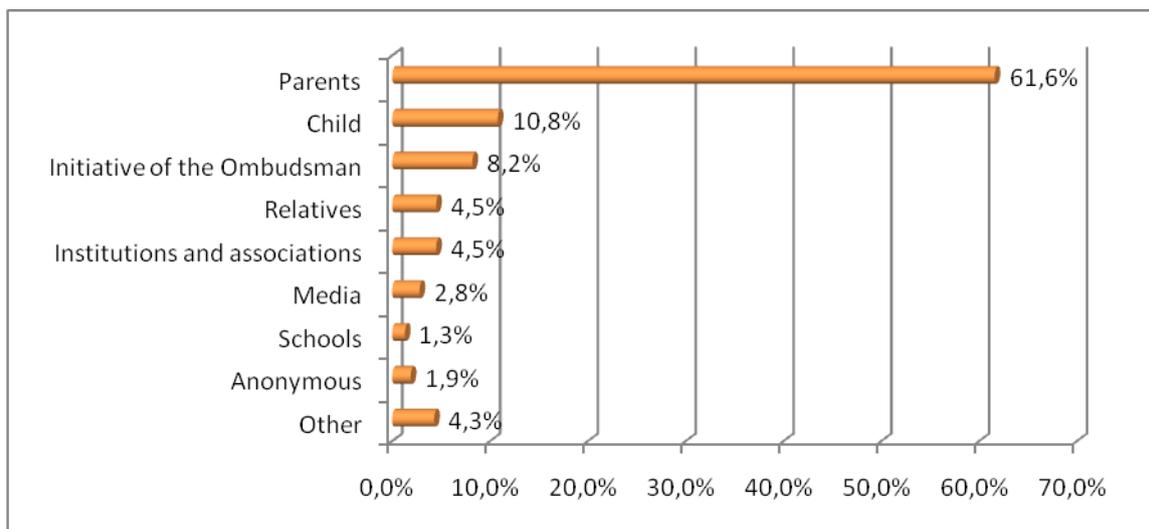
In the reporting period the Institution was also contacted by parents, members of Parent's Councils in schools, mainly driven by certain activities of the Institution, they have recognized opportunity and need for greater involvement of Parent's Councils in schools on various issues but also addressed with a call to the Institution to talk with children in their school on a particular topic.

In one number of cases, addressing the Institution should have contributed to realization of certain rights of adults, because violations to which they point do not relate to the rights of the child as they are guaranteed by the Convention. Regardless of that by the lack of their realization it is brought into question the realization and protection of the rights of the child – dismissal from work, problems with payment of debt to public utility companies and similar, the Institution in such cases, have addressed competent, and have referred the submitter to competent address.

<b>Year 2012.</b>	
Complaints received	426
Complaints ex officio	38
Complaints transferred from 2011.	39
Ex officio cases	69
Recommendations	20
Opinions	2
Iniciatives	2
Reports	5
<b>Total:</b>	<b>601</b>

	Complaints	Cases Total number	Number of children who have complained
Year 2009. (6 months)	81	90	6
Year 2010.	201	258	9
Year 2011.	376	451	43
Year 2012.	464	601	50

## 1. Complainant



As in the previous period, the complainant is usually one of parents and most often point to a violation of personal rights of a child. In the reporting period, complaint to the Institution was submitted by 286 parents (in 2011. that number was 190, in 2010. 135), which is a significant increase compared to the previous period.

However, number of children who have filed complaints to the Institution for violation of their rights is much higher than in the previous period. During the reporting period, 50 children have filed complaints to the Institution (in 2011. - 43, and in 2010. - 9 children, in 2009.- 6 children).

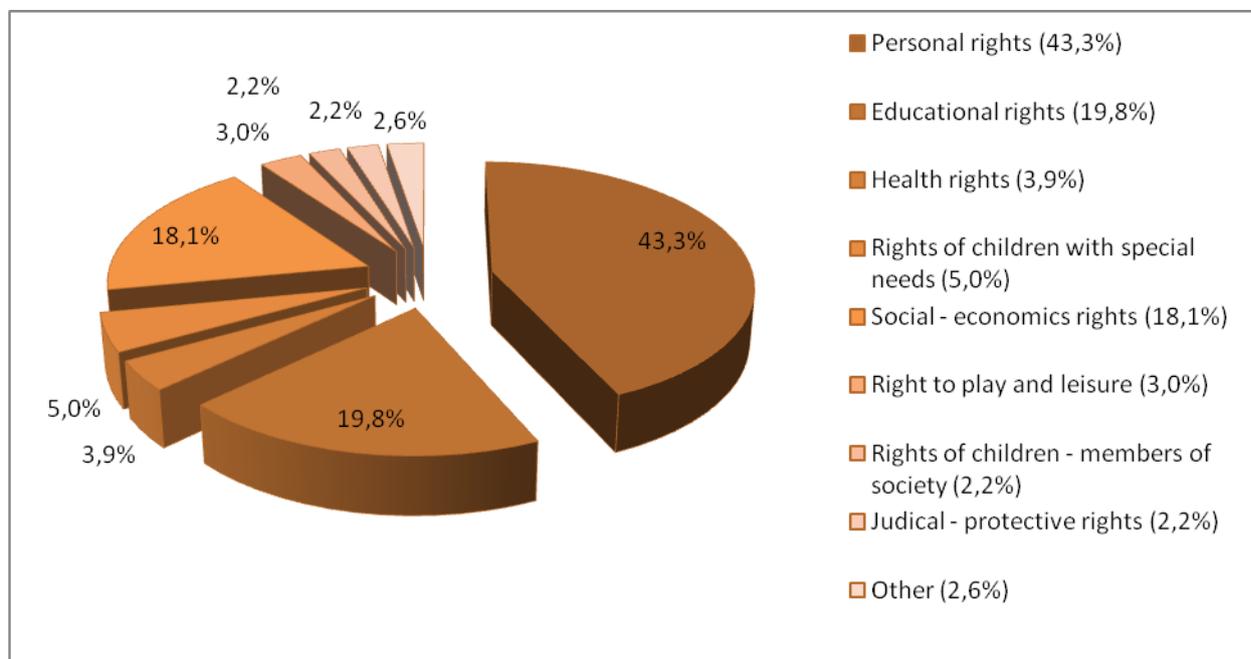
Children, by complaints, point to violations of their rights in educational system or to various forms of violence.

Relatives of the child by complaint point to impossibility of contact with the child or because of violence against the child.

The media most often point to cases of violence against children.

The Institution has also acted in one number of anonymous complaints because they contained enough elements that indicated the need for verification of reported claims, while in one number of such complaints it has not acted, because they did not contain sufficient indications based on which checks would be conducted. Number of anonymous complaints from 5% in the previous reporting period decreased to 1.9% in 2012. and that is a further indication of confidence in the Institution.

## **2. Complaint points to the following violations of the rights of the child**

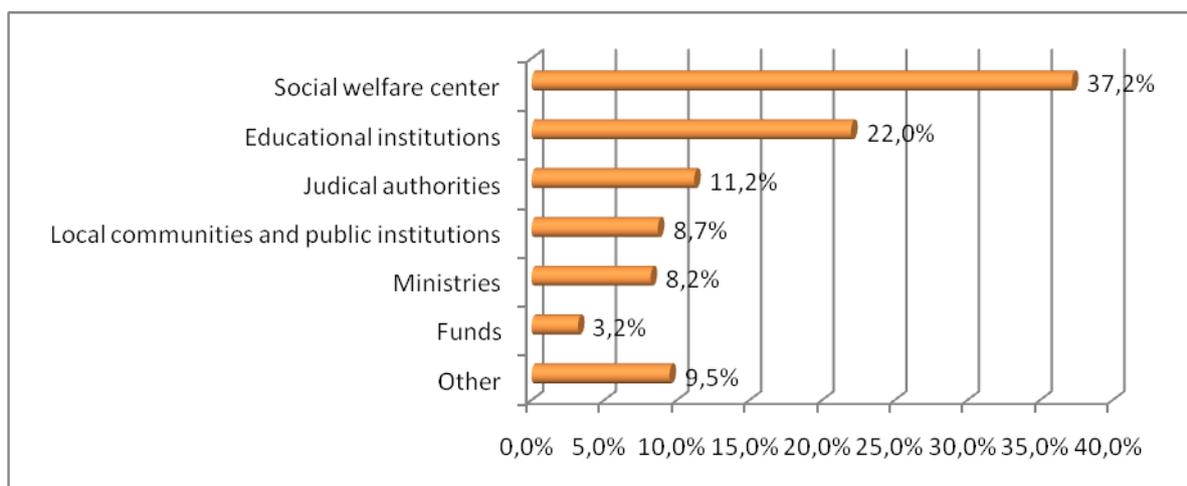


Of the total number of cases on which the Institution has worked in the reporting period, largest number is related to violation of personal rights of the child. Although this number is reduced, compared to the previous period (2010. complaints were present with 49%, in 2011. - 43.6%) to 43.3%, in the reporting period and violations of personal rights of the child are still most present.

The greatest increase in number of complaints, which indicate violations of the rights of the child relates to educational rights of children, with 5% in 2010. to 17.4% in 2011. and to 19.8% in 2012.

Number of complaints to violations of other rights of children had no significant differences compared to previous reports.

### 3. Complaints to institutions

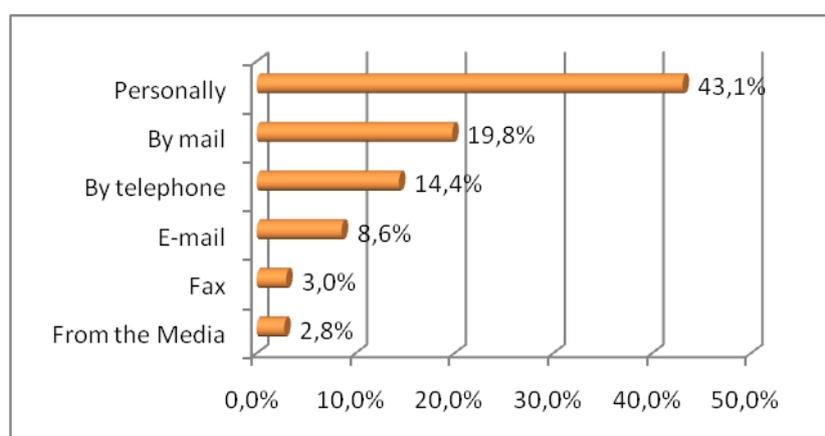


Above table shows that appeals to institutions are related to 473 cases. Although the total number of complaints received in 2012 is 464, the difference is derived from the fact the complaint in a number of cases required hiring of institutions (in some cases for example school and center for social work and the police).

Bearing in mind that complaints – appeals are most often related to violation of personal rights of the child, which falls under social welfare centers jurisdiction, from these institutions, in the reporting period, in the majority of cases, 176, the response was requested on treatment related to violation to which the report indicates.

As the number of applications related to the educational rights of the reporting period increased significantly, the number of complaints to educational institutions is higher as well. Complaints related to school usually indicates the issue of discipline and conduct proceedings on that basis, bullying, grading, etc.

### 4. Manner of receiving complaint – appeal



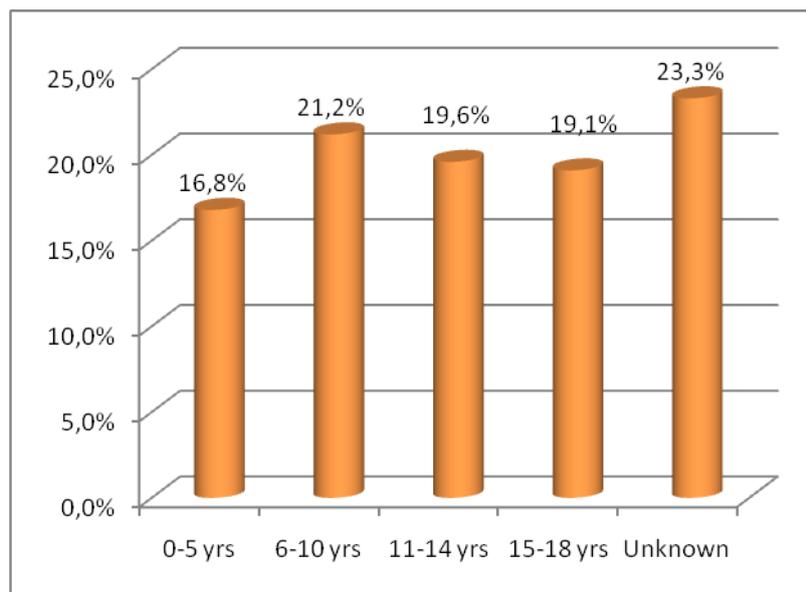
Largest number of complaints – appeals to the Institution citizens submitted in person, by coming to Institution 200 of them, smaller number of those who mailed it, and increasing number of those who sent their report by electronic mail.

The total number of complaints received (426) did not include ex officio cases (38) for a total of (464).

### **5. Number of children**

Number of children whose rights have been violated is difficult to express based on the reports received. In all cases which show shortcomings in the existing system solutions, it is not possible to determine the number of children violated on that basis. In all cases where the Institution conducted research, in the reporting period it applies to the sexual abuse of the children or bullying and it shows the number of children whose rights have been violated on this ground, age and gender of children in these situations. This data is not part of the statistical indicators, as they are shown separately. Statistical data refers only to individual complaints, which clearly shows the number of children, age and gender. Which means that the complaint received from one class for example, is recorded as a complaint, and age of children is known but not gender.

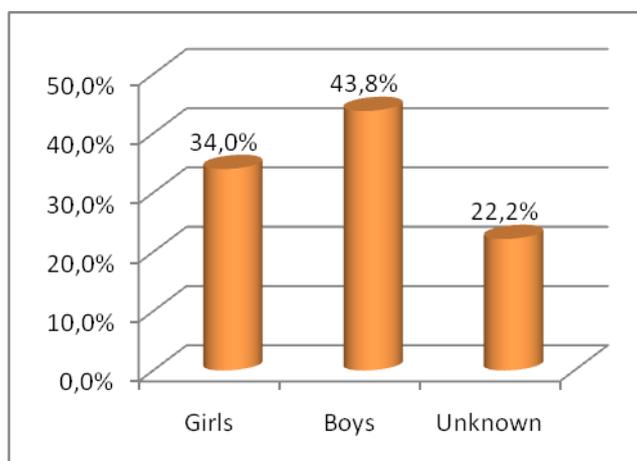
### **6. What is the age of children?**



From the complaints received, one can notice that the children are under 10 years of age are most vulnerable to the situations that lead to violation of their rights. It is this category of children that is totally dependant on their parents and are unable to protect themselves. If the child's age is linked to the data about divorces and the time when it is happening, and if we take into consideration what kind of consequences and which resulting actions it is leading to, it is clear that we are talking about the mentioned age of children.

In the reporting period for certain number of children it was impossible to determine their age, as it was not stated in the complaint.

## 7. What is the gender of children?

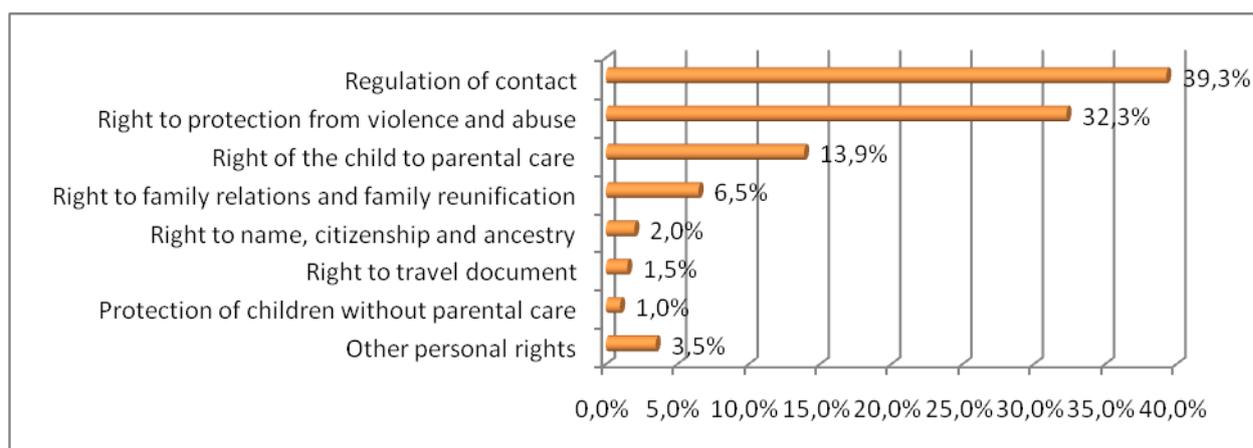


From the complaints received in 2012, one can notice that the boys (252) are more exposed to situations that lead to violation of their rights, than girls (196).

As for the gender of children, even in 2011 data indicated to a higher number of boys 39% compared to girls 32% were in a situation that indicated a violation of their rights, but that percentage was higher in 2010. (48%).

In the reporting period, it was not possible to indicate their gender, because complaint only stated that a child has a specific problem (so, for example, it was stated in the complaint that the child is attending a second grade in school).

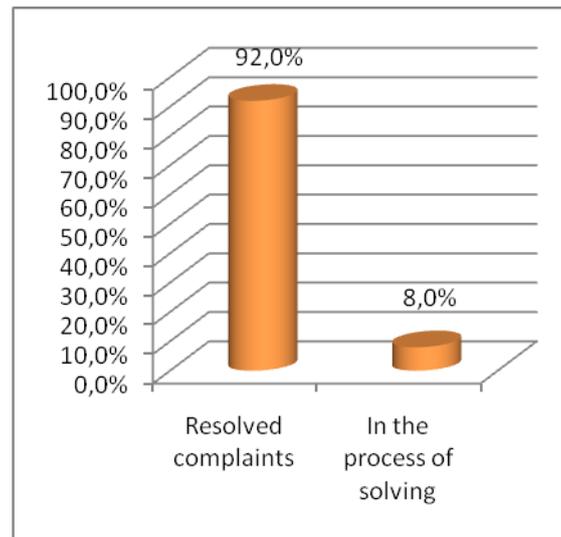
## 8. Personal rights of the child



Under the Convention, personal rights of the child include the right to life, right to know their origin, right to birth registration, right to a name, right to acquire nationality, right to preserve identity, right to a family life and parental care, right to privacy, right to honour and dignity, right to protection from violence, abuse and neglect, right to protection from unlawful abduction.

Unfortunately, from total number of complaints which indicate violation of personal rights of the child, over 70% of the complaints are related to the right of the child to protection from violence, abuse and neglect, and rights related to regulation of contact, execution of the passed solution, the right of children to live with parents, giving a child and allimony payments.

### ***9. Total number of cases – resolved complaints – appeals***



The Institution was acting upon a total of 601 cases in the reporting period , of which 464 cases related to individual complaints, 427 were resolved and 37 are still being solved.

Complaints transferred from 2011 (39) were solved in 2012.

## **IV PERSONAL RIGHTS OF A CHILD**

### ***1. The right of the child to family life and parental care***

The fundamental right of every child guaranteed by all international instruments and national legislation is the child's right to family life. The family is the basic and irreplaceable environment in which children grow up.

Today, unfortunately, it is very common life situation in which the child cannot exercise their right to live with their parents.

State Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibility for the upbringing and development of the child. Parents or as the case may be, legal guardians, have the primary responsibility in the upbringing and development of a child. Interests of the child are their main concern<sup>32</sup>.

Under the Family Law of Republic of Srpska, parents have the duty and the right to protect their minor children and to care for their life and health<sup>33</sup>. Parent cannot waive their parental right, but it can in cases determined by law, be taken away.

The right of the child to live with their parents can be denied only in exceptional situations when the child's interests require it, and when the proper procedure is proven.

According to statistics indicators<sup>34</sup> in 2011, 5802 marriages were signed and 886 divorces, whereas in 2010 5767 marriages were signed and 517 divorces.

Of 886 divorces in 2011, in 32 cases the marriage lasted less than 1 year, in 49 cases it lasted one year, in 55 cases it lasted two years, in 122 cases the marriage lasted 3 to 4 years, and 528 marriages lasted over 5 years. In addition, 215 divorcees have 1 child, 174 divorcees have 2 children and 21 of them had 3 or more children. In 384 divorces there were no children.

Out of 517 divorces in 2010 in 17 cases the marriage lasted less than a year, in 64 cases it lasted between 1 and 2 years, in 78 cases the marriage lasted between 3 and 4 years, and in 358 cases the marriage lasted over 5 years. In addition, 149 divorcees have 1 child, 78 divorcees have 2 children, and 13 of them had 3 or more children. In 271 divorces there were no children.

Bearing in mind that only a small percentage reach a mutual agreement, including custody agreement and contacts with the child, but also an agreement regarding all issues of child's upbringing, it is clear that all others requested intervention from authorities, from whom it is expected to regulate such a sensitive issue and intervene in the personal relationship between parents and their children.

If this procedure is not carried out well and professionally, and if it takes years, the consequences for children are extremely difficult. In some cases the doctor confirmed that there are health issues related to stress that the children are going through during the divorce.

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<sup>32</sup> UN Convention on the Rights of the Child, Article 18.

<sup>33</sup> Family Law, "Official Gazette of Republic of Srpska", No. 54/02 and 41/08, Article 81

<sup>34</sup> Republic Institute for Statistics of RS, Statistical Yearbook of 2012.

Parents forget that with the divorce, they do not stop being parents; they forget that their decision to divorce is solely their decision and the children cannot influence that decision, however, the consequences of divorce, especially conflicted ones, children are the only ones bearing them. First, in the divorce process and procedure that is stressful for all the participants, especially the children, and then when all authorities finish their part, they deal with the consequences that directly reflect on their development and growth.

In addition, parents perceive their parental right as their own right, and not as an obligation and responsibility towards children.

Not only conflict divorces lead to a violation of children's rights to family life and parental responsibility. Unfortunately, there are often situations where parental care is entirely absent and the children are practically on their own. Child neglect is the neglect of a child to exercise their basic needs, health care and education, and the consequences of such a relationship to a child can be difficult and long lasting. And the Institutions, cannot recognize that problem on time, in order to promptly and adequately respond in order that in all situations where there is a lack of family care for a child to be replaced by a social order, and in order for children to know that because of their parents, who for whatever reason are not able to care for them, their development and growth will not be affected.

Lack of family care for a child, no matter what the reasons for that- an illness of parents, alcohol, bullying, poverty, the society must recognize on time and substitute it with social care, especially adequate measures regarding family legal protection-monitoring and intensive supervision in the family, and then the other measures in accordance with the law.

Removing the child from the family is a repressive measure which applies as a last resort in order to protect the safety of the child and their best interest.

## ***2. The right of a child to personal relations and direct contacts with the other parent and close relatives***

In the reporting period, the Institution has acted upon reports that indicated the violation of the child's right to have contact with a parent they do not live with and with close relatives. Number of complaints received in the Institution not only indicates the presence of violation of children's rights in this respect, but also, it shows each time a new way of fights of those preventing it.

According to data from the Ministry of Health and Social Protection<sup>35</sup> in 2011 518 requests was filed for arrangement to maintain personal relationships with children, while that number was 512 in 2010. Of the total number of claims in 2011, 292 claims were settled by mutual agreement and in 176 cases the decision was adopted by centre for social work. Data shows the number of requests and reached decision, but not their implementation.

Complaints received at the Institution, are usually submitted by fathers who complain that they don't see the children or that it is irregular, or in a shorter period of time than it was specified, or are constantly met with new demands as a condition for contact with the child.

Some parents do not report a problem with regard to seeing their child, as they are afraid it will worsen the whole situation even more.

<sup>35</sup> Ministry of Health and Social Protection, Newsletter number 11

**Experience in the work of Institutions show that problems related to the realization of children's rights to contact and socializing with the parent they do not live with, is present on several grounds.**

- a) First, the process is taking too long for the centre for social work to reach a decision which specifies seeing before a divorce settlement is reached and a child is entrusted to a care and upbringing of one parent. Such a solution, determines mainly a minimum time of contact, which is justified by the fact that it is temporary until the court decides to entrust the child and new extensions are possible to grant. Experts warn that the practice should be exactly the opposite, and that at the very beginning when the child is separated from their parents, it should be spending the maximum possible time from the beginning in order to establish and keep proper relationship with the parent, that the child had in the family, as much as possible.  
The law does not establish, during which time it has to make a decision on a temporary seeing arrangement. Once a decision is issued, the party has a right to appeal. With the decision of second instance body, decision is annulled and returned for reconsideration. Even then, parties have the right to appeal. Mostly, during all this time contacts are not maintained.
- b) In a number of cases the parent with whom the child is not living with, has turned to educational institutions requesting information regarding their child, but has been encountered with the answer that it is not possible to receive an answer. It is mothers mostly, that are preventing the contact, expecting that the father will take all the necessary measures to reach the child, even go to school or daycare, and have given them "instructions" on how to behave in such situations. Schools are trapped in these situations, and have mostly followed given "instructions".
- c) When the decision rendered is executed properly, the parent with whom the child does not live with is questioning whether the decision is in the best interest of a child. Parents, in fact, say that the time they spend with their child (*the decision set out the terms of seeing: every Wednesday from 17.00 to 20.00 and every Sunday from 11.00 to 18.00*<sup>36</sup>) is completely inappropriate for the child's needs in growing up and having an equal participation from both parents. In doing so, they note that it is impossible to make up for the missed contact, so in case that the child was sick on the first Wednesday of the month or the father was absent, they have to wait for the next regularly scheduled time. In addition, the decision on seeing arrangements very often do not include summer and winter vacation and holidays, which would largely allow child's stay with the parent they do not live with.
- d) In a number of cases, because of the vagueness of the decision on the regulation of seeing, the problem arose at the transfer and takeover of the child, because the father refused to make contact because the mother did not bring the child, than her sister, or he refused to give a child to a grandmother.

The main problem is that divorce proceedings begins with "fights" for a child-all activities aimed at deciding where a child will be entrusted to the care and custody. It is completely ignored by all participants, that even after the decision to entrust the child, the child needs

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<sup>36</sup> Case number: 324-11-PŽ/12

both parents, both parents have rights and obligations, both parents have equal rights in the exercise of parental rights and responsibilities.(Article 79of the Family Code).

Making contact and companionship of the child with the parent they do not live with, cannot and must not be the decision of a parent with whom the child is living with. Unfortunately, in most cases it is just so. And the behavior of parents with whom the child lives is largely the result of inadequate response from competent authorities regarding such behavior.

The centre for social work regularly points out that the main problem is children manipulation in these situations and it has become a regular occurrence. The younger the children, it is easier to tell them that their father abandoned them, that he doesn't love them, that he has another child now, etc. are achieving their goal easier and that is preventing all contact with the parent the child does not live with. Thereby, all the resources are being used so that the children, even the youngest ones, do not wish to talk about the possibility of contact not even with representatives from centers for social work.

The rights of a child, in these proceedings are violated on several grounds. Firstly, the child is not allowed proper contact and socializing with the parent they do not live with, which will definitely leave consequences on long term development and growth. In the procedures for the regulation of seeing arrangements there is no participation from the child, in a way that they are able to express their attitude and give their opinion. In practice, there is almost no reaction from relevant services towards parents who are preventing contact in different ways with the other parent that the child is not living with, although the Family Law, in order to protect the child, determines a number of measures for family legal protection.

The child has a right to both parents, and responsibility for unachieved rights must bear a parent who is enabling that or preventing it, but also the relevant authority who did not take all the necessary measures in order to implement children's rights. Of course, that in the proceedings in which it is determined that the contact may be harmful to a child, or that they are not in the best interest of a child, relevant authority is denying such a contact, taking primarily the best interests of a child, which were proven and explained in the process.

In addition to the rights of a child to seeing and socializing with the parent they do not live with, the Convention guarantees the right of a child to maintaining family relationship, so that:

States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference<sup>37</sup>.

The European Court of Human Rights, a number of its decisions has determined state's obligation to protect the child on this basis. Unfortunately, the right of the child to meetings and contacts with the parent they do not live with, and the right to family ties are still not adequately secured.

#### **a) Fathers give up**

In the notification of social welfare center<sup>38</sup> submitted to the Institution it states:

*"We inform you that XX submitted an act to this body in which he temporarily gives up enforcement of the decision from centre for social work, until more normal conditions are determined for contact with his daughter. In this respect, the Department for General*

<sup>37</sup> UN Convention on the Rights of the Child, Article 8.

<sup>38</sup> Case Number: 75-9/11, the letter number 03/3/544.4-5/09 from 06.22.2012.

*Administration has submitted a proposal to suspend the execution of decision, after which the conclusion of suspension was adopted by centre for social work in 2010."*

The parent of the child, who had the final decision from 5.5.2010 on the regulation seeing a child, is not allowed contact with the child. Constant pressure on the relevant authorities to make a final decision, parent understood their behavior as an additional pressure on the child, because the institutions did not have a way to implement the adopted solution. He saw a solution the problem in the withdrawal from the fight and gave up his right to see his child.

According to Article 79 of the Family Law, a parent with whom the child does not live in a family and community has a right and duty to maintain personal contact with his child, and the guardianship authority shall take the necessary measures to protect personal and property rights and interests of the child (Article 94). The Convention on the Rights of the Child obliges Member States to respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the best interests of the child.

With the decision on the regulation of seeing, social welfare center had all the circumstances in their mind decisive for determining the best interests of a child in this case. Then, once such a decision became finalized, the parent is not in a position to want or not want or to decide whether the execution will be implemented. The centre for social work is not in a position to "meet" the request of parents to withdraw from seeing their child. The final decision remains in force, but its execution is delayed temporarily. It has been more than two years and the decision was not executed. New delay, buys more time which will only further alienated the parent and the child because "*the child does not even want to speak to workers from the centre.*" Any delay in the proceeding of such cases as a consequence has permanent prevention of contact between a child and the parent they do not live with. In these situations, not only the child was not afforded the right to seeing and socializing with the parent they do not live with, but also child neglect and abuse of parental rights from the parent the child is not living with, is present. According to Family Law, a parent is misusing their parental rights if in any way they infringe with the rights of a child, and they severely neglect parental responsibilities and rights if they do not comply with measures which were issued by competent authority in order to protect the rights and welfare of the child. In this situation both issues are present.

**Regular contact between a child and a parent the child does not live with, are extremely important for proper development and growth of a child, for its emotional stability and a sense of acceptance, which was upheld in a number of its decisions by the European Court of Human Rights.**

Denial of contact between a child and the parent the child does not live with, according to the practice of a court is a violation of Article 8 of the European Convention on Human Rights as "a feeling of togetherness between parents and children is a fundamental element of family life" and "from the moment of birth and by the very fact of his birth, there is a

relationship between him and the parent, which makes the "family life"<sup>39</sup> a connection which events cannot terminate, except in exceptional circumstances.<sup>40</sup>

A child cannot prevent its parents from getting divorced, but parents should also not prevent a child's right to both parents.

### **3. Execution of decisions**

In a letter stated to the Institution a mother noted: *"I hereby ask that you help me take my children, the Centre issued a decision that the children be entrusted to care, education and custody of mother because I have suffered physical and mental abuse from their father for a year."*<sup>41</sup>

In the previous report, the Institution has pointed to unacceptable practice from the Department of Administrative services from certain municipalities that have delayed the execution of administrative solutions until Centre for social work and mother of the child complete all the necessary steps for the child to meet with the father. Such actions seriously violated relevant rights and interests of a child.

Leaving conclusion unlimited and indefinite for Centre for social work to make the necessary preparations for socializing, without the right to appeal to the same, the Department of General Administration went out of its jurisdiction because with such contact they practically reestablished what was in the best interest of a child. The best interest of a child was already established with the decision from the Centre for social work regarding the organization of socializing and once this decision became final, the municipal services do not have the right to change it.

In order to avoid the practice of not acting in the best interest of a child, the Institution sent recommendation to the relevant administrative inspection. However, complete lack of understanding the problem and lack of response led to resumption of this practice in other municipalities as well. Besides the fact that they are postponing the implementation of decision, in some cases municipal services announce act ultra vires for treatment and therefore the decision stated: *"We reject the proposal of the center for social work because of the actual lack of jurisdiction, as Article 261 Law on General Administrative Procedure Act provides that administrative enforcement is led by authority that is a legal matter in the first instance, which means that for the implementation of administrative enforcement it is social welfare center that should actually be competent."*<sup>42</sup>

Bearing in mind that any such solution only prolongs the process that is not in the interest of a child, the minister of health and social care sent a request for conducting inspection regarding the execution of the procedures of administrative enforcement of the decision of the Centre for social work. Unfortunately, at that request too was noted that there was no basis for treatment of inspection, because the legality of passed conclusion of the municipal

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<sup>39</sup> Judgment of the European Court of Human Rights from 1987.

<sup>40</sup> Judgment of the European Court of Human Rights in case 23218/94

<sup>41</sup> Case number: 563-27- PŽ/12

<sup>42</sup> Case number: 1162-76- PŽ/12

service will be determined in procedure on appeal by the competent second instance body<sup>43</sup>. A similar reaction followed from the administrative inspection and at the request from the Minister of Health and Social care, who asked to institute proceedings against the Centre for social work who refused to comply with Ministry's instructions (Article 227, paragraph 4 of the Law on General Administrative Procedure Act, "Official Gazette of the Republic of Srpska" , No. 13/02)and with which the inspector concluded that legal conditions have not been completed in order to initiate misdemeanor proceedings.

Additional time that is left for various reasons for the execution of the final decision does not solve the problem and it only further alienates the parties in the proceeding *"and may have unacceptable consequences in the relationship between the children and the parent they do not live with"*<sup>44</sup> and a mother in a letter to the Institution amongst other things notes:

*"Because of that there is a reasonable doubt that the first instance authority is obstructing me and thus, prevents me from exercising my right to care for my children , that were entrusted to me by the center for social work into care, custody and education."*<sup>45</sup>

Children did not contribute to be the part of the execution process in any way, they often don't understand how these procedures work, they are under the influence of one parent to behave a certain way, they are further confused, and all this leaves long term consequences on their growth.

Enforcement of final decisions of competent authorities should not be questioned by anyone. However, in order to mitigate the consequences of the execution of a decision for the child, enforcement requires adequate preparation, but also work with the child after the execution. It is the responsibility of the competent Institution to prepare a child for the changes that will arise from the execution, but it is also their duty before proceeding with the execution, to use existing measures for the work with parents, including measures of sanctioning the parent who is enabling or preventing implementation of the decision taken, in order to avoid situations due to irresponsible actions of the parent that the child is living with, and the child is exposed to additional stress.

Social welfare centers as a possible solution see the establishment of jurisdiction of the court in these proceedings, and because of the presence of this problem (preventing contact between a child and a parent the child does not live with) criminal law in some countries have sanctioned this as a criminal offense.

#### **4. Entrusting a child to a third person**

By Article 87. of the Family Law, it is determined: "If the parents or one parent who is exercising parental authority is leaving abroad for a temporary work and is not taking the children with them, the children will be entrusted to care and upbringing of another person,

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<sup>43</sup> By the Law on Administrative Inspection, "Official Gazette of Republic of Srpska", Number 1/09, among other things, it was established administrative inspector supervises implementation of laws and other regulations on republic administration and local Self – governance, regulations on administrative procedure relating to efficiency and accuracy in resolving administrative matters, execution of administrative acts and implementation of administrative executions within certain deadlines

<sup>44</sup> Case before the European Court, Number: 14011/07

<sup>45</sup> Case number: 1875-133- PŽ/12

or an Institution if the guardianship authority previously approved entrusting. "The law does not define what it means temporary work and how long a child on this basis can be entrusted to a third party and center for social work establishes: " *Minor XX is entrusted to custody to XX temporary as a third person. This solution remains in effect until the parents return from Germany and take over the entrustment of a child, and parents are required to pay in the name of child support determined amount.* " <sup>46</sup>

Center made a decision to entrust the child when the child was 6 years old and today, it is 13. Center's decision provides only parents' obligation to pay the amount for support without any additional liability related to contacts with the child, education and the like, so that the child, with the consent of the Centre, is left to a third party for complete care. Center's decision determines that the child is entrusted to a third party temporarily, and is determined in a way " until the child's parents return".

Statutory possibility of entrusting the child to a third party with the consent of the center, bound by the center, to take all the necessary actions in order to make decisions in the best interest of a child. Regardless of the conditions and possibilities of the third party, they are only the third person, and especially in circumstances, where a third party, in addition to the will and desire to take care of the child, do not have necessary conditions for it. **It is totally unacceptable that it takes years to entrust that is not under control and that it does not question the justification of this form of child care.**

## ***5. Child support***

One mother in a letter to the Institution stated: " *I ask for help in collecting child support. The marriage was dissolved in 2010, the court awarded me the child and determined the amount of child support. So far (July 5. 2012.) no alimony was paid to my daughter's account. I turned to the center for social work in the hope they will somehow help me with the information at least, if nothing else can. I was referred that only through the court I can exercise her rights. Please help me to fight for the rights of my child, she has a right to eat, go to school and live normally.* " <sup>47</sup>

The child's right to support is the fundamental right guaranteed by international and national regulations. Under the Family Law, the duty and right of parents is to protect their minor children and to care for their life and health, and they are primarily responsible to support their minor children, and in carrying out this obligation, they must use all its resources. The same law provides, inter alia, that the parent fully neglects parental responsibilities and rights:

- if they do not care for a child with whom they do not live with longer than a month
- if they have neglected care of the basic needs of the child with whom they live with, or fail to comply with the measures which were passed by the competent authority<sup>48</sup> in order to protect the rights and welfare of the child, and they can be deprived of the parental rights on that basis.

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<sup>46</sup> Case number: 1325-89- PŽ/12

<sup>47</sup> Case number: 710-37- PŽ/12

<sup>48</sup> Family Law, Article 106, Point 3.

However, even in the case of termination of parental rights, that does not terminate child support obligations.

In practice, unfortunately, despite numerous guarantees provided by the law, the obligation to support the child by the parents, is usually accomplished only in court.

Court proceedings take time, and expertise, and it takes starting and running. Unfortunately, not even established divorce judgment which includes the obligation of child support, does not solve the problem. For many, the problem only begins, because of the failure to comply with the judgment, and debt collection must be sought in the enforcement proceedings. For proposal execution request, the party must know the exact address of the debtor, which is often is a problem, must know if and where he works, and if he does not work by proposal must specify from which movable and immovable property they require payment. Inability of an insight into the actual state of property or the fact that property is not his property, prevent many, despite many attempts to submit a request to a court. If somehow, the process of collection is successful –after the assessment and sale of his movable property, this collection is only one part of their duty that they have towards children. And then, they have to go with new proposals for late payments incurred in the time between.

In response from the court, addressed to the Institution, letter from employee of the defendant XX is delivered and it stated: “ *With regards to a decision of XX, from the court with a request to begin the implementation of suspension of salary of debtor XX, we inform the court that we cannot comply with the writ of execution, because the total monthly net income of XX KM, is already encumbered by claims of other creditors, in the amount of XX KM, therefore, it only remains the amount of XX KM, to be paid out. Writ of execution is in financial services, and its execution will begin when necessary conditions are fulfilled.*”<sup>49</sup>

In this case, at the insistence of the parents of the child and the court, and under the new employer’s response, conditions for payment were met 8 months later which means that the child had to wait all this time for a parent to repay a debt, in order for his support to come in line.

The authority of social welfare center is stipulated by the law to submit a proposal to the court for enforcement on behalf of a child; these are rare situations in practice, same as any sanctions against irresponsible parents. Nonpayment of child support is punishable as a criminal offense by law, non support of a child is child neglect and violence against children, but sanctions against irresponsible parents are rare as are the cases of criminal liability.<sup>50</sup> This problem not only endangers a child and its daily needs, but also their family as well, who are forced to seek and prove obligation to different agencies and institutions, therefore creating an additional pressure to social welfare service to help these children, who are really in need of a social welfare despite the parent who refuses to carry out his parental and legal duty.

The child's right to support is not dependent on the status of their parents' marriage, regardless of whether the parents are married or not, whether they live together or not, whether the child was born in wedlock or not, the child support obligation is the obligation

<sup>49</sup> Case number: 710-37- PŽ/12

<sup>50</sup> According to the Ministry of Health and Social Protection the total number of initiated proceedings for termination of parental rights by guardianship authorities in 2010. was 27, and in 2011. that number is 18.

of both parents of the child. And it is unresolved marital relations, very often, that result in a failure of legal obligation to support a child.

Number of children who are seeking their support through judicial proceedings, is increasing with increasing number of divorces, and in addition, an increase in the number of those who do not do it mutually. Therefore, alimony for many is not only a long journey, but also followed by humiliation where they have to prove something that is indisputable, yet the result is missing.

Complaints received by the Institution, regardless of pointing out to different situations of the children where support for them is not paid, have the same result, children feel further humiliated and violated, because the court has to prove that a parent needs to support them.

That a problem of organizing seeing between a child and a parent they do not live with, which this report shows, is not a problem in itself, is confirmed by statements of parents who do not pay child support.

This problem is directly reflected in the payment of alimony, because number of parents cannot accept that their parental duties only involve child support. That this is so is confirmed by the facts that parents who have permanent and uninterrupted contact and socializing with their child, to a much smaller number of cases have a problem of nonpayment of child support. Parents note that there is also a situation where a mother refuses to take the money for child support as well as the gifts that were sent to a child, because that way they are trying to prevent contact with the child.

Parents organized in association say that the problem of non-payment of child support is not only denying the child the means of subsistence, but that it hinders the realization of other rights because their awarded alimony is taken as charged despite evidence that the payment has been made. Non-payment of alimony is just one of the problems that the parents are faced by who care for their own child and her absence only further complicates the problems they already have.

## ***6. Strengthening capacities of social welfare centers***

The UN Committee on the Rights of the Child, considering in 2005 the initial report of Bosnia and Herzegovina on the rights of the Child and its concluding remarks, noted the important work and the broad mandate for social work, and recommends:

- a. that centers for social work be provided with adequate human and financial resources, and systematic staff training , as well as to take all other necessary measures to guarantee quality, efficiency and transparency of all the activities of these institutions.

With new recommendations<sup>51</sup>, the Committee reiterates previous recommendation and notes concern that the activities of the center are not focused on providing social support, but they often focused on administrative tasks related to user registration and assessment of

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<sup>51</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2012, Point 46 – 47.

formal legal criteria for entitlement to social assistance, rather than providing support to families. In this regard, the Committee further recommends that the activities focus on building the capacities of centres for social work whose mandate will be focused on providing support services.

Under the Family Law, the custodian is required to take all the necessary measures to protect personal and property rights and interests of children. Amongst other things, if the legitimate interests of the children require, the custodian is authorized to determine family legal protection measures, continuous monitoring of the exercise of the parental rights, a measure of increased supervision by parents and other measures in accordance with the law, and thus helps the family in upbringing and improving personal status of a child. It is in this area that it is necessary to strengthen the teams of social welfare centers, in order to provide necessary help and provide support to family in order to protect child's interests, with family legal protection measures. According to the Ministry of Health and Social Protection<sup>52</sup> in 2011, 131 measures were issued for increased supervision (parent, adoptive parent, and guardian) and 63 measures of intensified supervision of the custodian.

Numerous situations where the institution acting, and related to placement of children without parental care in the home, behavioral disorders, teenage marriages, children running away from home, problems with alcohol and other categories of children at risk, are often the result of inadequate parental care and untimely responses of relevant authorities to such conditions where the children are growing up.

Within legally defined responsibilities, social work centers have great responsibility and authority to either lead their own actions and decisions, or to give their opinion in the courts and other authorities concerning the exercise of rights of the child.

On the other hand, social welfare centers, regularly point the problems they face every day that affect the quality of their work. They primarily emphasize on the increasing competence of social work centers on different grounds, and at the same time that it is not accompanied by the required number of workers<sup>53</sup>, then the problems are the insufficient number of professionals of different profiles, and the inability to form expert teams to work on specific areas of social protection. This is confirmed by the data of the Ministry of Health and Social Protection<sup>54</sup>, according to which more than half of the centers / services do not have an employed psychologists.

Centers for Social Work are the basic institutions of social, family and child care with public authorities. Starting from the extremely important role of social welfare centers in the social welfare system as a whole, and bearing in mind that the problems they face in their centers of operation, that result in inadequate measures to protect the child's interests, it is

<sup>52</sup> Ministry of Health and Social Protection, Newsletter number 11.

<sup>53</sup> According to the Ministry of Health and Social Protection on 12/31/2010, in 61 municipalities, the number of employees in social welfare centers and municipal services of social protection there were 556 employees, of that number 58% or 324 are professional workers. According to the same data, the number of employees in social welfare centers in 2011 was 539 employees, and of that number 317 professional workers. It is obvious therefore that there was a reduction in the number of employees. Although the figures do not show a significant reduction, it is especially visible due to new obligations that centers have, such as the Law on the Protection and Treatment of Juveniles in Criminal Proceedings.

<sup>54</sup> Ministry of Health and Social Protection, Newsletter number 11.

important to provide the necessary conditions for treatment of centers in accordance with the established powers, especially in the provision of the required number of skilled workers, permanent employees and compulsory education professional supervision.

## ***7. Treatment of centers in cases of violence against children***

According to Article 81 of the Family law, parents have the right and duty to protect their minor children and to care for their life and health. A parent who abuses a child, is abusing parental rights, or has abandoned the child, neglected to care for the child and neglected their parental duties, their parental rights will be taken away by the court in the contentious proceedings (Article 106).

Parent abuses parental rights and responsibilities if, among other things, they conduct a physical or psychological abuse of a child and sexually exploit a child.

Proceedings for termination of parental rights are launched by the guardianship, the parent or adoptive parent. (Article 107).

The guardianship authority shall initiate proceedings for termination of parental rights in cases where in any way they have findings that there are circumstances that a parent is abusing a child or is abusing their parental rights.

Regarding the case of violence against children in the family and in particular of sexual abuse and exploitation, noticeable are situations in which the social work center failed to comply with the obligations laid down in Article 107 Family Law.

In a number of cases where the Institution was acting, and where the prosecution is brought against the parents for sexual violence against children, centers for social work did not undertake legally established measures of family legal protection within its jurisdiction, but were instead waiting for the outcome of the criminal proceedings. Even in the case of first instance decision where the father was found guilty, center for social work was waiting for the decision to become final.

Center for Social Work plays a key role in protecting the rights and interests of children. In its order to protect the children, the legislature has obligated center for social work that when "in any way they find out" that the child was sexually abused in the family, to take necessary actions to protect the child from its parents who are in the crudest possible way abusing their parental rights.

Protecting children from their parents, guardians or adoptive parents who abused their parental rights - sexually abused and exploited children, commits center to initiate proceedings for termination of parental rights, regardless of whether there are any proceedings against the perpetrators of this act, and regardless of the outcome of such procedure.

Omitting of centre for social work to take measures in accordance with its legal duties, is contrary to the interests of a child and their right to protection from all forms of violence and abuse.

In order to prevent such conduct, the Ombudsman for Children in accordance with the powers defined by Article 9 of the Law on the Ombudsman for Children, has sent a

recommendation to all the centers for social work that propose measures to prevent harmful practices that endanger the rights and interests of the child, that is, that in all cases of sexual violence, abuse and exploitation of children in the family, in accordance with their powers, to take necessary measures in accordance with Article 107 of the Family Law and take actions for termination of parental rights.

## ***8. Children without parental care***

According to Convention on the Rights of a Child, a child who is temporarily or permanently deprived of their family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance from the state. States Parties, in accordance with their national laws ensure alternative care for such a child.

Such care could include, inter alia, foster placement, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, one should pay attention to the fact that continuity in child rising is desirable, as well as ethnic, religious, cultural and linguistic origins of a child.<sup>55</sup>

The right of the child to is live with its family. The separation of children from their parents is possible only in exceptional cases where the appropriate proceedings determine that is in the best interest of a child.

Request of the Convention is a call and obligation of the state to comply with the law, in all cases where development and growth of a child is not possible in a biological family; they must secure conditions for uninterrupted development, stating possible forms that can be provided for the development, while respecting basic principles-the best interests of a child.

Taking care of children without parental care is very demanding and responsible job, in addition to clearly established and defined normative framework, it requires the involvement of experts in different fields, in different sectors, especially in the centers for social work, in charge of the selection of alternative forms of child care, and constant monitoring of child care, even where the children center solution provided adequate alternative care. In order to protect the child and its best interests Family Law establishes a number of measures to be taken in the event that parents abuse their parental rights or grossly neglect their parental responsibilities and rights. The law, therefore, is giving priority to family legal protection measures imposed for the protection of children at risk, establishing the possibility of termination of parental rights in cases and under the conditions provided by law. Unfortunately, the law does not determine the cases and circumstances in which a parent may be limited in the exercise of their parental rights.

The law on Social Protection stipulates that the right to care in a foster family is a person who is entitled to be placed in an institution.<sup>56</sup>

Child without parental care is considered to be a a child who has no parents, who was abandoned by the parents, whose parents are not able to supply complete care because they are limited in the exercise of parental rights, or are deprived of this right.<sup>57</sup>

<sup>55</sup> UN Convention on the Rights of the Child, Article 20.

<sup>56</sup> Law on Social Protection, "Official Gazette of Republic of Srpska", number 37/12, Article 42.

A right to placement in an institution has:

- a) a child without parental care until they return to their own families or care for the family of the adopter or foster family until the end of regular schooling for up to 26 years of age and not more than six months after the end of regular education.
- b) child with developmental disabilities who has no conditions to remain in its family and when it is more appropriate to safeguard and upbringing, schooling, training, or psychosocial rehabilitation, until there is the need for this type of protection.
- c) child whose development is impeded by family circumstances until return to their own families.
- d) children with socially unacceptable behavior, while the conditions for this type of social protection last.
- e) child that is a victim of violence, while the conditions for this type of social protection last.
- f) child victim of trafficking, while the conditions for this type of social protection last.<sup>58</sup>

Strategies for improving the social protection of children without parental care for the period 2009-2014.<sup>59</sup> aims to improve the system of welfare and family legal protection of children without parental care and it refers to the area of foster care, adoption, guardianship and institutionalization of children.

#### **a) Foster Care**

One of the fundamental rights of every child is the child's right to family life. The family as a fundamental unit of society and is irreplaceable natural environment for the growth and well-being of all its members and particularly children. There the child acquires the first knowledge, meets others and different, learns and grows there. What they needs is the care and attention of adults, primarily parents.

If the child does not have a biological family, if the parents abandoned the child, or for any other reasons are not able to respond to their parental responsibilities, the child still needs a family, alternative-foster care or adoption, which will be better than any children's home and will be a support in child's growing up.

Not a single child's home is a substitute for a family, because neither is good enough no matter what conditions it is offering to the children. Studies conducted in several European countries confirm that the development of the child outside the family is still at risk, and it is primarily affecting their emotional and social development. Therefore, the child's placement in suitable institutions last resort, which applies only in exceptional cases and under the conditions provided by law.

Therefore, it is necessary to work on the promotion of foster care, which is one of the most humane form of child protection in the interest of the child first and foremost, and then the family and society as a whole.

Foster care is a challenging and responsible role, because it provides for the child temporarily suitable family environment to grow up, a child, therefore, is not disconnecting

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<sup>57</sup> Law on Social Protection, Article18.

<sup>58</sup> Law on Social Protection, Article40.

<sup>59</sup> Strategy was adopted by the Government of Republic of Srpska 9.3.2009.

from the natural family. The key benefit of foster care compared to other forms of child care is the very fact that the child retains personal family identity and relationship with its family, and at the same time it acquires a positive experience of family environment from foster parents and it aims to have a child after a certain time, depending on the needs, return to his family.

Considering that with the establishment of the foster care, foster parents acquire rights and obligations in accordance with the law, and at the same time both parents of a child who is in foster care still have certain rights and obligations, and it is especially important that these issues are addressed in the process of preparing foster care.

In our situation, foster care is not recognized as a method of providing child care to the extent necessary. Certainly, there are families that so desire (desire alone is not enough, we have of course more demanding and conditions for acquiring the status of foster parents, as defined by the Law), and children in need of such families, but many questions must be clearly set out and defined, in order to ensure that foster family, in the best interests of a child, responds to the needs of a child, especially the choice of foster parents, their education and preparation for foster care and special supervision of their work, which must be constant and continuous.

The new Law on Social Protection in the normative sense is a step forward in defining this type of care for children and its entry into force have begun activities focusing primarily on the promotion of foster care and its benefits in the treatment of children.

According to the Ministry of Health and Social Welfare, in 2011 in the Republic of Srpska there were 198 foster families and foster care as a special form of "socio-educational community of life" functioning in Banja Luka, Gradiska, Laktasi and Novi Grad. However, all registered foster families and are active.

What is inter alia stated in the strategy to improve social protection of children without parental care is the fact that the majority of children without parental care are placed in extended families, but the families are not recorded in centers for social work as a foster family, and what is especially important, foster families in the care of the child are not under constant supervision of competent centers for social work.

It is expected that the improvement of family accommodation in the form of foster care, will be sure to bear in mind a number of extended families who have are taking care of children, primarily in the area of supervision.

## **b) Adoption**

By adoption parental relationship is formed between minor child and adult person capable of work by legal action.

According to data of the Ministry of Health and Social Protection<sup>60</sup> in 2011. in Republic of Srpska a total of 301 applications for adoption of a child were filed. Of that number, a total of 29 requests were realized and that is 19 based full adoptions, 8 incomplete adoptions and 2 adoptions with an international element. Although modest, these indicators are progress in

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<sup>60</sup> Ministry of Health and Social Protection, Newsletter number 11

relation to the previous period (2005-2008) when annual average was 20 achieved adoptions.

Adoption, as a special form of family- legal care of a child and protection of a child without appropriate parental care, is regulated by the Family Law<sup>61</sup> and is set as very demanding. On one hand demanding procedure is understandable if we take into account the seriousness of relationship established by adoption. However, implementation of the law in practice is made more difficult by existing normative solutions.

Most often problems stated by the employees of social welfare centers who work on this issue:

- impossibility of adoption by persons who live alone or are unmarried partners<sup>62</sup>,
- low upper age limit of a child for full adoption<sup>63</sup>,
- undefined lower age limit of a child for adoption of a child,
- undefined preparation and education of persons potential adopters,
- monitoring of the child after adoption.

In social welfare centers, in addition to the stated, the problem that legal solutions kept complete and incomplete adoption is stated.

Full adoption results in complete integration of a child into family - parents' relationship based in legal way, while in incomplete adoption there is no full integration of a child into a family where a child has only some of the rights and obligations.

In many countries of the European Union, domestic legislation recognizes only full adoption. In this respect neighboring countries have harmonized its legislation, so in addition to the fact that only full adoption is stipulated, possibility is provided that a child under 18 years of age may be adopted and that adopters may be both married and common-law partners.

Statutory age limit for adoption of a child (5 years old) in practice prevents full adoption of children older than 5 years of age, which is completely unacceptable.

The law does not determine lower age limit of a child for adoption, so that this issue is left to guardianship authority which decides on it<sup>64</sup>.

The law does not contain at all the provisions on preparation of potential adopters, but neither preparations of a child for such an important relationship that is established by adopting a child.

Preparation program for adoption must be uniquely defined and, as such, bind both potential adopters and competent social welfare centers.

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<sup>61</sup> Family Law of Republic of Srpska, Articles 145-174

<sup>62</sup> Family Law, Article 153: Spouses may jointly adopt the same child. A child can be adopted by only one of them, with the consent of the other spouse.

<sup>63</sup> Family Law, Article 157: Complete adoption can be carried out with a child under the age of 5 years.

<sup>64</sup> Instructions on Adoption Procedure, "Official Gazette of RS", No. 27/04, in Point 3. stipulates: Guardianship authority may not give baby up for adoption from maternity ward, since in these cases work with natural parents (usually with the mother) is reduced to obtaining statement-consent of the mother that her child is given up for an adoption, and at a time when she is not sufficiently recovered from the effects of labor.

The law provides only as a possibility of probationary accommodation, within which time the success of performed adoption would be assessed, and that deadline is only three months, but even the same is not foreseen in adoption of children by foreigners.

The law does not define the criteria by which a foreign national can be an adopter, it determines that only exceptionally adopter can be a foreign national if there are particularly justified reasons<sup>65</sup>. What are particularly justified reasons the law does not determine, but according to the Instructions, Point 12. competent social welfare center, in these procedures is required to seek the approval on permission of adoption from the Ministry of Health and Social Protection.

The law does not determine who might be adopter, the Law by Article 155. determines only who can not adopt a child.

According to the applicable Law (Article 170.) guardianship authority is obliged to keep records and documentation on adopted children.

What in practice certainly creates the problem is the lack of a single-record database of prospective adopters, and of children, who in accordance to the Law can be adopted.

The Institution was contacted by one number of citizens to check the conditions under which they may be adopters. They had information that they may adopt a child only with the area of their municipality, and that their municipality does not have recorded children who may be adopted, or, if they submit a request to competent is it obliged to forward their request to another center if it is not able to meet the request, and why she living alone may not be an adopter.

It is evident, therefore, that adoption as most complete form of care for children without parental care is not adequately affirmed or even used.

Bearing in mind that adoption is, above all most complete form of family-legal protection of children without parental care which, at the same time, contributes to achievement of parenthood, in addition to changes to the Family Law that are necessary, and which should enable greater efficiency in achieving public child care, continued promotion of adoption is needed and also strengthening professional competences of professional workers of guardianship authorities.

The Committee on the Rights of the Child<sup>66</sup> by considering the report of Bosnia and Herzegovina in 2012, among other things, reiterates its earlier recommendation from 2005. and appeal to the State to speed up necessary legislative, administrative and other measures in order to ensure that the adoption procedures are in full compliance with Article 21. of the Convention, and recommends to:

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<sup>65</sup> Family Law, Article 147.

<sup>66</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2012, Point 51.

- a) facilitate adoption procedure by simplifying and rationalizing procedures for adoption and establish a unique integrated database for institutions of social protection with information on potential adoptees and adopters,
- b) consider increasing the upper age limit for adoption in Republic of Srpska,
- c) respond to previous recommendation of the Committee (CRC/C/15/Add/Point 260, Paragraph 39) for 2005. - expeditious data collection on children involved in domestic and international adoptions.

## ***9. Children placed in an institution***

The right of the child to family life, as fundamental right of every child is guaranteed by all international documents. Starting from the role and importance of family in growing up of every child, institutional care of the child shall be used only as a last alternative, when all other options have been exhausted and when competent authority in appropriate procedure determined that growing up of a child in the family is not in his best interest.

Any separation of a child from the family, especially in its earliest age, threatens its development and leaves long-lasting consequences. A boy talking in conversation with representatives of the Institution said: *"But for all, I'm just a kid from Children's Home"*.

Children's Home "Rada Vranješević" is the only institution in Republic of Srpska for care of children without parental care, children without adequate parental care and children whose development is hindered by family circumstances.

In Europe in the last twenty years is pointed to the need for deinstitutionalization of care for children aimed at reducing the number of children placed in an institution, which requires:

- to change approach in placing children in institution, so that placement of a child in Children's Home is always the last alternative and when all other possibilities have been exhausted,
- that functioning of childcare institutions must be organized in manner to, to the greatest extent possible they be organized as families, and which refers to involvement of children in social life in local community,
- that manner and methods of work, competence of employees, quality contents and quality work with children be a key factor that will for children placed in Children's Home have positive effects, not only during their stay in institution but long term.

Number of children cared for in an institution in Republic of Srpska according to the figures in the last few years does not exceed 15% of the total number of children without parental care<sup>67</sup>. One Children's Home with space capacity which offers meets the needs of care of children through this form, but what must be further worked on is quality of services and contents for children, so that their stay at Children's Home, by its quality be adequate to obligation of society in caring for children placed in an institution.

The right to placement of the child in Children's Home is regulated by the Law on Social Protection and the Statute of the Children's Home, and the primary goal of placement of the

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<sup>67</sup> According to data of all social welfare centers in 2010. 640 children without parental care and adequate parental care were recorded,

child in Children's Home is ensuring care (housing, nutrition, clothing, nursing, support and care), care of health, upbringing and assistance in education, training for work, working-occupational, cultural - entertainment and recreation - rehabilitation activities and services of social work.

The Children's Home provides funding from three types of sources: budget of the Ministry of Health and Social Protection of Republic of Srpska as the competent Ministry, payment of funds from social welfare centers for service beneficiaries from their municipality and from donations of natural and legal persons<sup>68</sup>.

Given the spatial capacities, 12 educational groups-families can function in the Home that are structurally and organizationally analog to family residences. Spatial capacity for each family in the Home is 200 square meters. Premises that make family accommodation are: living room, 4 bedrooms, 4 bathrooms, studio, kitchen and dining room, bathroom, balcony.

Currently there are 8 educational groups – families organized in the Home, which given the total number of children and their age and needs, provide conditions for adequate work in family.

Some floors in the Home for accommodation of families are renovated, sanitary facilities in all rooms for families are renovated, carpentry and balcony railings are replaced and fences in area of the property that exits to the transit road.

The largest number of children in institutional care are children whose development is hindered by family circumstances (two-thirds of children), and in almost 70% of cases a person from social welfare center that placed the child to institution was appointed for children's guardian.

The decision on placement of the child in the Home does not contain an explanation from which would be evident that the center promptly took all other measures of family-legal protection (supervision, enhanced supervision and similar) and that these measures, by the implementation over time did not contribute to the protection of the child in the family (decision on placement of a child who has parents who are neither denied nor limited in the exercise of parental rights).

Placement of children in Home is not pre-defined as temporary care of children, nor what is the longest period that such solution might take, nor obligation to review this type of care of a child after a specific time, all that, very often results in long stay of children in an institution. Time that children spend in Home should be determined individually depending on reasons that led to placement in Home and time necessary to eliminate the reasons for placement of the child.

On average, children spend about 4 years in Home, with that a number of children reside in Home twice as long. This problem is noticeable only when children should leave Home after reaching legal age, because they do not want to return to where they came from. The children's attitude is completely understandable, given the length of stay in an institution and the fact that in this period they did not have adequate contact with the family and the community they came from.

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<sup>68</sup> Law on Social Protection, Articles 132-134.

Of particular concern is the increasing number of placement of the youngest, children under three years of age and those who practically come from hospital to institution.

By the new Law (at initiative of the Institution) this option is left only exceptionally, temporarily and with approval of line ministry<sup>69</sup>.

Contact of children with the family, relatives, friends and others is realized on the basis of the assessment and approval of the competent social welfare center, and through making or receiving phone calls, visits, on which records are kept. In the Home is stated that visits to children are not regular and that for a number of children communicate with the family is very rare. Children visit the family or relatives when there is a possibility for it. One number of children, who do not have kinship support, establish contacts with contact - individuals or families.

By placing a child in an institution his contact with the family must not be interrupted.

On the contrary, even when placed in an institution, their relationship with the family must be maintained and strengthened. During child's stay in an institution authorized center would have to work with the family with aim to create conditions for return of the child to the family, and when this is not possible the alternative is still family - foster or adoption. At the same time, in the institution it must be worked with children to prepare them, so that they can, as soon as possible, continue their growing up in their family.

Guardianship authority is obliged to determine the manner and time of contacting of parents and a child who is cared for in Children's Home or in foster care. Constant monitoring of realization of those contacts is mandatory, as one of crucial data for assessment whether the child is permanently or temporarily abandoned by his parents<sup>70</sup>.

Bearing in mind the number and structure of children (age, sex, health status, reasons for placement), it is unlikely to expect that the number of professionals engaged in educational work with children can meet the demands expected of them.

At that, it must be borne in mind that in Children's Home there are placed children with behavioral issues with whom it must be additionally worked by special, individual program or engage work of professionals outside the Home, and children with developmental disabilities whose needs also require special individual program depending on age of a child and his needs. However, the Home does not have employed professionals who in this field can adequately respond to the needs of these children.

By the Law on Social Protection, Article 146, it is stipulated that institutions of social protection will harmonize its organization and general acts with provisions of the law within one year from the date of its entry into force. Within the same deadline, social welfare centers are obliged to perform the review of recognized with provisions of the law.

Given that the one-year deadline expires in May of 2013, data of centers in reviewing recognized rights should certainly demonstrate whether the existing solutions of alternative childcare the best interest of the child is ensured, especially of children placed in an institution.

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<sup>69</sup> Law on Social Protection, Article 40.

<sup>70</sup> Instructions on Adoption Procedure, Point 5.

## **10. Children and the Media**

*The UN Committee on the Rights of the Child, by considering the first initial report of Bosnia and Herzegovina on the rights of the child, by its concluding remarks, it expressed its concern with the fact that the right of the child to privacy is not fully respected neither in schools, the Media, other institutions, and in relation to that has recommended undertaking all possible measures to provide conditions for respect of the right of the child to privacy<sup>71</sup>.*

By new recommendations of the UN Committee on the Rights of the Child<sup>72</sup>, it is pointed that the right to privacy is enshrined in the Constitution of the State Party, and that the Committee is concerned because of frequent instances of unethical and unprofessional conduct of journalists who publish personal data of children and young people who are victims or perpetrators of criminal acts. **In this context, the Committee is concerned that, although the State Party has the Code of Ethics for Journalists, there is no executive mechanism to ensure compliance and that Communications Regulatory Agency of the State Party does not intervene in a timely manner in cases of violation of children's privacy and also imposes penalties that are not commensurate.**

Thus, although children as most vulnerable category of citizens have the right to privacy and the right to protection of privacy (no child shall be subjected to arbitrary or unlawful interference with his private and family life, home or personal correspondence, nor to unlawful attacks on his honor and reputation, a child has the right to protection of the law against such interference or attack<sup>73</sup>), exercise of this right for children is not provided in accordance with the requirements of not only the Convention on the Rights of the Child, but also many other international documents related to this issue.

The Institution of the Ombudsman for Children in the previous report exactly pointed to the problem that the existing laws regulating this matter did not establish a mechanism that will ensure respect of this rights of the child - to monitor, control and sanction all cases of reporting on children or for children in a manner that is contrary to their interest, that is, to perform constant monitoring in this field with the aim of protection of the child and his interests.

Existing institutions in this field have the authority to undertake procedures ex officio but not that they have to, while at the same time provisions that bind are set to require further interpretation, because they seek that reporting be extremely careful, respecting good customs, starting from the interest of the child.

The Committee further suggests that even the reactions that follow have not been timely nor commensurate to the committed, which only confirms that in this area an effective system of child protection has not yet been established.

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<sup>71</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2005, Point 35.

<sup>72</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2012, Point 37.

<sup>73</sup> UN Convention on the Rights of the Child, Article 16.

The right of the child to protection of privacy obliges all institutions and individuals, but it is mostly seen through relationship of the Media towards children. The Media are very important factor, but that issue must be viewed more broadly. That obligation have parents and kindergartens, schools, social welfare centers, sports clubs and all other institutions and organizations that report and provide information on children. Their obligation too is that by their information, statements and reports, show more sensitivity to what is children's right to protection of privacy.

Parents and teacher and employed at social welfare centers have pointed to violations of the rights of the child to the Institution. Parents often point to the problem of children's exposure to various Media contents inappropriate to the age of children, and institutions point to violation of the right of the child to privacy and disrespect for dignity of the child.

Children in the Media are still present mostly in black chronicles as victims of violence and abuse or as perpetrators of criminal acts. Sensationalist approach in reporting on an event brings them to front page, data on the family is presented, it is talked with the child without the consent of the parents or guardians of the child, it is reported about the school and class in that the child attends. All this in first plan does not put the right of the child and his interest. It is still in the forefront public's right to information. Although that is an imperative of journalist profession - that public receives information, any such situation requires an assessment on potential consequences for the child and his development.

On the other hand, involvement of children in the Media is very modest, as well as their right to express their own opinions and participation in all situations that concern them.

Exposure of children to Media content is most often related to television program and broadcasting scenes of violence in various shows. Violence in the Media is present in films, commercials, music ... Bearing in mind that children from the earliest age most of their free time spend with television program, contents that are offered to them have an extremely important influence on their growing up, whether it is about positive or negative contents, which means they can be very useful - entertaining, informative, educational, but these effects can be completely the opposite. Experts especially warn on the effects of scenes of violence on development of the child and also impact of commercials.

At the same time, and even increasing new Media and exposure of children to them from the earliest age, is further warning, because they are part of growing up of children without adequate supervision and control.

It is therefore very important that in addition to "Media laws" and mechanisms for their implementation and profession - journalist profession, by their joint engagement, work on building of standards for reporting on children.

Given that the issue of respect of the right of the child to protection of privacy is one of the rights of the child guaranteed by the Convention, which obliges all subjects of protection, including the Media, it is essential to devote adequate attention to the issue of Media education.

Media education is a part of fundamental rights of every citizen, in all countries of the world, part of the right to expression and right to information. It is a mean of building and preserving democracy. By recognizing diversity in nature and development of Media education in different countries, it is recommended to include Media education in national school curriculum wherever possible, together with additional, non-formal and lifelong education<sup>74</sup>.

## ***11. Influence of advertisements***

Quality legislative framework in all areas of exercising the rights of the child is foundation of establishing and strengthening the system of protection of the rights and interests of the child, including in the field of advertising.

About the impact that marketing industry has on children and their growing up, whether it sends them messages or that they themselves use them for advertising of their products, today very little is spoken. A particular problem is that that issue is not normatively regulated, so that the industry is left with undefined space where they can advertise their products and use children and for advertisements of those products not intended for children.

The Institution received complaints in which citizens warn about inappropriate use of children in this area in a variety of areas, most often in hygiene products. Marketing industry knows how to attract the attention of the child - music, cartoon, colors and similar. At that, of course, they know that what age of children will bring their product to customer the easiest, and what is their main goal.

Advertising messages are available to children 24 hours and every day. In addition to usual methods of advertising, commercials are increasingly present through new technologies, which children increasingly use without required supervision.

The issue of advertising and development of children can be seen firstly through influence of advertisement in general have on development of children (in nutrition of children e.g. fast food, soft drinks, participation in various contests that require evidence of use of certain products and similar) and then the very participation of children in advertising of certain products. Both these issues require clearly defined rules in this area, in which the best interests of the child will be priority, including supervision in that part and responsibility for violations of the rights of the child and abuse of children in that area.

Aside from the issue of participation of children in advertisements and impact that advertisements in general have on development of the child, there is an increasing availability of messages on billboards to children, on television, daily newspapers, pornographic content. Messages that are sent to them invite to buy the product, the children collect ..., that it is important to have, children, of course, do not recognize the interest of trade in it, but recognize in their classroom and in their environment those who have it.

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<sup>74</sup> UNESCO, Press Conference and digital education, Vienna, 1999.

### **a) Cartoons, picture books**

In numerous situations, the Media have pointed that some contents, although intended for children, are not adapted to either their age or their needs. Reactions were related mainly to cartoons and picture books that are in free sale intended for children.

It is expected that these contents have a positive impact on development of the child, that they are educational, entertaining, informative, however, it is obvious that they did not meet the basic criteria - the best interests of the child.

Violent scenes, to which children are exposed to in these contents, particularly affect psychophysical development of youngest for which the contents are intended for.

If a child in the earliest age is exposed to contents inappropriate for his age, it, experts say, identifies with characters, imitates them in real life, adopts their attitudes, opinions and values, it becomes less sensitive to violent behavior and more tolerant of aggressive behavior in general, and its everyday situations resolves based on the model that it has "learned". At this, the youngest children are exposed to the greatest risk, because they are often without necessary supervision and time limits exposed to those contents from which it learns what is good and valuable, learns new expressions and patterns of behavior.

If we bear in mind that for publication of a picture book for example demanding procedure is necessary, and behind it there is responsibility of both editor and reviewers, it is not realistic to expect that parents take their role even when they have capacities to recognize such contents. And in all these cases responsibility is transferred to parents.

### **b) Mobile phones**

An integral part of children's growing up today are mobile phones. Children use them from the earliest age. Parents justify that by need that they can check where their child is and that at any given time they may be in contact with him, which is the main advantage in use of mobile phones in children, because it creates a feeling of safety both for children and parents.

However, a mobile phone today, especially among children, is not only a mean of communication, at the same time is a camera, computer and the Internet. In primary schools, most children have mobile phones. Although their use is not allowed during classes (any use of mobile phones in class is determined by the law as a serious breach of obligations of students), however, during break, in schoolyard, on the way from home to school, children use all possibilities that mobile offers. Among other things, recording and sending photos of peers, but also sending inappropriate messages and calls. Thus, mobile phone is increasingly in a function of violence among children.

Mobile phone is, unfortunately, for many children a matter of prestige and social status. If a child has a cheaper version or has no mobile phone at it has a "problem", but "problem" also have the others, with expensive phones.

At the same time, by constant use of mobile phones children are becoming increasingly dependent on this form of communication, "I do not know what would I do without mobile phone" said a boy, with phone they write homework, go to store, play on playground, which certainly does not contribute to development of their psycho - social potentials. The bottom

line is, which is obligation of parents, when they provide mobile phone use, to teach them when and why to use a phone, teach them responsible use of phones also in the area of financial expenditure. Mobile phone is just one of examples of relationship towards values that we teach children and at that we forget that children, every day, learn from us what values are and how we pertain them.

## V THE RIGHT TO PROTECTION FROM VIOLENCE, ABUSE AND NEGLECT

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parents, legal guardians or some other person to whom a child is entrusted for care<sup>75</sup>.

All "appropriate measures" that are obligation and responsibility of the State, are related to a number of measures in different sectors, which at the same time must be connected and coordinated.

The UN Committee on the Rights of the Child<sup>76</sup> by pointing to an alarming extent and intensity of violence to which children are exposed, calls to significantly strengthen and expand measures to stop violence, because violence against children is never justifiable and any violence against children is preventable, and that the principle of rule of the right should be fully applicable to children as well as to adults.

Although Republic of Srpska has assumed international - legal obligation of protection of children from violence, and the basic requirements of the Convention on protection of the child from violence are constitutional and obligation stipulated by the law<sup>77</sup>, unfortunately, practice shows that many children are still out of necessary protection, primarily, because of relationship to this problem and lack of its recognition, because of inadequate response in situations when violence occurs, and what is very important, because of lack of necessary psychosocial support to children victims of any form of violence. Regular occurrence is that at it any reaction against the perpetrators of violence against children is missing.

The UN Committee on the Rights of the Child<sup>78</sup> expressed its concern regarding violence against children, and by its concluding observations inter alia recommended:

- *to explicitly prohibit corporal punishment of children in family and in institutions,*
- *to, with the inclusion of children, strengthen awareness and education campaign in order to prevent and eliminate violence against children and to promote positive, non – violent forms of discipline and respect of children's opinion, while working to raise awareness of negative consequences of corporal punishment<sup>79</sup>*

By new Report, by its concluding observations, the UN Committee on the Rights of the Child, repeats the same recommendation from 2005<sup>80</sup>:

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<sup>75</sup> UN Convention on the Rights of the Child, Article 19.

<sup>76</sup> UN Committee on the Rights of the Child, General Comment No. 13. The right of the child to freedom from all forms of violence

<sup>77</sup> Constitution of Republic of Srpska stipulates that children enjoy special protection, the Family Law and Law on Protection from Domestic Violence recognized the need of protection of the child from all forms of abuse and neglect

<sup>78</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2005, Point 43.

<sup>79</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2005, Point 43, Paragraphs c and d

<sup>80</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2012, Point 40.

"The Committee recommends that the State Party undertakes all appropriate measures to explicitly prohibit corporal punishment in all settings, including family environment throughout the territory. Furthermore, the Committee recommends that the State Party strengthens and expands awareness and education programs, including campaigns with aim of promotion of positive and alternative forms of discipline and respect for children's rights, with participation of children, at the same time raising awareness on harmful consequences that corporal punishment causes".

## ***1. Violence against children***

The UN Committee on the Rights of the Child<sup>81</sup> expresses its concern, inter alia, because of lack of database on violence against children, which prevents a comprehensive assessment of degree, causes and nature of this phenomenon, and because of fact that the measures for dissemination of information on the impact of domestic violence on children and measures for encouragement of reporting cases of violence are still inadequate.

Any violence against a child is a trauma for a child with severe and lasting consequences, the one which happens in the family, in all its forms, represents the most serious forms of not only domestic but of violence in general, because it leaves serious physical and psychological consequences on the child. The fundamental right of every child, the right to life and development, is not only violated but also seriously threatened by various forms of abuse and neglect.

Although the right of the child to protection from violence is clearly defined by the Convention on the Rights of the Child, and the Constitution of Republic of Srpska and by laws governing this matter, unfortunately, statistics show that reality for many children is completely different and that their rights to dignity, health, development and education are seriously threatened.

Violence against the child is a serious social problem and today is one of the most common violations of fundamental rights and interests of children.

Systemic acts which have been passed in the last few years have contributed to understanding and recognition of the problem and its consequences not only for that family but for society as a whole, and the Strategy Against Domestic Violence<sup>82</sup> passed in 2010. puts greater emphasis is precisely on protection of children.

However, systemic acts seek qualified people in all institutions which know how to recognize the problem and which are ready to respond to it. At this, constant and coordinated cooperation of all stakeholders is particularly important in order for children to truly be protected from all forms of violent behavior, regardless of from whom it comes from.

According to the World Health Organization's stance abuse or child abuse include all forms of physical and / or emotional abuse, sexual abuse, neglect or negligent treatment as well as commercial or other exploitation, resulting in actual or potential violation – impairment of

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<sup>81</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2012, Point 41.

<sup>82</sup> Strategy to Combat Domestic Violence in Republic of Srpska until 2013, was adopted on 2. session of the National Assembly of Republic of Srpska, 12.07.2010.

child's health, his survival, development or dignity within the relationship which includes responsibility, trust or power.

Violence against children occurs in various forms – neglect of a child, physical abuse, psychological abuse, sexual abuse, violence through the Internet and mobile phones, however, the main problem is that it is not recognized on time, and that an appropriate response of competent is lacking, both in part of support and assistance to the child and in part of determination of liability of perpetrators.

Although family has primary role in development and growing up of a child<sup>83</sup>, unfortunately, many children precisely in the family and in the earliest age experience different forms of neglect, injury, humiliation and abuse. Violence that children experience in the family is not, in any sense, only the matter of the family regardless of what is happening inside of it, but a serious social problem.

Children are afraid and ashamed to report what is happening in the family, they report cases that their friend has a problem due to domestic violence. Not one child reported his family because of it. And that relationship towards parents who endanger their growing up only confirms how much children are emotionally attached to their parents, and that they have no means to resist parental upbringing methods. At that, children of younger age are at greater risk that the consequences of violence seriously endanger their development and growing up.

School still does not perceive the problem of violence against children that occurs outside of school as a problem in which identification and prevention it should be included. Responsibility is mostly seen in parents and their unwillingness to cooperation. However, the violence that occurs against children in educational system, schools do not recognize on time as violence against children. The Institution in the reporting period acted in one number of cases which indicate different forms of violence against children in educational system. In one of the complaints addressed to the Institution it is stated that: *"The teacher XX in gym class in elementary school XX has hit the student XX"*<sup>84</sup>.

One teacher left the school, in several cases disciplinary procedures were conducted against teachers. According to both the Law on Primary and Secondary Education the responsibility is on school principals, because school principals ensure protection of the rights of students, protection of students' health and their safety at school and undertake measures in protection of the rights of students<sup>85</sup>, which means that they are obliged, in all cases when they have knowledge that violence against a child is committed by an employee of the school to initiate a procedure for determination of his responsibility. It is, unfortunately, most often happening when parents are persistent "to get things out in the open" or at the request of the Institution, which creates a completely wrong picture of child protection in educational system and attitude of parents that it would not be done if the Institution has not addressed.

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<sup>83</sup> UN Convention on the Rights of the Child, Preamble - Family as a basic unit of society is a natural environment for development and well-being of all its members, especially children.

<sup>84</sup> Case number: 864-47-PŽ/12

<sup>85</sup> Law on Primary Education, "Official Gazette of Republic of Srpska", No. 74/08, 71/09 and 104/11, Article 129. Law on Secondary Education, "Official Gazette of Republic of Srpska", No. 74/08, 106/09, 104/11, Article 99.

The Institution in 2012. received reports which indicate violence against children in educational system, by third parties. It is about the parents of children, students of the school who have disciplined other children. In two cases, a misdemeanor warrant was issued, and in one a procedure was initiated before the competent social welfare center.

According to the current legal regulations violence against children in family is qualified as a criminal offense and when that same act affects a third person, than it is not a criminal offense, but violation of public order and peace.

Experts warn that violence against children seriously endangers their development and growing up, and that consequences may be severe and long-lasting for their physical and emotional development and that children, due to lack of care and attention in the family often see way out in aggressive and destructive behavior, alcohol, running from home, from school and similar. This refers not only to situations where children are direct victims of violence, that is physical violence, which is most easily observed, but also to situations where children are constant witnesses of violent behavior of their parents.

Mental abuse leaves no consequences that are seen as in physical violence, therefore it is more difficult to recognize and report, but consequences for development of the child can be even more difficult. Constant humiliation, belittling, swearing, use of derogatory names, lack of communication with a child, ridiculing a child's looks or features, intimidation of a child and similar leave long-term consequences to mental and emotional development of a child.

What is present in practice is the fact that neglect of children, although, unfortunately, increasingly present, it is not recognized as violence. If neglect of a child is negligence about a child by which his right to life and development is violated, because his basic needs are neglected - education, health care, love and attention, conversation and socializing with a child, play and leisure, protection of his privacy and similar, then every absence of necessary care and supervision in growing up of a child is violence against a child.

Numerous situations in which the Institution was acting in the reporting period, and which are related to regulation of contact of a child with the parent with whom he does not live, non paying of alimony, issuing travel document, common law marriage of minors, unfortunately, is not recognized as violence against a child, so on that basis the appropriate procedure is lacking against the parents who in these situations neglect the rights of the child to healthy growing up.

According to the MIA data<sup>86</sup>, based on Article 6. of the Law on Protection from Domestic Violence in a total of 1360 misdemeanor charges were submitted (in 2011. a total of 1190 misdemeanor charges were submitted), at that most in PSC Banja Luka - 994 (791 in 2011.) and least in Trebinje - 21 (in 2011.-18 reports). In 2010. according to the same data a total number of reports is 864. A total of 113 children was recorded as victims of violence, 75 girls and 38 boys.

In the same period, according to MIA data, according to Article 208. of the Criminal Code, a total of 253 criminal acts of domestic violence or violence in extended family were recorded (in 2011. that number was 219), where as victims 19 children were recorded, 11 girls and 8 boys.

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<sup>86</sup> Data from MIA records for 2012.

Unfortunately, even though statistics indicate an increase in domestic violence, they still do not reflect real situation in the field for several reasons – only those children who are direct victims of violence, most often physical violence, are still recorded as victims of violence, so that children who are witnesses of various forms of domestic violence for years are not recorded as victims, various forms of neglect of a child are still not considered as violence against a child, so they are not part of the statistics.

Nongovernmental sector, engaged in this field, has made a great contribution not only in strengthening public awareness on presence of the problem and systemic regulation of this issue, but also by work in the field in support of victims of all forms of violence and by constant pointing to the need to strengthen systemic solutions.

Since numerous situations in which children find themselves, are only a consequence of lack of necessary parental care and supervision, and at that, appropriate response of competent institutions and services is missing, the Ombudsman for Children in the reporting period, has instituted an initiative for passing the Protocol on the Procedure in case of violence, abuse or neglect of children. In making of the Protocol nongovernmental organizations "Udružene žene" from Banja Luk, "Lara" from Bijeljina and "Budućnost" from Modriča have also participated, and it was signed by the Minister of Health and Social Protection, Minister of Education and Culture, Minister of Family, Youth and Sports and Minister of Internal Affairs. The Protocol provides definitions of each forms of violence against children, defines treatment of competent institutions and services in accordance with jurisdictions regulated by the law and obliges to mutual cooperation and coordination in work and keeping appropriate records of children victims of violence and abuse.

By the Protocol it is further defined that on the basis of data of all services that are mandated to act in protection of the child from any form of violence, that an annual report is made, which in addition to statistical indicators should also point to possible weaknesses in the system and those parts of the system that must be strengthened to ensure protection of children. Since the Protocol entered into force on 1.1.2013. the first report on violence against children, Republic of Srpska should have a mid 2014.

However, the Protocol itself will not solve the problem in the field, therefore special responsibility of all institutions, institutes and services is to ensure its consistent implementation in all situations that indicate some form of violence against a child, no matter who the perpetrators are.

## ***2. Peer violence***

If we bear in mind the very definition of peer violence, which states that it is every physical or psychological violent behavior aimed at children by their peers, which is done with the intention to harm, and repetition of the same pattern with the intent to harm other person, humiliate him and cause him pain, than it is clear that every presence of any such behavior among children, asks to be recognized on time and taken seriously, to be able to react appropriately.

To be able to react appropriately the causes of such behavior in children must be sought, and it must be acted on them, in order to prevent further violent behavior in children.

Resolution of each case must have an individual approach, causes must be sought for each one, in any case conversation with both parents and children must be performed.

It is difficult to determine from which families and backgrounds perpetrators come, but experts warn that those children have the problem of insecurity in their own values, seek attention, do not tolerate different and give themselves the right to impose order, and they do it in a manner to disrespect other children, humiliate, harass, offend. If such behavior we do not recognize on time, if we ignore the problem- family and school, if we expect that someone else will solve it, or that it will be solved by itself, we actually encourage such behavior in children, and they continue such behavior because adults tolerate it. The basic problem is that we reacted when we did not react, which means that children from the reaction of adults, to their specific behavior set the limits to which they can go.

Children victims rarely report violence that happens to them, they say they fear that it will further "complicate" the problem so that some of them retreat and expect that it will eventually stop, and others respond in the same manner. They do not report violence because they think, if they report it at home or at school, that they will not get necessary support.

The Protocol on the Procedure in Cases of Peer Violence Among Children and Youth in Educational System of Republic of Srpska<sup>87</sup> defines rules and procedures of treatment in case when violence in educational system occurs. In addition to defining procedures of treatment when violence in educational system occurs, the Protocol is also in the function of education on peer violence of children, teachers and parents. The objective of the Protocol is, therefore, prevention, of not just peer violence, but of violence in general and even juvenile delinquency.

The problem of violence among children in educational system is not just a problem of school, therefore the Protocol is signed by the three ministries that by which they oblige themselves that they, each within their powers, work additionally and together and cooperate in order to provide necessary support primarily to a child, but also to those that care for the child.

Parents have a very important role in this, regardless of it is about violence among children in educational system. Particularly important is cooperation between parents and school, which unfortunately is often lacking. Parents see the main problem in inadequate response of the school.

At school, the main problem is seen in non-cooperation of parents, failure to respond to call, of the school, non – acceptance of the situation.

One number of schools due to misunderstanding of the problem or non – confrontation policy do not see the problem, stressing that children always did it, and that it is an integral part of their growing up, and that every reported case has a negative impact to reputation of the school. Attitude towards this type of problem has to be changed in a manner that such school, which recognizes the problem on time and seeks adequate solutions to resolve

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<sup>87</sup> Protocol on the Procedure in Cases of Peer Violence Among Children and Youth in Educational System of Republic of Srpska was signed on November 19. 2008. by the Minister of Education and Culture, Minister of Health and Social Protection and Minister of Internal Affairs

it together with parents and children, is good. Of course, one number of schools, in the approach to this problem, truly starts from the need that every attempt of such behavior recognize and record and to take necessary measures in protection of interests of both a child victim of such behavior and child perpetrator of violent behavior. The system would have to recognize both schools. By public disclosure of schools without violence, for schools that have, by numerous activities, made peer violence in their schools not a problem, but also by adequate responses towards those schools that do not see the problem in it.

The Ombudsman for Children in 2010. based on the analysis of conducted research on the presence of peer violence<sup>88</sup> in educational system in the Republic, and based on the responses of schools, submitted to line ministry the Recommendations which among other things points out to the need that the issue of violence in school must be a part of education of children, to stimulate schools that have a quality approach in identifying and solving these problems, to provide professional assistance where necessary to schools that have recorded multiple perpetrators of this form of violence, to initiate procedure for appointment of the team for co-ordination in all local communities for this issue in order to accomplish better connection of all institutions in monitoring and recording cases of violence, but also in joint preventive and educational work.<sup>89</sup>

In 2012, the Ombudsman for Children and Network of Young Advisors conducted a research on the presence of peer violence among children, the way children see it.

The research was conducted in 35 schools, 18 primary and 17 secondary schools in Republic of Srpska. 1241 students participated in the research, 566 primary school students and 675 secondary school students attending grades V to IX and I to IV of secondary school.

The questionnaire was filled by 634 girls (51.1%) and 510 boys (45.8%), while gender was not stated in 97 students (7.8%).

Peer violence in schools is occurring according to the opinion of 751 students or 60.5% of total of 1241 questioned (of which 357 primary school students and 394 secondary school students). 178 or 14.3% of students believe that there is no peer violence in schools (of which 105 primary school students and 73 secondary school students) while 308 students or 24.8% (of which 103 primary school students and 205 secondary school students) do not know if there is peer violence in schools.

The majority of students believe that violence among peers occurs occasionally 344 or 45.8% (166 primary school students and 178 secondary school students) of those who believe that there is violence in schools, 264 students believe that peer violence is rare (116 primary school students and 148 secondary school students) and smallest number of students 96 or 12.8 (56 primary school students and 40 secondary school students) think that peer violence occurs frequently. 47 students or 6.3% did not answer this sub-question.

Peer violence primary school students most commonly report to homeroom teacher 350 students or 62%, pedagogue 320 or 57%, principal 264 students or 47%, psychologist 149

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<sup>88</sup> Ombudsman for Children, Peer Violence in Educational System, Banja Luka 2010. The research showed that 51% of primary and 64% of secondary schools recorded cases of peer violence and that is 334 primary and 166 secondary schools.

<sup>89</sup> Recommendation of the Ombudsman for Children to the Ministry of Education and Culture of Republic of Srpska, No. 83/10 dated 02.04.2010.

students or 26% and to a teacher 121 or 21%. (Children were given the choice of a larger number of responses)

Secondary school student most commonly report peer violence to pedagogue 298 students or 44.1%, homeroom teacher 260 students or 38.5%, psychologist 185 students or 27.4%, principal 173 or 25.6% and to professor 87 students or 12.9%. It is evident that primary school students usually address homeroom teacher while secondary school students pedagogue. These differences are not great but it is obvious that students recognize that homeroom teachers, professional services and principal of school, but also all employees are obliged to participate in resolution of all issues related to peer violence, even in its reporting.

An interesting data is that only 16 primary school students do not know to whom they would report peer violence, while the number of secondary school students who do not know it is twice as high, 33 of them.

How to deal with cases of peer violence in schools is a question to which 578 students of primary and secondary schools or 46.6% answers that cases of peer violence in schools are resolved by involving in discussion the student, homeroom teacher, professional service and parents as prescribed by the Protocol.

52% of surveyed primary school students state that it is conversation to homeroom teacher, pedagogic service, principal, parents, and 42.2% of secondary school students think the same. For both that is the most common way to resolve the cases of peer violence in primary and secondary schools.

Reducing behavior is a measure for which 260 students or 21% of the total number of primary and secondary school students consider to be imposed with the aim of resolving the problem either as stand-alone measure or at the same time with conversation or in a small number of schools without taking other measures and counseling conversations with students perpetrators and victims of violence.

In schools peer violence is not being solved but is only being covered, consider 110 or 8.9% of surveyed, of which 5% of primary and 12.0% of secondary school students.

203 students or 16.4% (53 or 9% of primary school students and 150 or 22% of secondary school students) out of 1241 surveyed do not know about the manners of resolving cases of peer violence in schools.

According to opinion of primary and secondary school students in schools psychological violence among peers is more present, which in their schools recognize 773 students or 62.3%, while 645 students or 52.0% recognize physical violence, 54 students or 4.4% sexual violence among peers. In terms of types of peer violence there is a difference between primary and secondary schools where primary school students assess physical violence as a more common form than psychological (68.7% -50.4%), while secondary school students perceive more often psychological violence than physical and sexual violence (72.3 % - 37.9% - 5.5%).

564 students or 45.4% of surveyed out of 1241 students believe that there is no violence of adults against children in their school (325 or 57.4% of primary school students and 239 secondary school students or 35.4% secondary school students).

228 students or 18.4% (81 primary school students or 14.3% and 147 secondary school students or 21.8%) observe the presence of violence of school employees against children. The majority of primary and secondary school students believe that this violence rarely occurs - 111 students or 48.7%, 66 students or 28.9% occasionally, and often 21 students or 9.2% out of 228 students who stated that in their school there is violence of employees against students. To this sub-question 30 students or 13.2% out of 228 did not answer.

Out of 1241 surveyed students 837 or 67.4% of students contend that in their school there were organized workshops, lectures, debates, home room classes or promotional materials on the prevention of violence among peers (425 primary school students or 75.1% and 412 secondary school students or 61.0%). Activities that would be at service of education and prevention on this subject were not present in schools in the opinion of 118 or 9.5% of the total number (29 primary school students or 5.1% and 89 secondary school students or 13.2%).

110 primary school students or 19.4% do not know about such activities and 172 secondary school students or 25.5%. Again it is noticeable that the number of secondary school students who declare that they do not know about events in school is greater than the number of primary school students who do not have information on issues related to peer violence.

In activities that were conducted in primary and secondary schools and with the aim of prevention and education on peer violence a total of 478 primary and secondary schools students participated or 38.5% of surveyed, while 759 or 61.2% of surveyed did not participate in these activities.

By further analysis it was noted that a greater number of primary school students 45.8% have passed prevention and education programs in schools than of secondary school students 32.4%.

In activities related to prevention and education on peer violence in primary schools 304 students participated or 53.7% did not participate and in secondary in secondary schools 455 students or 67.4%.

To the question whether they know that there is the Protocol on the Procedure in Cases of Peer Violence 617 students or 49.7% out of 1241 surveyed know that there is the Protocol, while 621 or 50.0% of students do not know about existence of the Protocol on the Procedure in Cases of Peer Violence.

346 primary school students or 61.1% knows that the Protocol exists, and 219 or 38.7% do not know. Secondary school students in a smaller number know that the Protocol exists 271 secondary school students or 40.1% and 402 secondary school students or 59.6% do not know that the Protocol exists.

Analysis of conducted research and its parallel analysis with the research from 2010. point to the need that prevention, education, and hindering all forms of violence among children must be systematic and continuous. What is noticeable and what is good is that a number of children who do not know to whom to report cases of peer violence is significantly reduced. It is also notable that children in a growing percentage unfortunately, recognize psychological violence among peers. It is also notable also that psychologists in schools are not recognized in an appropriate manner because it stems from the data that they are in the

4. place as the choice of students who would address them, and at the same time in secondary school in 3. place.

For protection of children from any form of violence in educational system, it is necessary among other things to:

- clearly define code of conduct in school,
- strengthen the role of psychologists and social workers in schools,
- strengthen cooperation of school with parents, other institutions and local community,
- work to create an atmosphere in school that violence does not occur but also adequately react to any attempt of violence,
- given that children increasingly notice cases of psychological violence that is more difficult to recognize and is less reported in schools than physical violence, ongoing education of employees, students and parents is necessary for timely identification and appropriate response in cases of psychological violence against children,
- obligation of school principal is, that in all cases of violence among children, undertakes measures in accordance with the Law and Protocol, for the protection of the rights and interests of children,
- obligation of school principal is, that in all cases of violence against children, undertakes measures in accordance with the Law for the protection of the rights of the child, as well as measures for determining responsibility and sanctioning perpetrators of violence against children,
- ensure that the Protocol on the Procedure in Cases of Peer Violence be available to teachers, school administrators and professional service and to all students and parents, and to continuously monitor its implementation,
- based on the records of schools on cases of peer violence, it is necessary to make an annual report on peer violence in educational system, in order to, based on obtained indicators, plan measures and activities to overcome them.

Every student has the right to protection from all forms of violence, abuse and neglect, it is responsibility of parents and teachers primarily for appropriate monitoring and timely reaction, but responsibility is of students as well for respect of the rights of others and different.

### ***3. Violence on the Internet***

An integral part of children's growing up today is modern technologies. From the earliest age, children today have experience in working with computers and mobile phones. The Internet has its advantages - speed and accessibility of information, overcoming distance, contacts, allowing children to exercise their right to information, to education, to socialization and expressing their opinions.

However, negative effects are increasingly present and must be recognized on time. Above all it is about different forms of violence against children, but also about dependence on this form of communication.

Most often it is about various forms of violence against children and violation of the rights of the child to his privacy, such as insults, harassment, sending threatening and insulting messages, false representation, incitement to hatred and violence, disclosure of personal

data, disclosure of family circumstances, joining various groups which have different objectives that may be harmful to the child and similar.

Violence that adults commit against children through the Internet is usually related to child pornography. By false representation on the Internet, they easily win children's confidence and become their "friends". Once they become friends all their talks and agreements are "only their secret".

Unlike other forms of violence, to violence through the Internet children can be exposed where, so far, they have been completely safe and the same can last for 24 hours every day of the week.

In addition to various forms of violence against children, the problem is also dependence on this form of communication that threatens primarily health of the child. During the period when they are still growing and evolving, their uncontrolled sitting in front of a computer for several hours a day, endangers their spine and their sight, it creates bad habits related to diet, and further reduces the quality of social contacts of children. Children increasingly less socialize, talk and play, and during their leisure time, unfortunately, increasingly sit in front of a computer.

Experts warn that there is no effective way to protect children from potential risks they might be exposed to. The only sure protection for children is teaching children about the risks and benefits of this communication. Only children who know it and children who have enough information about that might recognize situations that hurt and endanger them.

In order to point to the growing presence of these technologies in growing up of the child, and recognizing obligation of adults in protection of children in that world of communication, the Institution in the past period has implemented numerous activities.

The Institution has promoted the website [www.djecanainternetu.org](http://www.djecanainternetu.org), which is set up so that visitors quickly and easily obtains information that are adapted to age groups of children (early, middle and late childhood), to parents and school.

The website discusses benefits and risks of the Internet, particularly violence, it is dedicated to both children and parents and to school, and in addition to informative there are also so called communicative contents "Brave mailbox" and "Survey".

The Institution has printed an appropriate guide "Children on the Internet" for children, parents and teachers. The website and guide are made with intention of preventive and educational activities with an invitation to everyone that in case of any doubt about it to contact competent institutions.

In 2011. the Institution has organized workshops for children on the benefits and risks of the Internet for primary and secondary schools students which were attended by over 600 children.

At the end of 2012. a research was initiated on exploitation of children on the Internet that aims to collect data and information about views and experiences of children on risks of using information and communication technologies and information of relevant stakeholders of society (parents, professionals, NGO sector and companies in this field, and the Media )

as well as sensitization of both responsible institutions and bodies, and widest public about various forms of violence against children on the Internet and everyday situations to which children are at risk of becoming so.

For purposes of the research the Institution conducted focus group interviews with 102 children aged 10 to 14 and 14 to 18 years of age. The research has shown that children use the Internet from one to three hours a day, and on weekends even longer. At the same time it was noted that children with well-organized leisure time, who are engaged in sports, attending various courses and schools or are members of NGO, use the Internet less.

Social networks, according to opinion of children, are an unavoidable form of communication with friends and one number of primary school students have their own profiles to which their parents have access. Secondary school students all have profiles and if their parents are Internet users they have them in their friend list and say "they have nothing to hide from them".

Secondary school students have, by speaking about social networks, warned to irresponsible behavior of younger that put on their profiles completely inappropriate contents, and what is especially surprising to them is that many parents support such activities of their children.

The conversation that we had with parents showed that parents of primary school students are often not aware of the dangers that children may have on the Internet and point out that they can control what their child is doing on the Internet only when they are at home, and that during the time spent on work can not with certainty say whether the child respects the deal or not.

However, almost all parents whose children use the Internet say they talk with their children about the fact that rules of life also apply on the Internet: do not talk to strangers, do not talk about yourself and your family with someone you do not know well enough, do not send your photos, do not meet with strangers, do not use indecent forms of communication and similar.

To the question of whether they would accept strangers as friends and would they go to an arranged meeting, children in a largest number, replied that they would not do it. However, one number of children have developed a story about how they would check that unknown person, how they would be able to recognize hidden intentions and dangers, by which they showed that their curiosity would still lead them to a meeting. And that is precisely what adults count on.

To the question who would they address if some situations would hurt and upset them, children mostly, as trustworthy persons mentioned parents, peers, pedagogues or MIA.

However, parents often do not have enough information nor knowledge how to control the child on the Internet, how to recognize it has a problem, how to protect it; they are confused because of all louder warnings that speak about the dangers of the Internet and they resort to prohibition of use of computers and the Internet, and this is just one of the reasons why children do not report these cases to parents.

The research also included experts from schools, social welfare centers, police, primary and district courts and prosecutors' offices and non-governmental organizations who have pointed that in practice did not have greater experiences with exploitation of children

through information technologies, nor are familiar with manners of addressing these problems, and that is necessary to define the problem and work on education of all.

Analysis of conducted focus group interviews has showed that education on benefits and risks of the Internet must include children, parents, teachers, and professional services in schools, in order to act on preventing child exploitation through the Internet by preventive measures and activities.

Nonetheless, it is essential that in schools:

- nonviolent communication programs that are practiced in schools must include education about violence on the Internet,
- computer classes must include education about the responsible use of the Internet,
- for students who do not have computer classes (lower grades of primary school), that this topic is addressed in class teaching, according to pre-defined program adapted to the age of children,
- the issue of using the Internet is actualized at PTA meetings at the beginning of school year and that parents are referred to support and assistance of relevant institutions, and cooperation with parents on all issues of realization of the rights of the child are strengthened.

It is particularly important for the Institution that on the issues and problems it points to, experts speak, professors from universities whose participation contributes to more quality consideration of the problem as a whole and therefore search for more quality solutions to overcome them, not only in this field, but on all issues and problems that lead to violation of rights and interests of children. In this research as well, an active contribution gave the professors of the Faculty of Philosophy and Faculty of Political Science at the University of Banja Luka and the Agency for Information Society of Republic of Srpska.

The research on exploitation of children through the Internet the Ombudsman for Children conducts in cooperation with ombudsman institutions from the region, which will in the first half of 2013. present research results and give joint recommendations.

## VI THE RIGHT TO HEALTH CARE

The right of the child to health care, at the international level is regulated by numerous international documents. The Convention on the Rights of the Child sets very broadly<sup>90</sup> the realization of the right of the child to health care, which requires that children's health is improved and preserved not only in health sector but also in family, school, sports clubs, playgrounds ... According to the position of the World Health Organization "Health is not merely the absence of disease and disability but a state of complete physical, mental and social well-being and realization of the highest attainable standard of health is the obligation of society".

The right to health and health care as a fundamental human right is guaranteed by the Constitution of Republic of Srpska<sup>91</sup>, and its exercise is regulated by numerous laws and not only in health sector. Under the Family Law (Article 81.), parents have duty and right to protect their minor children and to care for their life and health.

One of the basic requirements of the Convention is the obligation of state to ensure that no child is deprived of access to health care services. According to the applicable laws<sup>92</sup> the right of access to health care in Republic of Srpska is provided for children under 15 years of age and children who are full-time students up to 26 years of age. This means that these categories are compulsory insured persons, regardless of insurance status of their parents, whether they work and whether contributions are paid. On that basis, lack of access to health care services, the Institution has not received complaints that indicate violations of the rights of the child.

Children are by law exempt from paying participation, however in practice this right is exercised by children under 15 years of age, and children from 15-18 years of age are still not freed of those costs. The same situation is with hospital treatment, and according to assurances from the Health Insurance Fund on these issues is currently being worked, so that these children (all persons under 18 years of age) under the same conditions on the entire territory of Republic of Srpska exercise rights defined by law.

Health Insurance Fund for a long period is leading a campaigning related to informing public on the rights from the health sector and in this part special attention is actually devoted to children, pregnant women and young mothers.

In relation to the exercise of the rights of children to protection of health, the Institution has, in the reporting period, pointed to lack of systematic preventive measures and programs of health protection of children - protection from the use of alcohol, tobacco, drugs, reproductive health. Due to absence of appropriate preventive programs, adjusted to the needs of children from their earliest age, the system is dealing with the consequences and treatment of children in individual cases.

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<sup>90</sup> UN Convention on the Rights of the Child, Article 24.

<sup>91</sup> Constitution of Republic of Srpska, Article 37.

<sup>92</sup> Law on Health Insurance, "Official Gazette of Republic of Srpska", No. 18/99, 51/01, 70/01, 51/03, 57/03, 17/08, 1/09, 106/09, Article 16.

## ***1. Protection of children from drug use***

By the program for prevention of narcotic drugs abuse in Republic of Srpska for the period 2008-2012, which was enacted by the Ministry of Health and Social Protection in line with the Strategy for the Control of Narcotic Drugs and Suppression of its Misuse<sup>93</sup>, a whole range of measures and activities, in various sectors, primarily preventive, to improve combating misuse of narcotic drugs was foreseen. In order to achieve defined policies, plans and programs of action the Commission of 13 members was appointed which through health, social, educational and repressive system, and civil society and media organization conduct various programs aimed at preventing drug misuse among children and adolescents, lowering health and social risks related to drug misuse and protection programs for children, youth, families and entire society. The Ministry of Internal Affairs has a coordinating role in work of the Commission. In implementation of programs for prevention of narcotic drugs misuse special attention is paid to prevention - education that is focused on precisely delineated population, pupils, students and parents, but also raising the level of expertise of professionals, police, health personnel, judges, prosecutors, non-governmental organizations.

As a part of strategic commitments in combating drugs changes have been made in the biology curriculum for 6. and 7. grade related to the prevention of narcotic drugs misuse, by which the protection of children from narcotic drugs misuse became part of regular educational system.

Within numerous activities in realization of the program, the program for collection and processing data on narcotic drugs users was established, necessary equipment was procured and persons for their realization obliged.

Realization of program activities defined by strategic documents received its verification also through the ESPAD<sup>94</sup> research which was in Republic of Srpska conducted in 2008. and 2011.

Normative framework and established practice of acting in protection of children from drug misuse - monitoring the phenomenon, systemic solutions in various sectors, inter-institutional and inter-sectoral cooperation, record keeping, is only one segment of protection that should be recognized in protection of children from the use of alcohol, tobacco, in protection of children from various forms of violence, abuse and neglect, promotion of healthy lifestyles.

Prevention is crucial and it must begin at the earliest age of the child and must be permanent and continuous. In that prevention parents and educational institutions have a particularly important role.

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<sup>93</sup> Strategy for the Control of Narcotic Drugs and Suppression of Misuse of Narcotic Drugs in Republic of Srpska for the period from 2008. to 2012, the Strategy for 2013. is also prepared.

<sup>94</sup> ESPAD - European research project on tobacco, alcohol and drug use among secondary school aged children, implemented by the Ministry of Health and Social Protection and Public Health Institute. The project is being it was realized in 36 countries of Europe in co-operation with the European Monitoring Centre for Drugs and Drug Addiction.

## ***2. Protection of children from tobacco use***

When it comes to protection of children from tobacco use the problem is present, inter alia:

- in its easy availability,
- undefined prevention programs of education of children about the harmful effects of tobacco use,
- in inadequate supervision in implementation of regulations in this field and absence of response towards those who expose children to risks of tobacco products.

According to the latest research<sup>95</sup>:

- More than half of students very easily obtains cigarettes, and only 12.4% report this as a problem,
- Cigarettes, at least once in their life, have tried 37.9% of students, significantly more boys,
- 53.8% of students had smoked their first cigarette at age 13 or younger, while 75.2% of students began daily smoking at age 14 and over,
- 18.2% of youth had smoked cigarettes in the month prior to the research in 2008. while in the latest survey, this percentage is 14.5%.

By the Law Prohibiting Sale of Tobacco Products to Persons Under the Age of 18<sup>96</sup>, in order to implement preventive measures and improve health of persons under the age of 18 from harmful effects of tobacco products is determined, among other things, obligations of educational institutions under this law.

According to Article 12. of the Law, all educational institutions, primary and secondary schools, sports organizations and so on are required to set up in a prominent place posters and other material which indicates that the use of tobacco products to persons under 18 is prohibited, as well as harmful effects of tobacco on health. Competent institutions are further required in their programs for elementary and secondary education to include the topic - risks of tobacco use to health, on which it should be taught and discussed at least once a month during regular classes. **Since the law does not determine who makes the program, it is necessary by amendments to the Law to define that education program is issued by the Minister of Education and Culture in collaboration with the Ministry of Health. The program must be adapted to the age of the child, must be uniquely defined for all educational institutions and supervision must be provided in its implementation.**

Protection of children from tobacco use in addition to measures and activities aimed at educating children about the harmful effects of tobacco smoke and adequate sanctions against those who allow it to children or do not prevent them in doing so, must be directed

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<sup>95</sup> Institute of Public Health in collaboration with the Ministry of Health and Social Protection of Republic of Srpska, in 2008. for the first time within ESPAD has conducted a research on alcohol, tobacco and drug use among secondary school students in Republic of Srpska and in 2011. based on the same methodology new research was conducted

<sup>96</sup> The Law Prohibiting Sale of Tobacco Products to Persons Under the Age of 18, "Official Gazette of Republic of Srpska", No. 46/04, 74/04, 96/05, 92/09

to consistent implementation of the Law on Prohibition of Smoking Tobacco Products in Public Places<sup>97</sup>.

The Institution has received complaints from both children and parents that indicate disrespect of provisions of the Law on Prohibition of Smoking in Public Institutions.

Research that was conducted by the World Health Organization indicate growing threat to children from secondary inhalation of tobacco smoke, mostly from parents, which in children often leads to respiratory tract diseases.

Consistent implementation of the Law is not provided in public institutions in which children reside and at the same time competent control authorities, did not give due attention to supervision in this area. Control of these institutions should be permanent and continuous and primarily in the function of prevention.

### ***3. Protection of children from alcohol use***

The Convention on the Rights of the Child obliges States Parties to undertake all appropriate legislative, administrative, social and educational measures to protect children from illicit use of narcotic drugs and psychotropic substances<sup>98</sup>.

According to the position of the World Health Organization, alcoholism is a disease that results in numerous health and social problems.

According to the research that was in 2011. conducted by the Institute of Public Health in collaboration with the Ministry of Health and Social Protection on " Misuse of alcohol, tobacco and narcotic drugs among students of the first year of secondary schools" in 162 classes which included 3132 first grade students of secondary schools:

- 87.6% of young people have reported that they drank alcohol at least once in their lives, while that percentage in the research in 2008. was 75.1%<sup>99</sup>,
- more than half of surveyed students state that they very easily obtain beer, wine and spirits,
- around 40% of young people were under strong influence of alcohol at least once in their lives,
- almost half of students have tried beer and wine at age 13 or younger, while 41.3% have tried spirit at age 13 or younger.

Researches conducted in numerous countries point to the causes that lead to alcoholism in youth that are most often associated with the period of their growing up – adolescence period, and influence of the family and especially influence of peer group. The highest

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<sup>97</sup> The Law on Prohibition of Smoking Tobacco Products in Public Places, "Official Gazette of Republic of Srpska", No. 46/04, 74/04 and 92/09, in Article 2. under public places includes facilities where services to public are provided and places where more people are gathering, including:

- a) educational institutions, such as nurseries, kindergartens, primary and secondary schools, colleges and universities and other educational institutions and
- b) institutes for accommodation of students such as student's homes, youth hostels and other institutions where minor persons are received and accommodated.

<sup>98</sup> UN Convention on the Rights of the Child, Article 33.

<sup>99</sup> By the research of the Ombudsman for Children in 2010. in 25 secondary schools, which included 689 students of third year of secondary school, 78% of them said they consume alcohol.

percentage of alcohol is consumed by young people on weekends and holidays in the company of their peers, most of them were offered alcohol for the first time exactly by their peers. At the same time, years when they most often consume alcohol confirm that in that specific age, which every young man goes through on his way to adulthood, many of them by alcohol use prove themselves in their peer group and thus gain ostensible safety and courage.

Researches also indicate to the risk factors that most often contribute to it, and among many stand out - lack of knowledge and education of young people about the effects of alcohol and consequences that alcohol use has on their health, and, what is of special concern, easy availability of alcohol to children and lack of effective measures and sanctions against all those who allow children alcohol use. Precisely that children confirm in numerous conversations and organized workshops on the rights of children in general and especially on alcohol use.

Experiences of mental health centers confirm that more and more children seek help for alcohol misuse. At that it is evident that age limit of children who have experience with alcohol is moving, and that in treatment of the center the youngest person was only 9 years old.

In emergency services also confirm that especially on weekends and holidays they receive children under influence of alcohol.

In one number of secondary schools it is confirmed that they had situations where a student comes to school under influence of alcohol, that they immediately notify the parents of the student about it, however, very often, the parent does not respond to such calls.

All of the stated only confirms that serious problem of presence of alcohol in children is still not taken seriously. Of particular concern is the attitude of competent inspection in several public statements in which they point out that they have no way to fight. No one expects that inspection is every day in every shopping and catering facility, but it is expected to, once every three months, for example, imposes the most severe sanction provided for by the law and thus sends a message to children and retailers and restaurateurs that such behavior will be sanctioned.

Protecting children from alcohol use requires engagement of numerous subjects of protection, whose activities must be planned and coordinated at the same time must be carried out work in two directions.

Primary is prevention, which means that teaching children about all the harmful consequences of alcohol use must begin in their earliest age and must be part of educational system, where cooperation between parents and educational institutions must be strengthened.

The other direction requires adequate sanctions for all those who did not, within the framework of their jurisdictions and powers, undertake necessary measures and activities to protect children, or who contrary to the interests of the child and legal provisions allow children or enable them, or do not prevent them in the use of alcohol.

Regardless of change of legal solutions that provided institutions with the basis for treatment in a variety of situations when children are under the influence of alcohol, easy availability of alcohol and lack of reaction of competent are still the main problem to which point children, parents and schools. The most common reaction is shifting responsibility from one to another institution, and consequences of such reaction bear children not only today but long-term, and society as a whole.

#### **4. Children and lottery**

Lottery is not intended for children and any their participation in some form of this type of "entertainment" is contrary to their best interest and it has harmful consequences to a child. By staying in those facilities, a child spends his leisure time in a space whose contents is not intended for him and is detrimental for his growing up, because they create in a child a feeling of addiction as well as alcohol and tobacco. In this a child, that money intended for food in school spends on the game, and if he does not have it, today he will borrow it and tomorrow

The Law on Lottery<sup>100</sup> determines prohibition of presence of children in premises where these activities take place. Given that in addition to such prohibition the obligation of organizer of lottery to display such prohibition in a prominent place in all business units was not determined, that was by recent changes in the law, at the initiative of the Institution, such an obligation of organizers was determined, as well as sanctions for those who do not respect it.

The existing legal restrictions are only one of many measures that adults must undertake with aim of protection of children from this form of abuse.

The Institution has received a complaint which states: *"For months, the mother is looking for gambling luck in company of her twelve year old daughter, she says she does not like to leave her home alone."*<sup>101</sup>

The law itself will not solve the problem if competent inspection authorities through regular control, which should primarily serve the purpose of prevention and by imposition of measures, set forth by the law do not take its own part of responsibility for the presence of these phenomena.

#### **5. Protection of children with behavioral problems**

Various forms of behavior disorders in children, which are related to various behaviors that deviate from socially acceptable, normal and expected given the child's age, indicate primarily to the possibility of unfavorable development of a child, if such behavior of a child is not recognized in a timely manner and if adequate professional assistance and support is absent. They call them problematic, ill-mannered in the initial stage and reactions are mainly related to sanctioning such behavior. In this professional assistance is mostly lacking in identifying the causes of such behavior in children and their elimination, in order to save children from more severe forms of unacceptable behavior.

<sup>100</sup> Law on Lottery, "Official Gazette of Republic of Srpska", No. 111/12, Article 11.

<sup>101</sup> Case number: 1734-271/11

Any change in behavior of children, regardless of whether children manifest them only in the family, or only in school or in communication with peers, with adults, in commitment of criminal acts, has their own causes. A large number of divorces seeking the intervention of competent authorities confirm that they also, or the children who undergo all these situations, need help and support of professionals. And not only divorces. The presence of alcohol in children, tobacco, leaving school, running away from home, problems in communication with peers and adults ... are just some of the situations for which family needs professional help and support because to many questions their relations with children does not have an answer. The number of child psychologists and psychiatrists today does not meet the needs in the field. If at this one bears in mind that in smaller municipalities they are not present, then additional engagement is expected from parents in order to provide appropriate professional support for their children. According to data of the Ministry of Health and Social Protection<sup>102</sup> in 2011. social welfare centers recorded 1333 children with asocial behavior, however according to the same data, at the same time, the number of imposed measures of family legal protection (measures of supervision, increased supervision, deprivation of parental rights and similar) is not even close to the aforementioned.

## ***6. Protection of reproductive health of children***

Early marriages in children<sup>103</sup>, and all are early before their legal age, lead to violation of fundamental rights of children, primarily the right to undisturbed psychophysical development, their right to protection of health and right to education.

Giving birth to children while they themselves are still children, they at the beginning face those life situations for which they are not prepared, and very often children from those marriages grow up in conditions which do not ensure proper growth and development.

Silence of family and school on topics that interest children and are an integral part of their growing up leads to the fact that children most often obtain information on issues and problems on relations in relationships from their peers, through various magazines or the Internet.

Lack of information or misinformation, lack of support in family and school lead children to situations that leave long-lasting effects on their health.

Situations in which children find themselves, speak about our relationship towards them and lack of recognition of causes that have led them to those situations and, in particular, lack of recognition of consequences that are difficult and long-lasting, not only for that child and his family, but for society as a whole.

Education is both a human right and an irreplaceable tool for realization of other human rights<sup>104</sup>. The right of the child to education requires that educational system recognizes those issues and problems that children face with on daily basis, and that will make that

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<sup>102</sup> Ministry of Health and Social Protection, Newsletter number 11

<sup>103</sup> According to data of the Republic Institute for Statistics of RS in 2011. 520 brides and 45 grooms aged 15 to 19 years and 407 mothers aged 15 to 19 years were recorded, which is less than in 2010. when 436 mothers of that age were recorded.

<sup>104</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 13, The Right to Education

goals of education defined by the Law be realized. And it requires enabling young people the right to information and education on sexual and reproductive health as well.

In their address to the Institution students state: *"We, the students of the class III 4 of the Secondary school XXX suggest amendments to the curriculum of home classes of ninth graders of primary school and all grades of secondary vocational schools and high school, in order to devote one class per month to this issue. For this training to be successful we need co-operation with nongovernmental sector, competent institutions, medical institutions and professional pedagogical and psychological services."*<sup>105</sup>

Lack of information of children and young people, ignorance, lack of professional assistance and support are basic problems to which point health workers and parents and increasingly more often children themselves who, by addressing the Institution, indicate to the need to acquire the knowledge on these issues in school, and that protection of reproductive health of young people must be recognized as the need of community and appropriately addressed systematically.

Bearing in mind the causes and, in particular, the consequences of risky sexual behavior of young people, it is essential that educational system recognizes the need and establishes a program for teaching young people about sexuality and reproduction, which will, among other things, encourage children and young people to think about their health, especially reproductive, about relations between sexes, risky behavior, sexually transmitted diseases, abortions ... and which will primarily be in a function of prevention.

Bearing in mind that knowledge is the best protection of children against all risks to which they are exposed, the Institution, has sent to the line ministry a recommendation with the aim to:

- establishes program of education of children in educational system of their reproductive health,
- program should be adapted to the age of children and their needs, to determine the possible forms of program implementation and supervision of its implementation.

The Recommendation was made based on the research which the Institution in the reporting period conducted together with Young Advisors.

Research on attitudes of young people about reproductive health was conducted by Young Advisors of the Ombudsman for Children in collaboration with the Institution. This research was proposed by Young Advisors, they performed surveying of their peers in schools, and summarizing the results.

According to definition of the World Health Organization, reproductive health is a state of physical, mental and social well-being in all matters related to reproductive system at all stages of life. Reproductive health implies that people are able to have a satisfying and safe sex life and ability to have offspring as well as freedom to decide whether to have it, when, and how often. An integral part of this is the right of men and women to be informed, to have access to safe, effective, affordable and acceptable methods of family planning by their

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<sup>105</sup> Case number: 434/12

choice, and the right to adequate services of health protection that enable women to safe pregnancy and childbirth.

The aim of this research was to:

- examine from whom children receive information on reproductive health,
- examine the attitudes of young people about the need for learning about reproductive health in school,
- examine by whom and at what age they want to learn about reproductive health,
- find out what they think about the age when children can give voluntarily consent to sexual relations,
- involve young people to express their opinions and propose solutions on issues that concern them.

The method of questionnaire with 7 closed type questions was used in order to accurately check the attitudes of young people.

Sample - The questionnaire was completed by 523 secondary school students, that is 205 male or 39% and 318 female or 61%.

The survey included 17 schools: Secondary School of Business, Medical School, School of Economics - Banja Luka; MSS Nikola Tesla, Kozarska Dubica; High School, Prnjavor; High School, Gradiška; Agricultural and Medical School, School of Economics and Trade School, Bijeljina; High School with Technical Schools, Derventa; SSC Nikola Tesla, High School, Šamac; SSC Jovan Cvijić, Modriča; Technical School, Catering and Trade School, High School, Dobo; Secondary School Center, Foča; SSC "Milorad Vlačić", Vlasenica.

The largest number of students attend grade IV 33%, III grade attend 30%, I grade attend s 24% and II 14% of surveyed.

Considering that most students are already on the verge of adulthood answers may suggest what omissions related to relations of young people towards reproductive health they have noticed now almost adult secondary school students.

#### SECONDARY SCHOOL STUDENTS HAVE ASKED THEIR PEERS

1. From whom do you get the most information about reproductive health? (You can circle more than one answer)

- a. Parents/guardians
- b. School
- c. Peers
- d. The Media (Internet, TV, radio, magazines)

The largest number of young people obtains information on reproductive health through the Media, as much as 67%, less than half from parents 39% and 33% from peers. The smallest number of children 15% obtains information on reproductive health at school.

2. Assess how many information on reproductive health you get at school?

1 (I do not get this information)    2 (very little)    3 (sufficiently)

Secondary school students in 58% of cases estimate that they get very little information about reproductive health at school. 24% of them think they get enough information, while 18% think that they are not getting any information on reproductive health at school.

3. Would you like to learn about reproductive health at school?

YES            NO

The largest number of surveyed secondary school students 82% would like to learn about reproductive health at school, while only 18% does not want it.

4. How would you like to learn about reproductive health at school?

- a. in regular classes
- b. sections and extra-curricular activities
- c. home classes

Almost an equal number of secondary school students would like to learn about reproductive health in regular classes 39% or at home classes 35%. Slightly fewer of those 23% would like to obtain that knowledge through sections and extra-curricular activities.

5. From whom would you like to learn about reproductive health?

- a. from teachers
- b. from experts
- c. from peer educators

Secondary school students in 69% of cases would like to learn about reproductive health from experts. 23% of surveyed would like to obtain knowledge on the topics of reproductive health from peer educators, and only 8% from teachers. 5% did not answer the question.

6. When should children begin to learn about reproductive health?

- a. up to 4. grade of primary school
- b. from grade 6-9 of primary school
- c. in secondary school

Over half of surveyed students 52% believe that teaching about reproductive health should begin from VI to IX grade of primary school.

37% believe that learning should begin in secondary school, and 12% up to IV grade of primary school.

7. What do you think what is appropriate age of the child for voluntary consent to sexual relationship?

14 years    15 years    16 years    17 years    18 years

Legally mandated age of 14 is supported by only 7% of surveyed students. Voluntary consent to sexual relationship at age 15 approve 9% of surveyed, and at age 16,19%.

Almost equal numbers of young people believe that time to be 17 years -30% or 18 years - 34%.

CHILDREN CONCLUDE:

Reproductive health is still a topic on which people are reluctant to talk, so we search for information by ourselves.

We expect to get information about reproductive health at school.

We think that we should learn about reproductive health in regular classes and at home classes.

We want information from experts in this field, adapted to our age and our needs, starting from higher grades of primary school.

When speaking about voluntary consent to sexual intercourse, we find that time to be between 17 and 18 years of age.

## ***7. Toys and equipment harmful to health and safety of children***

An integral part of children's growing up is certainly toys for children. From the earliest age they are intended for education of children and development of their skills, and have a very important role in physical and mental development of the child. **Regardless of the purpose their parents buy them for children, the basic condition that a toy must meet is to be safe for the child. Although seemingly harmless, many of them can be dangerous for children on different bases (some unfortunately on several bases at the same time).**

According to the Law on General Product Safety<sup>106</sup> a product is considered safe if it meets all safety and health requirements stipulated by special regulations that apply on the territory of Bosnia and Herzegovina for that product. Bosnia and Herzegovina still did not, in accordance with the Law, normatively define all aspects of correctness and safety of children's toys.<sup>107</sup>

The European Community devoted special attention to the safety of children's toys and defined the standards<sup>108</sup> which toys must meet in order to be able to be placed on the

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<sup>106</sup> The Law on General Product Safety, "Official Gazette of B&H" No. 102/09, Article 5.

<sup>107</sup> Decision on the content of warnings by which toys with magnetic parts must be marked, "Official Gazette of B&H", 02/9 Decision on restriction of placing on the market of toys and products for children containing phthalates, "Official Gazette of B&H", 4/10

<sup>108</sup> Directive 2009/48EC, General guidelines on standards for child safety

market, particularly in relation to material used in their production and possible dangers to which children may be exposed.

Unfortunately, on our market, there are toys that have very harmful consequences for children because they do not meet the minimum standards and requirements. When buying toys for their children, parents often do not know which risks they expose them to. In doing so, they are often advised to exercise caution when buying toys. In order for parents to give due consideration to choosing toys for their children, they need information about it and contact addresses where they can check doubts with regard to materials and physical properties of toys they buy.

According to the Surveillance Agency of B&H market<sup>109</sup>, for year 2012, from 20 samples of toys on the market of Bosnia and Herzegovina, which had passed laboratory analysis, 6 (30%) showed an impermissible concentration of phthalates, which can cause serious health problems, various defects and disorders in children, while in 2011. of 33 samples, 19 showed an impermissible concentration of phthalates<sup>110</sup>.

But not only toys, children's cribs as well, playpens for babies, clothes for the youngest, unless they meet the minimum standards for safety of children, may seriously endanger development and growing up of the child. Such products should not be on the market and in sales, that is the most reliable protection of children, therefore constant and intensive supervision in importing them is needed, but also regular control of those already on the market in order to avoid all potential dangers - whether they have required declarations, presence of various toxic chemicals, toys in small parts that children may swallow, magnets that can be dangerous for children, sharp parts, strong smells, too loud sound ...

The Surveillance Agency of B&H market for the period September - December 2012. conducted a total of 34 inspections of manufacturers, importers, distributors and retail stores of children's cribs, 35 controls children for children's walkers and 39 controls for children's strollers.

As a end result of these projects, 25 children's cribs, 206 children's walkers and children and 59 children's strollers were withdrawn from the market of Bosnia and Herzegovina, because they represent a high risk to health and safety of children due to non-compliance with safety requirements, and in 61 children's cribs, 20 children's walkers and 111 children's strollers harmonization of prescribed safety requirements was performed, after temporary decommission out of trade, due to administrative inconsistencies.<sup>111</sup>

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<sup>109</sup> Results of the project implementation of supervision of toys and products for children on phthalate content are published on the Agency's website 08.30.2012.

<sup>110</sup> Results of the project implementation of supervision of toys and products for children on phthalate content are published on the Agency's website 11.07.2011.

<sup>111</sup> Results of the project implementation of supervision of children's cribs, children's walkers and children's strollers for the period September - December 2012, are published on the Agency's website 12.24.2012.

## VII CHILDREN WITH DEVELOPMENTAL DISABILITIES

In the reporting period, the Institution has acted on complaints (23) which, based on various grounds point to violations of the rights of children with developmental disabilities.

Children with disabilities have the right to equal participation in society and to same rights as their peers. Their needs are not special, they are the same as needs of their peers, but in order to achieve them society must remove the barriers that prevent them in this. Because of disability they have, they need additional care that will enable achievement of the highest level of independence and social integration for every child. Removing barriers concerns number of subjects of protection and at the same time constant communication and coordination is very important between different services to, in given circumstances, ensure the maximum possible for each child.

The request of the Convention to protect the rights of children with developmental disabilities, is a primarily a call for his active participation in society in which he should enjoy full and decent life, in conditions which ensure his dignity, achieve independence and facilitate active participation in community.<sup>112</sup>

Primarily parents, in lack of recognition of the problem or its non-acceptance, very often lead to situations that disabilities of a child, on various grounds, are noted very late. And experts warn that it exactly the early diagnosis and adequate measures at the earliest age of a child of particular importance in overcoming or reduction of disability a child has.

In the past few years in Republic of Srpska more sensitivity is shown to the problems of these children. Organizing various associations and their connecting is directed to realization of numerous projects with both line ministry and relevant services of local community in finding appropriate solutions to support this group of children.

Unfortunately, unlike many other areas, almost all municipalities in Republic of Srpska have recorded children with a variety of developmental disabilities. According to data of the Public Fund for Child Protection<sup>113</sup> in Republic of Srpska 2800 children with developmental disabilities were recorded who are beneficiaries of the fund. Data of the Public Fund do not indicate final number of this category of children, because one number of children with developmental disabilities is not beneficiaries of rights from child protection. At this, one number of children is present where classification was not performed, so they are not in the records.

According to data of the Ministry of Health and Social Protection<sup>114</sup> the largest number of children in whom the classification was performed is of children with mental and multiple disabilities, followed by children with physical disabilities, hearing impairment, voice, speech and language disorders.

Parents of these children carry the heavy burden and responsibility for numerous situations they face every day. The most common problem they point to is an insufficient number of professionals for work with children, and inability to care for children for a limited period of

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<sup>112</sup> UN Convention on the Rights of the Child, Article 23.

<sup>113</sup> Public Fund for Child Protection, data from August 2011.

<sup>114</sup> Ministry of Health and Social Protection, Newsletter number 11

time during the day. Time is the biggest enemy for these children, because if they can not be in treatment or speech therapists or defectologist, for example to the extent that is due to disability according to physician's finding necessary, their chances of inclusion and achieving the maximum possible potentials are diminishing. But parents see every system solution as a great contribution for both their children and the whole family. This is why the involvement of the President of the Republic, and response of many institutions and individuals to support them, was realized primarily as additional care and need, and then financial assistance that will surely contribute to improvement of their position.

Parents associations organized for the purpose of improving the status of these children also point to inability of care of children with developmental disabilities. As a mode of resolving this issue they see organizing services of day care center that provides activities focused on development of practical skills for everyday life that to the greatest extent allow independence, development and maintenance of social, cognitive and physical functions. Care in day care center, through appropriate health care services, physical therapy and individual treatment depending on developmental disabilities, and advisory work with parents, is also in the function of prevention of institutional care of children.

Day care centers, as a form of support to these families have been established in one number of municipalities. However, the new Law on Social Protection<sup>115</sup> for the first time establishes the right of the child to day care in cases and under conditions stipulated by the law. New children's right in social protection is a new quality in protection of the interests of children, particularly of vulnerable categories. The Institutions has in one number of municipalities talked on this issue with the relevant in local community, given that capacities to which parents point are not exploited in an appropriate manner.

The UN Committee on the Rights of the Child<sup>116</sup> in the recommendations from 2012. expresses its concern, among other things, related to:

- a) Inclusive education is still very limited, because most children remain at home or are sent to special institutions / schools ...
- b) insufficient and inadequate care and support of service providers, especially social welfare centers and health centers which are not adequately equipped and prepared to provide services and support necessary to meet the needs of this category of children;
- c) lack of application of legal provisions on construction, which leads to existence of architectural and physical barriers in public places, including schools.

## ***1. Assistants in schools***

The Institution of Ombudsman for Children received a number of complaints-appeals of parents of children with developmental disability and in relation to the issue of engagement of teaching assistants.

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<sup>115</sup> Law on Social Protection, number 37/12, Article 20.

<sup>116</sup> UN Committee on the Rights of the Child, Concluding Observations and Recommendations 2012, Point 52.

Parents state that, no matter that in findings and opinion of expert committee for classification of persons with physical or mental disabilities, as one of the measures support of teaching assistants is proposed, which social welfare center by its decision confirms, children can not realize that right, because according to response of the Ministry that is enabled only for children with autism.

In a number of cases in which the Institution has acted the Ministry, inter alia, states:

- *"Given the limited resources in the budget, the Ministry in previous years has approved assistants only for students with autism, and suggests that the school and parents address social welfare center in order to agree on engagement of an assistant for the student, letter number 07.020/610-1549-1/10 from 11.09.2010."<sup>117</sup>*
- *"From the budget of Republic of Srpska public school are financed founded by the Republic and which are registered in the network of schools. Since it is about private secondary school, the Ministry of Education and Culture is not able to finance a personal assistant. Letter number 07.021-611-516-12 from 08.30.2012."<sup>118</sup>*

Teachers also speak about an insufficient number of professionals and assistants. Teachers state they do not have enough knowledge to recognize individual needs of a child, to recognize which part of curriculum and how to adjust to a child's level of disability, stating that despite the efforts they invest they do not know whether that is really in the interest of each child individually. Teaching assistants must be professionally trained personnel who can and know how to support a child in different situations. In finding the best solution for this type of support to children engagement of experts from various fields and departments is need to who care about protection of the rights and interests of children.

According to the Law on Primary Education children with disabilities in psychophysical development acquire primary education in regular schools, and according to programs adapted to their individual needs, and in accordance with Article 19. of the Framework Law.

Children with moderate disabilities in psychophysical development enroll in school in accordance with the recommendations stated in decision of competent institution.

Children with serious and severe disabilities acquire basic education in accordance with this Law and are enrolled in special school or special class based on the decision which defines the type and degree of developmental disability. (Article 83)

The Law on Primary Education and Law on Secondary Education do not establish the right of the child to teaching assistant nor obligation of school to engage persons for teaching assistants in class.

The Law on Preschool Education determines<sup>119</sup> that educational group attended by a child with special needs has an assistant in inclusion that provides technical assistance to the child

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<sup>117</sup> The letter is a response to primary school attended by a nine-year-old boy with developmental disabilities who under the decision of social welfare center is classified in the group of persons with physical disability, and by the same decision needed support for teaching assistant is determined

<sup>118</sup> The letter is a response to secondary school, private, attended by a boy with developmental disabilities who under the decision of social welfare center is classified in the group of persons with autism

<sup>119</sup> Law on Preschool Education, "Official Gazette of RS", No. 119/08, 1/12, Articles 40-42

to which specificity indicate the parent (to welcome a child and introduce him to preschool, helps with hygienic needs, facilitates stay).

By the Regulation on education of children with special educational needs in primary and secondary schools<sup>120</sup> in Article 5. it is determined that projects for employment of assistants in regular classes will be planned.

No normative acts do not determine what are powers of an assistant, if he a personal or pedagogic assistant or teaching assistant, what are his duties and responsibilities, is he employed and on what basis and under what conditions-except that Article 5. determines that it can be senior year students of teacher training colleges / universities, graduates of teaching schools, teachers who are preparing for professional examination, persons in civil military service, and who are experts in this field.

Since the Regulations is related to education of children with special educational needs in primary and secondary schools, it suggests that the support includes children who have educational difficulties in primary and secondary education, which leaves no possibility for its engagement in preschools or in special schools (Article 2. determines that education of children with special needs is conducted in regular primary and secondary schools).

Inclusive education implies inclusion of children with disabilities in regular classes. Introduction of teaching assistants is intended to facilitate integration of students, to provide necessary assistance to children with disabilities, as well as to teacher and whole class, in order that his education in regular class is at least stressful primarily for that student, but also for other students, teachers and parents. Introduction of teaching assistants contributes to more quality inclusive education and realization of the rights of children involved in that process.

Parents and school and expert committees agree on the need of hiring teaching assistants who by such suggestion of measures propose such support to a child. However, lack of clear and defined rules and procedures for engagement of teaching assistants is a problem for schools and parents, and consequences always bear children. Given that the issue of engagement of teaching assistants for children with developmental disabilities is not normatively regulated even though it was for a specific category of children by individually submitted requests was provided,

It is essential that the issue of hiring teaching assistants is normatively regulated, so as to define which children and under what conditions can realize assistance and support of assistants in educational system, and which persons and under what conditions and with what kind of powers can provide such assistance and support, who supervises their work, and possible ways of financing.

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<sup>120</sup> Regulation on education of children with special educational needs in primary and secondary schools, "Official Gazette of Republic of Srpska", No. 85/04, Article 5.

## ***2. Organization and financing of special schools***

A number of complaints received by the Institution indicate violation of the rights of children with disabilities to exercise their right to education.

In order to enable children with disabilities equal and active participation within community, it is necessary to remove many obstacles that hinder the optimal development of their potential.

Removing those obstacles is related to numerous subjects of protection, of which educational sector is only one of the many.

Education of children in special schools, as the name itself implies-specialized, requires additional normative framework to clearly define functioning and organization of these institutions. Terms and method of organization of these institutions is the answer to the question of which group of children and with which disabilities have the ability to realize the right to education in the institution, that is, for which category of children the institution has appropriate conditions for their education because among other things it requires the right educational program for children with different disabilities and adequate, professional staff for its implementation.

With the Law on Primary Education <sup>121</sup> it has been established:

Article 83, Paragraph 2.

*- Children with serious and severe disabilities will acquire basic education in accordance with this Law and shall be placed in a special school or special class based on the decision establishing the type and degree of disability.*

Article 88, Paragraph 4.

*- The Minister shall issue rulebook governing the methods of organization and funding of special schools.*

Given that ordinance governing the methods of organization and financing of these schools has not been passed, these schools as a public institutions, under the pressure and need of growing number of children are forced into the educational process to include children with a variety of disabilities, for which no pre-defined rules and conditions have been set up, which leads to, on the one hand, the lack of access to an institution for a number of children, on the other hand the question of proper treatment at institution.

In both cases, best interests of a child have been brought into question.

In accordance with Article 88. of the Law on Primary Education, it is necessary to pass a rulebook governing the methods of organization and funding of special schools.

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<sup>121</sup> Law on Primary Education, Articles 83. and 88.

### **3. Conditions for accommodation of students**

A number of complaints received by the Institution indicate violation of children with disabilities in relation to the rights of children to be placed in an institution.

With the Law on Primary education <sup>122</sup> it has been established:

Article 90.

*2. school can carry out activity of pre-school education, primary education of the same type of developmental disability, and in accordance with the law,*

*4. school can arrange accommodation and meals for students and pre-school children,*

*5. accommodation and meals can be in the form of daily or permanent residence,*

*6. Ministry shall prescribe the conditions to accommodate students and manner of exercise of educational work.*

The placement of children in institutions has always been a sensitive issue, first for children, but also for their parents, as well as the institution that they are accepted to.

Procedure for accommodation, food for children, and permanent living, a way of exercising the educational work requires clearly defined policies and procedures, so that parents know in every situation, whether their child is, under what conditions and to determine what services they can get in the institution. This issue is also important for employees in the institution, because with the reception of children in the institution they assume an obligation and responsibility to ensure the best interests of each child.

It is particularly important that the issue of monitoring the functioning of the institution in all its aspects is not only defined, but it is planned and carried out continuously.

In the case in which the Institution was acting at the request of parents, institution has responded:

*"The centre in its structure does not have daily residence, but in accordance with the provisions of the Law on Primary education has organized an extended stay in which students that are attending classes have guarding where different activities, learning and other obligations are performed."<sup>123</sup>*

Since obligation stipulated by the law of prescribing conditions for accommodation of students in an institution has still not been complied with,

- it is necessary in accordance with Article 90. Paragraph 6. of the Law on Primary Education, to prescribe conditions for accommodation of students and the manner of exercise of the educational work in institution.

<sup>122</sup> Law on Primary Education, Article 90

<sup>123</sup> Case number: 1254-81 PŽ/12

#### **4. Assessment of students with disabilities-report books**

According to the information from a number of schools, another problem in practice is created by existing report books which are still used for the assessment of students with disabilities and they did not leave the space adjusted to the needs of monitoring and checking students' knowledge and skills acquired in accordance with the law.

With the Law on Primary Education<sup>124</sup> it has been established:

Article 68.

*Children with moderate and serious mental retardation, autistic children and children with multiple and severe disabilities are assessed with descriptive marks, as follows:*

*a) successful*

*b) good*

*c) satisfies*

*Evaluations referred to in Paragraph 1. of this Article should be explained.*

Article 69.

*School keeps a file for each student to monitor the ongoing work and development of students.*

*The Minister shall regulate the conduct of student records.*

Inclusion of children with disabilities in regular classes in primary and secondary education aims that, according to individually adjusted program, depending on the age of the child and its possibilities to maximize the potential of each child individually.

Inclusion of children in regular classes in addition to custom-made programs requires constant monitoring and following students' progress. Monitoring and checking students' knowledge and skills gained in educational system is greatly important in function of first assessment of adequacy of the program for students with regards to their specific needs and passes and at the same time is basis for the development of new individual programs according to identified needs and achieved abilities of students.

The evaluation of students with disabilities is the result of monitoring, assessment and evaluation of student's achievements, acquired knowledge and skills and ability to implement this learning to everyday situations. Continuous monitoring of student progress and its verification by appropriate methods requires continuous recording of the observed progress, on what basis a descriptive grade is obtained, which is just the last stage, and the information on the results obtained by the student and the difficulties that have been observed for individual students.

To ensure continuous progress monitoring and assessment of students with developmental disabilities, it is necessary to provide conditions suited to the needs of monitoring and evaluation of knowledge and acquired skills.

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<sup>124</sup> Law on Primary Education, Articles 68-69.

## **5. The rights of children with developmental disabilities in accordance with Article 5. of the Rulebook on classification of persons with physical and mental disabilities**

With the Law on Primary Education<sup>125</sup>, Article 83, it has been established:

*Children with serious and severe disabilities acquire basic education in accordance with this Law and shall be enrolled in a special school or special class based on the decision establishing the type and degree of disability.*

*The Ministry of Health and Social Welfare in collaboration with the Ministry adopted an Rulebook on determination of students' disability in the development and structure and operation of the Commission under Article 83. of this law. (Article 86).*

By the Rulebook on education of children with special educational needs in primary and secondary schools<sup>126</sup> it is stipulated in Article 8:

*Children with greater and combined disabilities are educated in special institutions equipped for children with serious and combined disabilities, or in special classes for children with special educational needs, regular schools, based on recommendations of the expert team.*

The Rulebook on classification of persons with disabilities in physical and mental development<sup>127</sup>, Article 5.

*Based on findings and opinion of the expert committee, locally competent social welfare center or social care service issues a decision on the classification and REFERS a person with disabilities to realization of appropriate measures of protection.*

Complaints received by the Institution indicate violation of the rights of children with developmental disabilities, given that the decision passed by locally competent social welfare center, based on findings and opinion of the expert committee, the child is not pointed to realization of appropriate protection measures. According to the existing legal framework, the expert committee gives expert opinion on the assessment of skills and ultimately proposes appropriate measures to protect the child.

Based on the findings and opinions, social welfare center, as a guardianship authority, by its decision, in addition to classification, refers the child to exercise of proposed protection measures.

In practice, this is usually not the case.

By a number of solutions of social welfare centers passed in these proceedings does not decide on the right of a child nor is the child pointed to its implementation. By the decision the same proposed measure as defined by the expert commission are given again.

Thus, for example findings and opinion of the expert committee: R-2-20/12 from 3.8.2012. among other give proposal of measures in a manner:

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<sup>125</sup> Law on Primary Education, Article 83

<sup>126</sup> Rulebook on education of children with special educational needs in primary and secondary schools, "Official Gazette of Republic of Srpska", No. 85/04, Article 8

<sup>127</sup> Rulebook on classification of persons with disabilities in physical and mental development, "Official Gazette of Republic of Srpska", No. 115/03, Article 5.

- "Proposed measures - try an individual educational program at the "Zaštiti me" Center
- *Education of parents on special needs of children and the skills that a child can adopt - defectologist, speech therapist, psychologist and other rehabilitation personnel,*
- *Essential continuous monitoring and assistance and care of another person."*

Based on the findings and opinions of social welfare center passes a decision 06/60400/694/11 from 3.16.2012. by which again and in the same manner the Proposal of measures is determined. The above Solution of the center is just one of a series issued on the basis of the findings and opinion of the expert team which overwrites proposal of measures as proposed by the expert team.

Given that by the child is not referred to where, when and how to realize the measure proposed by the expert team, the parents with such a solution visit different services and institutions, who from its content do not see that they are obliged to provide the child with an appropriate service.

By such solutions the parents are further confused and exposed to an additional search for realization of certain rights for their child. One of the questions is - if it's a proposal of measures, as stated in the decision, then who decides, and who is required to act according to the adopted solution.

In addition, in certain solutions of social welfare centers a proposal is given for those services which in neither normative act are defined as the right of the child.<sup>128</sup>

With such a decision, parents are contacting the relevant ministry to implement the obtained solution, however, the Ministry states:

*"We are not able to comply with your request; we recommend that school and parents contact social welfare center..."<sup>129</sup>*

Parents are, by the letter from the Ministry, referred to that same center who proposed this measure. The Centre is now saying that it is not in their jurisdiction.

And thus the circle is closed, parents have a decision which proposes measures, and no one is in charge for these measures, parents are visiting various institutions and services and are looking for an answer to the question what does it mean and what is stated in a solution.

Treatment of social welfare centers in a manner that it does not refer the child to realization of necessary measures in accordance with the findings and opinion of the expert committee, is contrary to the Article 5. of the Rulebook on classification of persons with disabilities in physical and mental development, and Article 64. of the Law on Social Protection.<sup>130</sup>

Thus, the right of the child with developmental disabilities to realization of rights in accordance with applicable regulations and identified needs of a child is violated.

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<sup>128</sup> By decision of social welfare center No. 05/2-540-1-15/10 from 12.10.2010, to a nine-year-old boy who by the current regulation is classified in the group of persons with a physical disability, it is determined necessary support of teaching assistant.

<sup>129</sup> Letter from the Ministry of Education and Culture No. 07.020/610-1549-1/10 from 11.19.2010.

<sup>130</sup> Law on Social Protection, Article 64: "The request for the exercise of rights in the first instance determined by competent center of whose territory the applicant resides"

Given the need and obligation of social welfare centers that their solutions in these procedures, harmonize and adopt under the authority established by the Law on Social Protection and under provisions of law prescribed by administrative proceedings and in accordance with Article 5. of the Rulebook on classification of persons with disabilities in physical and mental development, (the Institution sent the recommendations to the competent ministry), the Minister of Health and Social Protection issued a new Rulebook on assessment of needs and guiding children and youth with disabilities, according to which the findings and opinion of the first instance expert committee submits to social welfare center, who delivers them to institutions responsible for providing support. Center at the same time, based on findings and opinions, passes a decision on realization of rights and services prescribed by the Law or by decision of unit of local self government. In this way, parents will not need to visit institutions and services which will implement passed decision because a liability and responsibility will now be transferred to the institutions and services, which is a unique quality of the new Rulebook.

## VIII THE RIGHT ON EDUCATION

In reporting period, increase in number of filed complaints that Institution has processed and which indicate violation of children's rights, are related to educational system. The complaints point out the number of subjects, very broad curriculum and curriculum not adjusted to age and needs of children and, at the same time, lack of themes important for children such as – substance abuse, reproductive health, and protection from violence and similar.

The most common questions raised by children were regarding school discipline, student assessment, and school curriculum.

For each child and society in whole, education is the key factor that must be a priority to all. Children who abandoned school are already socially endangered category, not by their choice, but because society does not recognize situation in which these children grow up and because of non-existence of adequate support for removing causes that led to such situation. This is not problem that has currently occurred, this is long-lasting problem for every child, their families and society in whole.

UN Convention on Rights of Child and Universal Declaration on Human Rights recognize the right to education as one of basic human rights and oblige signatory countries to enable, based on equal opportunities for all, implementation of this right<sup>131</sup>. Education is one of key factors for implementation of children rights, because children in educational system do not only exercise their rights but also they learn about rights they have within their family, health and social sector, right to participation, right to express opinion<sup>132</sup>, right to access information<sup>133</sup>, right to protection from neglecting and abuse<sup>134</sup> and other rights.

While Article 28. of Convention relates to state obligation to establish educational systems and provide access to those systems, Article 29. emphasizes individual and subjective right to a certain quality of education. This article sends a message about education where a child is in a focus – the key goal of education is development of child's personality, talents and abilities, in sense that every child has unique characteristics, interests, abilities and needs in process of learning.<sup>135</sup>

Complaints that Institution has processed in reporting period indicate violation of rights in educational system on different basis, they relate to excursions, student's duty hours, security of children in school, preventive measures of health protection in educational system, student relocation.

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<sup>131</sup> UN Convention on Rights of a Child, Article 28. – member states respect the right of child to education and, for the sake of its gradual implementation based on equal opportunities for all, especially

a- declare primary education obligatory and free for all,

b- promote development of different forms of secondary education, including general and vocational education that is available to all children and take appropriate measures such as introduction of free of charge education and providing financial assistance if such assistance is needed

c- take measures for promotion of regular school attendance and decreasing number of school drop outs. Universal Declaration on Human Rights, Article 26. –everybody has right to education. Education should be free of charge, at least in primary schools. Primary education should be obligatory.

<sup>132</sup> UN Convention on Rights of a Child, Article 13.

<sup>133</sup> UN Convention on Rights of a Child, Article 17.

<sup>134</sup> UN Convention on Rights of a Child, Article 19.

<sup>135</sup> UN Committee for Children Rights, General Comments number1. and Goals of Education, point 9.

## **1. Curriculum**

The goals of education defined by the Law and in accordance with UN Convention are given goals that system must accomplish in educating children and they really, in normative sense, have included development of child's personality in numerous segments.

15 given goals, as defined by the Law on Primary Education<sup>136</sup> require, among other, curriculum that will enable its realization.

1. However, subjects are burdened with content; too many units in each subject, very long and often incomprehensible lectures, existing schedule, and not enough time to explain and practice are the most common problems students have pointed out.
2. Too many subjects, with emphasis on "important and hard" to learn, students additionally confirm that curriculum is too demanding and too excessive. School administration and teachers agree that curriculum is too excessive and they state that in realization of these programs they do not have enough time to examine how much of knowledge children have permanently adopted. Consequentially, we have children learning excessive curriculum without any results.

3. Students state that they are being thought many abstract concepts that they have to adopt, too many information that are stored in short-term memory like numbers, dates, names, formulas, definitions. They have emphasized this problem in certain subjects such as geography, history, biology and chemistry. Students say that in so many data it is very hard for them to locate which are important and essential to memorize.

Primary school students have interesting proposal that certain subject are thought monthly or once in two weeks, contrary to the current weekly schedule, what would unburden their excessive curriculum and yet those subject would not lose their importance.

4. Students are pointing out that they are being examined curriculum from previous grade or previous semester, what is a problem for them because they have forgotten most of information. This is also problem for teachers because they repeatedly teach already taught in order to maintain continuity of curriculum and yet they have no planned time for that.
5. Besides that, students state that textbooks<sup>137</sup> for certain subjects are written in incomprehensible language, that sentences are too long and complicated and that there are so many words they do not meaning of. Some textbooks contain many unneeded information, example is geography textbook, and some are burdened with data students have long ago learned, for example Informatics textbook.

Anyhow, on one side we have excessive curriculum, too many subjects and their contents and, at the same time, there are no themes and problems that relate to real life, which children grow up with, and for which they should get information in school since their earliest childhood suitable to their age and needs.

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<sup>136</sup> Goals of education, according to Article 7. of the Law, are defined in a way that they provide development of intellectual, social-emotional, moral, working and physical potentials and abilities of a child to its maximum.

<sup>137</sup> Law on Primary Education, Article 38, paragraph 1, determines that textbook must meet scientific, pedagogic, psychological, didactical-methodical, ethical, linguistic, artistic-graphical and technical demands established by standards for writing textbooks.

We are in continuous contact with children; we talk about different topics and gain much information from them, and they are all of opinion (in primary and secondary schools) that they lack information on their health, healthy nutrition, reproductive health, various forms of violence, abuse and neglecting, protection from alcohol, drugs and tobacco use, expressing their opinion and participation in all issues related to them.

Since the burdened curriculum is constant pressure for children, teachers and parents, children have too much to study and yet without anticipated results, they do not have enough leisure time, teachers do not have enough time to test their knowledge nor they have time to work on their upbringing, it is quite obvious that school curriculum must undergo its change.

Changes must be focused on reduction of teaching material, development of creative studying, quality work with gifted children, better cooperation between students, parents and school and involvement of topics that are very important for development and upbringing of children in teaching process (health protection and healthy lifestyles, substance abuse issues, violence protection). The most important is that curriculum is suitable to child's age and its capabilities, that child understands teaching materials because children should learn for life and not for grade.

Since curriculum matters to children, teachers and parents, in process of curriculum changes it is important to hear all involved sides.

## ***2. Regulations on disciplinary responsibility of students***

In reporting period Institution has acted in certain number of cases that indicate violation of student's rights in procedure of imposing of disciplinary measures in schools. Reports indicate that violation of student's rights on different basis usually were not processed for determining student's responsibility and that decisions on imposed measures were not delivered to parents of a child.

In certain number of schools solution to problem they see in unified regulations what would prevent situations of different approach to this problem in different schools and at the same time it would ensure same rules in process of determining responsibility for all students.

Goals of education defined by Convention on Children Rights are in direct relation with exercising rights of child in general, and not only right to education, and as such they are focused on protection of basic values guaranteed by Convention, primarily human dignity of each child.

In addition to this, Convention is emphasizing that age of a child must always be in focus, its needs and developmental capabilities, actually, child's best interest should be a priority in exercising each right of a child.

According to Convention, education is much more than formal process of learning and it includes variety of life experiences and processes of learning that allow children to, individually and collectively; develop their personalities, talents and capabilities.

The question of school discipline is very important for educational system and it is presumption for individual, class and school work in a whole. Therefore, it is highly

important to clearly define questions of disciplinary responsibility of students that is related to violation of their educational obligations.

The Law on Primary Education<sup>138</sup> and the Law on Secondary Education<sup>139</sup> define major violations of student responsibilities, disciplinary measures against students who violated those responsibilities, and also they state that those disciplinary measures are imposed for a school year in which student has made violation. According to the law, student may be responsible only for violation of responsibility that has been proven and which, at time it was committed, was defined by the law or general act of a school. The law prescribes that student, or its parent, may file complaint against imposed disciplinary measure to the School Board in period of eight days from the day decision was received.

The law allows schools to define in its normative act all minor violations of student obligations and all other questions related to determining student's responsibility, disciplinary procedure and imposition of disciplinary measure for committed violation and therefore situations in different schools, where Institution has acted upon complaints, are very different:

- school at the time of imposing measure did not have regulation on disciplinary responsibility of a student,<sup>140</sup>
- some schools in their regulations have defined new major violations of student's obligations even though law does not leave such possibility,
- some schools, in their regulations have defined new disciplinary measures that law does not recognize nor leaves such possibility,
- schools have imposed measure in the new school year for violations committed in previous school year what is completely against lawful provisions,
- school Regulation Books do not define method and process for disciplinary procedure nor it defines student's responsibility,
- school Regulation Books do not define obligation to enable students to state circumstances that led to its responsibility,
- schools do not pass decisions in written form on disciplinary measures,
- decision on imposed disciplinary measure is not delivered to parents or caregivers of a student,
- decision on imposing appropriate disciplinary measure for major violation of student's obligation automatically lowers student's discipline grade even though decision did not become final and therefore grounded basis for lowering student's grade,
- School's Regulation were passed without considering opinions of Council of Parents and Student Council,
- School Regulations are not publicized so students and their parents are not acknowledged with its content.

In all stated cases imposed disciplinary measure is considered sufficient correction of improper behavior of student.

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<sup>138</sup> The Law on Primary Education, Article 82.

<sup>139</sup> The Law on Secondary Education, Article 65.

<sup>140</sup> Primary School "Jovan Ducic" Kuljani at time of imposing disciplinary measure for a student did not have Regulation on disciplinary responsibility of student; student was punished for serious violation that law does not recognize; decision on imposed measure was not delivered to parents. Ministry did not inspect school actions in certain case.

Practice, unfortunately, indicates that imposed disciplinary measure is not sufficient corrective and even though they are gradually imposed, in certain number of cases do not have anticipated results.<sup>141</sup>

At the same time, in relation to disciplinary responsibility of a student neither law nor School regulations define obligation of the school in cooperation with parents and caregivers to implement appropriate measures of increased educational work and supervision of children whose behavior violates rules of school discipline so after first imposed measure reasons for such behavior would be recognized and eliminated and therefore repetition of such improper behavior would be minimized. For example, school was addressed with a question what was done and which measures were imposed when student had 5 unjustified absences (now he/she has 15) there was no answer or they explained that lack of measures is a consequence of non-existence of cooperation between parents and school.

In all cases of student's obligation violation, school must take in consideration the purpose of imposing of certain disciplinary measure. Imposed measure must primarily be educational and than disciplinary with sufficient efficiency in prevention of certain behavior and it should prevent new violations as well as to develop general conditions where school rules are naturally respected. Stated measure, at the same time, should be measure of prevention for all other students.

Here very important is the role of parents who must be acquainted with the rights, obligations and responsibilities in school – as it is determined with effective legal provisions, including obligatory cooperation with school and consequences of disrespecting such obligation and with school pedagogic measures and authorities of school psychologist and the services that give support to parents in various situations of upbringing a child.

Taking in account that question of disciplinary responsibility of a student because of violation of certain obligations in school either is not defined with normative school act or is not appropriately defined in such act, and knowing that schools have different approach in imposing disciplinary measures for violation of student's obligations, what leads to violation of student rights defined by the law,

It is necessary that relevant Ministry and Republic Pedagogic Institute, in accordance with their authorities, take necessary measures to prevent procedures that lead to violation of student's rights in educational system in a way that, in accordance with the Law, those issues are defined by Regulation in a unique way.

This would make processing of such cases in schools easier, competent body's monitoring of implementation of regulations much efficient and, the most importantly, it would provide appropriate procedure for establishing student's responsibility in educational system that are in accordance with unique rules.

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<sup>141</sup> According to school data, in school year 2009/2010 and 2012/2011 based on disciplinary measure, 135 children from 35 secondary schools were suspended

### **3. The right to express opinion**

Decision of Constitutional Court of Republic of Srpska number U-26/11 dated September 26<sup>th</sup>, 2012,<sup>142</sup> states that High School Statute, Rules of Procedure and Book of Rules for Disciplinary and Material Responsibility of a Student are not in accordance with Constitution of Republic of Srpska and the Law on Secondary Education. Constitutional Court decision states: "Taking in account the fact that Students Council's opinion was not requested during process of passing disputed general acts, the Court has assessed those acts as acts not passed in accordance with stated provision of Article 7. of the Law on Secondary Education ("Official Gazette of Republic of Srpska", no. 74/08, 106/09, 104/11) as well as with the provision of Article 108. paragraph 2 of Constitution of Republic of Srpska according to which provisions and general acts must be harmonized with the law what, consequently, makes those acts unsynchronized with the Constitution and the Law on Secondary Education."

Children's opinion can be taken as significant stand and experience and they should be taken in consideration in process of making decisions, preparation of provisions, laws and measures as well as in evaluation of the same.<sup>143</sup>

Child's opinion, based on the right to express opinion, is not a decision nor should adults adopt their decision to such opinion. Rights based on Convention lets child, in accordance with child's age, understand ongoing procedure and its rights in such procedure, and, at the same time, does not make child bear responsibility for decision that will be passed. Decisions about children must be based on expert's opinions and opinion of a child.

It is very important to give necessary attention to child's opinion, meaning that "inclusion of children should not only be a transient act but starting point for intensive exchange of opinion between children and adults in passing provisions, programs and measures in all contexts relevant to every segment of child's life."

This way we teach children to actively participate in school work, state their opinion, hear others opinions and explanations, take responsibility for their acts not only in school but also outside of it. This is the way to acquaint children and parents with school Book of Rules and their contents, making it the only way to learn responsibility.

The right of a child to express opinion and participate in relevant procedures Convention states not only as a right but also as one of basic principles of Convention that obliges state to recognize this right and facilitates its application in a way that children's opinion is heard out and necessary attention is given to such opinion.

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<sup>142</sup> Decision was published in "Official gazette of Republic of Srpska", number 117/12, relates to Secondary School in Knezevo

<sup>143</sup> UN Committee for Children's Rights, General Comments number 12 – The right of a child on hearing

Since the Law on Secondary Education recognizes this right,<sup>144</sup> it is necessary to facilitate its full application in a way that:

- in process of passing normative acts of school, in accordance with the law, opinion of Student's Council in written form is requested as well as in situations of their changes and amendments,
- in respect to the Constitutional Court decision, to start initiative in all secondary schools for changes and amendments of normative acts in all cases where such acts are not in harmony with Article 7. of the Law.

#### **4. Student duty hours**

Ombudsman for Children has received complaint from a student's parent that is related to student's duty hours in a school during classes.

In complaint, among other things, it is stated that IV and V grade students have duty hours, miss their classes for that day, teachers are on duty only during recesses and that security of the school and students must not be obligation of a juvenile.

*"Parents, so far, were unable to solve this problem with school administration who admits this as a practice no one knows its use",* was stated among other things in the letter of this parent.<sup>145</sup>

UN Convention on Children Rights, in Article 28, defines that Contracting States will take all necessary measures to implement discipline in schools in a way appropriate to human dignity of a child in accordance with Convention provisions.

Article 29 – Contracting States agree that education will be focused on

- a) development of child's personality, talent, mental and physical abilities to their maximum,

The Law on Primary Education defines following:

- Article 126., School Board passes statute and other general acts of school,
- Article 129., Director of school provides protection of student's rights, health protection of students and takes all necessary measures to protect student's rights.

The Law on Secondary Education defines following:

- Article 7., organization, methods of work and school house rules are closely defined by statute, regulations and other general acts of school that are passed with participation of students, parents and teachers in accordance with positive provisions,
- Article 52., right to get physical and mental health care and safety of students in school,

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<sup>144</sup> The Law on Secondary Education in Article 7. defines "that organization, methods of work and school house rules are closely defined by statute, books of rules and other general acts of school and are passed with participation of students, parents and teachers in accordance with positive provisions, and Article 140. of this law – school organization and general acts will be in accordance with provisions of this law in period of eight months as of the day this law gets enforced.

<sup>145</sup> Case number 483-19-PZ/12

- Article 94., School Board as management body of school is responsible for defining and implementing school politics and it passes statute and other general school acts,
- Article 99., the school director provides protection of student's rights, their health protection and safety in school and he takes all necessary measures in protection of student's rights.

The Laws do not determine rights of students in educational system in accordance with Convention demands, nor does it narrate student's obligations in the school, so the question of school duty hours is left for school to define it by normative acts.

In order to get full picture on student's duty hours in school, Institution has interviewed certain numbers of primary and secondary schools and it has examined those schools normative acts that define this question.

Result of these interviews and examination of general acts is that each school has individual approach to this issue.

Among other things, it is stated:

- that students like to be on the duty hours and that it has positive effect on them in a sense of developing their feeling of responsibility and obligation,
- that only good students have duty hours and it is easy for them to catch up on lectures they have missed,
- that students are on duty hours together with a teacher,
- that student is obliged to be on duty hours and in certain schools for not fulfilling this obligation in some schools is sanctioned as minor violation of student's obligations,
- That school acts do not define age actually grade of students who may be on duty hours,
- This question is usually defined by Book of House Rules which have been passed with participation of students, parents and teachers,
- That Primary School "Dositej Obradovic", Banja Luka has stopped this practice of duty hours three years ago and that they now have great experiences when this duty is taken over by cleaning staff; Primary School "Dositej Obradovic", Pecani near Prijedor also has stopped this practice when they have installed video surveillance and their experiences also are positive.

Goals of education defined by Article 29. of the Convention of Children's Rights, stress out the need for education to be focused on a child, child-friendly bearing in mind their developmental needs and different abilities.

Taking in account goals defined by Convention that also were determined by the law, question of student's duty hours in school must be in accordance with defined goals meaning that purpose of duty hours of student must be clearly determined including questions like which students, under which circumstances and should that at all be on duty hours, what are their responsibilities during duty hours and could they be held responsible and what are consequences for not performing this duty. If duty hours contribute to development of students responsibility, why do only good students go on duty hours, should students of grade IV be given this responsibility (especially in schools with small number of students), is this voluntary duty and does school have consent of students and parents for this.

This issue shows complexity of exercising and protection of children's rights and it points out the need for multidisciplinary approach in determining the best interest of a child in every situation.

Therefore, according to the goals defined by the law, developmental needs and abilities of a child and best interest of a child, it is necessary to take all measures and have question of student's duty hours solved in accordance with given goals of education that should primarily ensure safety of students in the school and regular class attendance and to diminish practice of completely different approach of schools to this issue.

## **5. School bags**

Health and social sector are faced with various questions and problems of children maturing that are mostly a consequence of non-existence of appropriate preventive measures and programs of health protection of children in educational system. Weight of school bags and its long-term effect on a child's health requires that educational system with appropriate measures, relevant to school and notebook publishers and also parents and children, acts in prevention.

Institution has, ex officio, initiated question of school bags weight and after it was publicized in media, certain number of complaints was filed to Institution, where parents stress out the need for taking appropriate measures.

In complaint addressed to Institution it was stated: *"For years now, it was pointed out that school age children, especially those in lower grades, are physically jeopardized with the weight of their textbook that every day they carry on their fragile shoulders to and from school. So far none of competent institution has adequately responded to this problem."*<sup>146</sup>

Grade II student's mother in her letter to Institution states: *"I was intending to initiate petition because everybody agrees to this... or we, parents, representatives of Council of Parents, could offer you additional assistance so solution to this problem could be passed and implemented as soon as possible."*<sup>147</sup>

*"This morning I weighted my daughter's school bag and it was 6,8 kg. My daughter weights 34 kg. She carries only books that are needed for today, but there are days when her bag weights even more. It is interesting that this chronic problem for children's health interests nobody", wrote one mother.*

According to recommendation of World Health Organization, weight of school bag should not exceed 10% of child's weight. In despite to expert's warnings, school bags are getting heavier. Every year volume of obligatory and additional materials students carry in their bags on daily basis is getting larger, so we have situations where primary school students carry "burden" two times heavier than it is allowed.

Therefore, if a child weights 30 kg, its school bag must not exceed 3 kg.

Physicians also warn of the problem of heavy school bag and they say that results of systematic examination of students in primary schools indicate problems of spinal and foot

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<sup>146</sup> Case number 1740-128-PZ/12

<sup>147</sup> Case number 109-9-PZ/13

deformation in children that are greatly caused by insufficient physical activity of children, improper posture and heavy school bags.

Experts also warn that childhood is a crucial period for growth and development of a child and that from earliest age children should be taught proper posture and to avoid all those habits that have bad impact on their health. This means that besides the school bag weight, health risks are also carrying that bag over one shoulder or in one hand or improperly packed school bag. Additionally, it has been stressed that fatigue, headache or back pain also can be caused by weight child carries in its bag.

Research done by International Association of Physicians from Bijeljina confirms that school bag weight exceeds allowed value and facilitates development of spinal and foot deformities of students from grade two to grade nine. Research was sampled on students of grade two, four and eight of primary school - 141 students in total and it includes medical exam – measuring of height and weight of a student, foot and spine exam with eventual remarks on general health condition of a student and determining of average school bag weight per student based on 5 consecutive workdays in one week.

Results confirmed that more than 70% of second grade students carry bags that are over allowed weight (which is 10 -15% of their body weight) and for more than 10% of students weight of their school bags is 15 -20% of their body weight.

Nowadays, almost all agree that weight carried by children on daily basis relevant to their age is not result of needs of children or educational system but it represents the lack of sensibility for this problem and consequences it has on development of a child.

School bag weight problem is recognized in many countries that, with different measures and focused actions, have solved this problem by legal regulations and are acting preventive in student's health protection.

Both rights, right on health protection and right to education, must start from the best interest of child that will facilitate their proper growth and development.

Methods to decrease school bag's weight are numerous, among all – who needs three levels pencil box, is big notebook in function of better education, why does notebook must be with hard cover, do students for one subject need textbook, worksheets and grammar, could students leave in school worksheets or, for example, atlas and sketchbooks, could textbook publishers contribute in decreasing textbook weight,...

Heavy school bag is primarily a threat to student's health and therefore Republic pedagogic Bureau and Ministry of Education and Culture, in the frame of their competencies, and with the goal of preventive action in student's health protection, must take all necessary measures and activities for the sake of decreasing school bag weight and prevention of adverse consequences that jeopardize right of a child to undisturbed growth and development and they should provide appropriate supervision in implementation of measures they have prescribed.

## **6. School canteens**

Question of child nutrition is very important for their proper growth and development and it requires engagement of, primarily, parents but also of school because most of the time children spend at home and in the school. Experts say that primary school children should have 5 meals a day because in they are intensively developing in this period. In order to provide proper and healthy daily nutrition for children it is obvious that at least one meal child should have in school, either breakfast or snack.

The Law on Primary Education in Article 47. states:

(3) School can organize work of school canteen,

(4) Minister passes Regulations on the Conditions of School Canteen.

In order to reach data on conditions of providing meals for children in primary schools, Institution has asked for schools opinions. Questionnaire was completed by 117 schools and as result of data analysis following is arising:

- out of 117 questioned schools, 63 primary schools in Republic of Srpska have organized some form of child nutrition,
- out of 63 schools that have some form of organized child nutrition within school, 31 of them have organized school canteens and 32 have allowed other subject to sale food in school to students,
- tasks of food preparation and distribution in schools that have some form of organized nutrition are done by professional cooks in 18 schools, in 2 schools its done by support stuff and in rest of schools tasks are performed by bakery and store employees to whom premises were rented,
- School canteens, with exception of 5 schools where canteen have daily menu, offer mostly sandwiches and bakery products, in some schools pizzas and pies, nibbles and sweets, cold drinks and very rarely teas and hot drinks,
- 32 primary schools have allowed third persons to sell certain products in schools and out of this number 18 schools rented their premises to a store, 9 to bakery, 4 to catering company and one to a firm,
- In schools that have rented premises to a third person to sell food to students, offer is same as in those schools who have organized work of school canteens. Children are offered bakery products and sandwiches, pies and pizzas, nibbles, sweets and juices,
- Food safety, conditions of food sale to children, delivery of food to schools are very important items in organizing work of school canteen and they should be clearly prescribed.

Supervision of these tasks schools largely have cede to inspection services in 30 schools, while in 4 supervision is done by Director and sanitary inspection, in 2 schools it is done only by Director, while in 2 schools supervision is done by bakery to whom premises were rented. 38 schools have answered this question in questionnaire.

- All schools are of a opinion that it is necessary to pass Regulations that would determine possible ways and terms of children nutrition in schools.
- With their answers to raised questions in questionnaire, 41 primary school has delivered their proposals and suggestions related to the Regulation. Suggestions are mostly related to:

- Need to respect differences of conditions in which schools work,
- Precisely stating which food may be prepared and sold in school canteen,
- Precisely determining competent bodies to perform tasks of supervising work of school canteens,
- Developing children awareness about healthy eating,
- Involvement of Parental Council and Student's Council in solving this issue,
- Necessity of financial assistance from relevant ministry to schools in solving this issue.

Visits to schools that Institution has paid in reporting period had actualized the question of children nutrition. School administrations have emphasized the need for organizing and operating school canteens. Rural school administrations that Institution has contacted are emphasizing the fact that most of their students are traveling or walking long distances to the school and that they need at least one meal for the time they are away from home. During winter months it is very important to offer children hot drinks if there is no possibility to give them hot meals. One school, that does not have school canteen or it has organized food sale in a school, has told its students to buy bakery goods and sandwiches in nearby store but what often happens is that store runs out of goods and certain part of children stays without meal. This was confirmed by children who say that it is too long to wait lunch at home because their transportation back home is scheduled in the afternoon.

One school proudly stated that their problem of school canteen was solved through project "I, citizen" on initiative of children where they involved local community and parents and solved this problem.

Certain number of schools have confirmed to the Institution that they stopped renting premises to the third persons who were selling bakery goods, sweets, nibbles, juices, and similar. They stated that because of the responsibility school has towards students, without clearly defined conditions they can not take such risk because they are not in position to control on daily basis what is being sold to children, whether food expiration date has passed, etc and yet school is being held responsible for all adverse consequences it might have on students.

Institution representatives have witnessed one method of school nutrition in one primary school. Third persons, during recess, with basket of sandwiches, have stood on the school entrance. According to director's words, school is struggling for some time with this problem; however, competent inspections have no understanding for this problem.

Question of nutrition of children while they are in school is very important. Besides at least one meal or nibbles that would be provided in school, it is highly important that children, from their earliest age have healthy habits and learn about healthy nutrition, number of meals, consequences of improper nutrition on their growth and development...

Based on the legally determined obligation, and the fact that schools have very diverse approach to the question of children nutrition while in the school, it is necessary, with assistance of nutritionist and active involvement of children, parents and teachers in this problem and with respect to different conditions each school works in to pass Regulation on the conditions of school canteen.

## ***7. Student's transportation***

Ombudsman for Children has acted upon complains that indicate violation of students right to have transportation to their schools.

Article 153. of the Law on Primary Education states:

"Government provides funds for student transportation fees for those students whose residence is greater than four kilometers."

According to the Article 53. of the Regulations on financing primary schools<sup>148</sup> "Ministry will provide funds for transportation of students whose place of residence is greater than four kilometers from the school and yet is in the area of jurisdiction of such school.

Traveling expenses will be provided also for the students from other regions for which Ministry gave consent to enroll in such school they do not, based on their residence, belong."

Taking in account that question of students' transportation normatively is clearly defined; it is undisputable that any action that is not accordance with defined terms of transportation of students automatically leads to violation of their rights.

However, Republic Education Inspector acting in a certain case, after his inspection has only interpreted facts that are already known and he/she did not pass an act in which his/her opinion is stated, and Ministry of Education and Culture, in its explanation, states as reason for such situation the undefined regions of jurisdiction of each school.

Bearing in mind that the law and normative act defines right of a student to transportation in cases when student's residence is greater than four kilometers, undefined regional jurisdiction have no effect whatsoever on exercising child's right to transportation, especially in situation when child from the region of school's jurisdiction travels more than 4 kilometers and when Ministry gave its consent to a student to attend school that is of other jurisdiction and where child travels more than 4 kilometers.

## ***8. School excursions***

Institution of Ombudsman for Children has received certain number of complaints that indicate violation of children's rights in regard to organizing school excursions.

Among the rest, in these complaints following is stated:

- agreed itinerary was not respected, usually in question are the number of excursion days, poor accommodation, sleeping in the buses, lack of facultative trips and also
- attitude of agency and its employees.

Regulations on excursions and school field trips<sup>149</sup> prescribes:

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<sup>148</sup> Regulation on financing primary schools, "Official Gazette of Republic of Srpska", number 5/09, Article 53.

<sup>149</sup> Regulation on excursions and school field trips, "Official gazette of Republic of Srpska" ,number 19/10 and 82/11

(3) "Excursions can be performed exclusively by travel agencies that are in possession of license for organizing tours issued by Ministry of Trade and Tourism"(Article 15.)

(1) "For the excursions outside of B&H borders, school is obliged to ask for Ministry of Education and Culture consent" (Article 20.)

"With the request from Article 20. paragraph 1. of this regulation, school is obliged to deliver to the Ministry following:

- (a) plan and program of excursion,
  - (b) goals and tasks of excursion,
  - (c) time and place of excursion,
  - (d) decision of School Board selection of travel agency and
  - (e) records from the School Board session when selection of travel agency was done.
- (2) Ministry is obliged to immediately act upon this request, latest 30 days from the day request was filed."(Article 21.)

School excursions or field trip organizers and travel agency take all responsibility for preparation, organizing and facilitating student's excursions or field trips (Article 22.).

As basic and preliminary question that arises from the implementation of Regulations is selection of travel agency and a contractual measures that protect students and school.

Found irregularities are related to selection of travel agency which does not meet requirements stated in publicized announcement that is in accordance with Regulations.

In selection of travel agency, according to the Regulation, involved are school board (that selects travel agency), director (who closes agreement with travel agency based on decision of school board) and Ministry (gives consent, among other, to school board decision on selection of travel agency). At the same time Education inspector states that he/she has no legal authority to control implementation of the Law on Public procurement, even though in this concrete case it is control of application of Regulation on excursions and field trips.

Consequences of dissatisfaction are usually being diminished by appeals for money refunds to students for services that have not been performed what is the least that could be done for committed failures.

In couple of cases court procedures are initiated and regardless of their outcome students will never be compensated lost excursion.

Since irregularities have been pointed out, it is necessary to take all appropriate measures and activities to prevent actions that lead to violation of rights and interests of children in regard to organized school excursions in a way that consistent implementation of Regulations on Excursions and field trips is ensured especially in a part of planning, preparing and performing excursions and field trips but also in stating responsibility of those who, by acting contrary to the provisions of Regulation, have led to violation of rights and interests of children. In regard to this, it is necessary to remove existing poor wording of the Regulation by changes as in Article 22. where it is stated that organizer of excursion is being held responsible than in Article 21 point g and d should be erased (decision on selection of travel agency and records of school board are delivered to the Ministry) and in

contract on excursion measures that protect children and school should be defined as, for example, obligation of travel agency to deliver to school confirmation on made payments to hotel or bus operator in certain period of time after payments relevant to excursion have been made.

## **9. Student transfer**

Father of two, in his letter to Institution, among other things, states *"I am addressing Ombudsman for Children office in Banja Luka with a plea for help in solving my problem. District school xx that my children attend is 5 kilometers away from our residence and there is no mean for their transportation to school, so I have to walk my two children everyday to and from school what is physically exhausting for them, especially in winter months. Last year also I have addressed this problem to competent bodies to transfer my children from school xx to school xy but I got negative answer."*<sup>150</sup>

These situations we have when family lives on the border of two municipalities. Defined enrollment school areas determine to which school children belong, and schools are obliged to respect defined student enrollment procedure. However, situation in the field demand to get on the scene, as Institution has done in certain number of cases, and determine what the best interest of a child is. In contact with both schools, children parents, competent Ministry, and the fact that school where students want to be transferred is closer to their place of living and organized transportation of students exist contrary to the school children are enrolled in and both schools have agreed to it, children were transferred to the closer school.

According to the Article 66. of the Law on Secondary Education, full-time student may transfer to other school for the need of graduating secondary school. If student is transferred to a class that has maximal number of student, as prescribed by Article 37. paragraph 4. of the Law, such transfer of a student needs Ministry's consent (Article 66. paragraph 7).

Before school year 2012/2013, Institution received number of complaints where parents state that they do not know to which school their children will go, because requests sent to competent bodies have never been answered.

Namely, certain number of parents have addressed schools, other have addressed Ministry and third have addressed both school and Ministry. Basic problem for parents in this situation was a question does ministry needs school opinion on this issue or school needs consent of Ministry in all situations when students are being transferred from one to other school, and in application of Article 66. Paragraph 1. conditioned with student's residence when law provides possibility for student to continue its education in other school.

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<sup>150</sup> Case number: 1000-60-PZ/12

## IX THE RIGHT TO PLAY AND LEISURE

Even though every child is guaranteed all rights enlisted in Convention without discrimination on any basis including the right to play and leisure, unfortunately, it is not provided for all children.

This right too demands, in safe and protected environment, the best interest of a child to be priority in all child's activities in the frame of it's right to play and leisure.

Convention on Children Rights invites member states to respect and advance this right of a child and to "encourage appropriate and equal possibilities for cultural, artistic, recreational and free activities".<sup>151</sup>

Since early childhood children have a need to play. Through play they learn and grow up. Play contributes not only to a physical development of children but also to its psychological development and socialization among their peers and adults, they develop their imagination, adventure spirit, strengthens their self-confidence. Games with rules are gladly accepted by children; through them they learn cooperation, mutual trust and logical thinking.

Important role in implementing children right to play and for quality leisure time have parents. Experts warn that time adults spend playing with children has inestimable value for developing self-confidence in children, feeling of protection and trust and it positively affects development of children's imagination, creativity, adventurous spirit and capability to learn. Quality leisure time within family since the earliest age is especially important for building trust and understanding between parents and children that will have additional importance as children grow up.

Unfortunately, parents due to numerous tasks at their jobs and at home exchange leisure time with their children to watching TV or going to shopping centers and this part of caring for children is left to sport schools, playhouses, dancing clubs, creative workshops and many other activities that are present in their local community.

Preschoolers most of their play and leisure time spend in playing games that develop their physical abilities and skills, their imagination, creativity, sense of cooperation and friendship. Such games are played in kindergartens and early schooling but they should be a part of children leisure time activities.

School kids emphasize that, unfortunately, they do not have enough free time and time they do have is not organized well. They expect from school to offer them various programs where they can I their leisure time develop their sports, cultural and artistic potentials. Most of schools do offer big number of sections. In some schools, as student have stated, sport sections are only active prior to school competitions and then trainings are intensified with those students who

already have some experience or are playing for certain clubs, because school needs good players to get qualified for competition.

Secondary School students state that in their leisure time they go to night clubs and play Games of Chance. Watching TV, spending time with friend in on of the local bars are basic

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<sup>151</sup> UN Convention on Children Rights, Article 31.

activities children do in their leisure time. Children say that this is not because they want to this but because there is nothing else offered that they could do in their leisure time.

Disturbing data collected through workshops is that lots of children for activities in their leisure time have stated internet and Facebook. Spending many hours in front of computer (sitting) is not good for child's health not to mention possibilities of violence and abuse they can be exposed in this way.

Local communities also have important role in organizing various activities for children and youth. Attitude of local community towards this right of child is different from one to another municipality. In some municipalities, besides school sections, children are offered numerous schools of sport, dance, acting, foreign languages, creative workshops, cinema and theater. Yet, not all parents can afford to finance those activities of their children.

The right to leisure time requires that it be exercised in conditions in which children will be safe and protected and where their best interests will be priority. In previous Report Institution has indicated problems in functioning of children playhouses, that has mislead many parents who exposed children to risks, while at it they were not under the adequate supervision. Even though question of operating of children playhouses is stipulated by the law, because of the lack of necessary supervision, according to the results of inspection requested by Institution, playhouses have shown inadequate application of the law in the field. Question of children playgrounds also is not adequately solved. With exception of school playgrounds<sup>152</sup> that are part of standard school area questions that relate to conditions, demands and standards on different basis are raised and which playgrounds must meet are not clearly defined.

Besides its contribution to children's development and maturing, the Right to leisure time, play and free time also has preventive effect in decreasing risks children are exposed in situation when they do not know what to do.

Exercising the Right to Leisure, meaning the time when children are not in school or kindergarten, demands cooperation of parents, school and local community who would in planned and joint activity contribute to quality leisure time of children, in accordance with their age, needs and capabilities, otherwise unorganized free time leaves space for development of all forms of socially unacceptable behavior in children.

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<sup>152</sup> Provision on pedagogic standards and normative for primary education, "Official Gazette of RS ". Number 51/11

## X SOCIAL AND ECONOMIC RIGHTS

### 1. Social protection

In reporting period Institution acted upon complaints that have indicated violation of certain social rights of a child, but also of rights that parents have based on child's status and are regarding one-time financial assistance, child support, etc.

States Parties recognize the right of every child to social protection, including social insurance, and are taking all necessary measures to achieve the full realization of this right in accordance with the national laws<sup>153</sup>. Children have the right to a standard of living adequate to their physical, mental, spiritual, moral and social development<sup>154</sup>.

Social protection is not only financial help, but a range of measures and social welfare - services that have a preventive role, but which reduce or eliminate the dependence of the individual and family on social services. Basic problem that Centers for Social Work are indicating is inadequate number of professionals that could respond to needs of children related to social protection services.

UN Committee for Children's Rights<sup>155</sup> emphasizes inadequate professional support for children who are social category or are at risk to become an social category what is usually pointed out in complaints filed by parents of children who, in various forms, are challenged in their development.

Providing social protection for children includes appropriate measures and activities of the competent services of social welfare for children without parental care, children in conflict with the law, children victims of violence, abuse and neglecting, children challenged in their development and children whose development is compromised with family circumstances.

Each of stated categories of children, depending on children's age, their needs and reasons that placed them in one of categories, requires a whole range of activities of different sectors and their coordinated actions in order to determine the actual situation and to protect children and their interests, primarily by empowerment for independent life and work, and thus reduce their dependence on assistance and support of social services.

The economic situation of parents and families today affects the quality of implementation of children's rights. Complaints delivered to Institution related to allocation of social assistance are forwarded to competent Centers for Social Work who are expected in each concrete case to examine with due diligence family living condition and enable exercising rights prescribed by the law.

Parents have the primary duty and responsibility to care for the development and upbringing of their children. But if parents are unable to do so for reasons which are in a proper procedure determined, then society has to react and find appropriate help and support to the child. Nothing can or may be the reason that a child does not enroll in primary school or leaves it. School should, in cooperation with center, have to know the number of students

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<sup>153</sup> UN Convention on Children Rights, Article 26.

<sup>154</sup> UN Convention on Children Rights, Article 27.

<sup>155</sup> UN Committee for Children's Rights, Conclusions and recommendations 2012, point 52.b

who need support in the procurement of textbooks for example and with the support of other subjects of protection seek solutions in a manner that will not additionally hurt the child.

Complaints point to the inability to provide for children's textbooks and school supply, what implies to a necessity of cooperation between educating institutions and social services, who would, with their joint activities, contribute to easing up of pressure on children and their parents that need such assistance (certain number of schools has solved this problem; in agreement with students and their parents at the end of school year students leave at school's disposal their textbooks).

Complaints indicate slow work on complaints, lack of standard forms - requests, citizens are forced to write their own requests, lack of expertise of persons who decide upon requests, demanding from citizens to submit various certificates and testimonials, which are later found to be unnecessary or easier obtained by the authority ex officio. Also in complaints it is stated that there was no respond based on citizen's request that services have justified with inability to meet request.

Centers are authorized to submit claims for alimony from all the assets of the debtor, and even at the expense of his support. These children very often are not social cases, but were brought into the state of social need; therefore the approach to this problem and its solution must be changed in a manner that centers are responsible to initiate procedure for child support and in accordance with Article 255. of the Family Law, when the court finds that parents jointly are not in position to provide for the needs of their child centers will take over responsibility to provide funds for those children.

Parents complain that because of the difficult financial situation they have not been able to regularly settle their obligations under the requirements of public companies (liabilities for delivered electricity, water, heating ...) and that directly affects the living conditions of their children. Some municipalities are trying with various kinds of assistance to rehabilitate the social needs of its citizens - subsidies for heating, electricity, hygiene packages and similar. Any kind of assistance to family is, at the same time, assistance to children.

Centers for Social Work are financed from municipality budget. Fact is that those funds are limited and insufficient but also that they vary from one municipality to the other.

## ***2. Economic exploitation of children and performing harmful tasks***

According to the Article 32. of the Convention on the Rights of the Child states parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with child's education, or to be harmful to child's health or physical, mental, spiritual, moral or social development. In this regard states are obliged to undertake necessary legislative, administrative, social and educational measures for the protection of the child on that basis.

The Law on Labor, Family and Criminal Law of Republic of Srpska have recognized international standards in the protection of children from economic exploitation and exploitation, in the part of determination of age limit when a child may be employed, the

conditions under which it may be employed, working hours, protection from performing tasks where there is an increased risk of injury or increased adverse effect on health.

In addition, the Family Law sanctions a parent who abuses parental rights by forcing a child to over - work or to perform work inappropriate to its age, in a manner that court will, to such a parent, in extra-judicial proceeding take away parental right, and the Criminal Law establishes criminal liability for the person who forces a child to excessive labor which does not correspond to its age.

Today, there are no reliable data on whether and under what circumstances children are employed. The institution has not received any report which indicates the violation of the right of the child on this basis.

Considering that under this basis the reports are not generally submitted to the competent institutions, the solution is in increased supervision and regular inspection control in detecting any illegal work and employment of children and sanctioning of all who employ them contrary to the existing regulations and their interests.

Right of a child to protection from economical exploitation is, at the same time, in function of protection of its right to education, health protection, protection from all forms of violence and abuse, right to leisure and play.

### ***3. Children on street – beggary***

Beggary is one of the most common forms of children exploitation that, contrary to all other forms of exploitation, we notice the least.

Beggary is usually consequence of violation of numerous rights of a child, primarily inadequate parental care and untimely reaction to such living conditions. These children are often totally untidy, frozen and hungry, in all seasons on the streets with their hands opened and asking for charity, without appropriate education and health protection, usually left on social margins for their entire life.

By living on the street children become a part of it, adapt to its conditions and demands and become an easy prey for those who in such engagement of children see possibility of profit. Because of the consequences living and working on the street leaves on them, very often they are not able to continue normal life.

Existing legal solutions have not adequately recognized this problem and therefore have not created conditions for protection of children from this form of economic exploitation is opinion of 69% of Centers for Social Work.

According to the Family Law, parent who neglected his/her child and abused hi/her parental right, Court may in out-of-court procedure deprive such parent from his/her parental right and parent has abused his/her parental right if in any form he/she incites child to socially unacceptable behavior.

Criminal Code prescribes criminal responsibility of a parent, adoptive parent, guardian or other person who forces child to a beggary or incites child to perform actions that are harmful for its development.

The Law on Public Peace and Order states sanction for violation of public peace and order for persons who incite or force juveniles to beggary (fine is from 400 to 1200 KM).

Institution did not receive any complaints that would indicate violation of children's rights on this basis but by doing research on presence of beggary in Republic of Srpska that involves children came to data which oblige to proper system solutions in order to provide protection to this category of children.

According to data collected from all centers for Social Work, Police, NGOs in 2010 there were 131 child registered as a bagger. Data are relevant to entire Republic of Srpska and all children found at begging regardless of their actual place of living. Out of 58 municipalities that have delivered data, 12 Centers for Social Work had records on children found at beggary. 80% of data related to those children came from 4 municipalities and those are Prijedor, Bijeljina, Modrica and Banja Luka.

In comparison with other countries in region, statistically examined, data are not worrying because only Slovenia did not have any children registered as beggars while data indicates that in Montenegro this number is 3 times higher, in Macedonia situation is even worse, and in Federation B&H these numbers and are even higher.

According to data of competent services children of all ages were found in begging, most common age group is 6 -9 - 37% and 10-14 – 37%, than 15-18 – 19% and under age 3 – 4%.According to data gender structure of children found in begging is 52% girls and 48% boys.

Cause of beggary, according to data collected from all Centers for Social Work in 8% of cases is that children were forced to it. In some cases parents are initiators of such activity and very evident is presence of organized transportation of these children especially in summer period. This situation is present in Prijedor where for example Police knows children come from Federation of B&H and Serbia and they take measures to return them to municipality they came from.

In accordance to the collected data, children-returnees to beggary are not registered in Prijedor or Banja Luka confirming that there was organized transportation of children to those municipalities in certain seasons (vacation time) and relevant municipal services were informed of this.

Furthermore, it has been noticed that in municipality Bijeljina number of children registered in beggary are also registered as returnees in beggary and this municipality has the biggest number of registered cases of beggary – 102 for a year.

Conditions under which those children "working" on the street grow up not only harm them but they seriously jeopardize their basic rights, primarily right to health protection, proper parental care, right to education and right to protection from all forms of violence, abuse and neglecting.

For the sake of protection of this category of children, Centers for Social Work emphasize the need to strengthen preventive programs and activities.

Roma Associations that Institution has contacted, in addressing this issue in the first place put the responsibility of parents.

Public Security Centers are emphasizing that the problem of beggary of children requires greater attention and better coordination of institutions working on addressing this issue and the involvement of many other institutions and agencies in its resolution (border police, communal police, and inspection services). The only solution to this problem is prevention or ensuring adequate parental care for the child by measures of family legal protection.

Maintaining adequate records of children who beg is not regulated in a unique way with the competent institutions. Some centers record these children as children at risk, some as children with problems in growing up, some as children in beggary.

Poverty of family, which often is used as justification by parents of children in beggary, does not mean in any way that children should "earn" on street. Although poverty is one of the risk factors, it does not in any way justify the attitude of parents towards the problem of beggary of their children.

Children who live and work on street are victims in every way and they need help and support.

It is therefore necessary to direct activities on removing the causes that lead children to street. The causes may be various, but each child requires that in a proper procedure is determined what the best interest is for him in the specific situation. By dealing only with the consequence, the problem of street children in the long run will not be solved. Filing misdemeanor charges against the parents, so far did not give results, and rare misdemeanor procedures are usually justified by poor material condition in the family and with it that any sentence imposed in this case would further threaten the family budget.

Initiative for signing Protocol on Proceedings in Case of Violence, Abuse or Neglecting of a Child is result of research on child beggary that, among others, has indicated insufficient coordination of competent services and institutions in protection of rights and interests of this category of children.

Results of research led to openings of Day Centers for children at risk in Modrica and Prijedor with engagement of Ombudsman for Children and competent municipal services and with support of company Henkel and IN Foundation.

Children who are begging do not need charity, they are just children and they need condition for proper growth and development, growing up in society that respects their dignity and where they are being prepared for world of adulthood. By giving them a coin on the street we are not helping them, we are only facilitating them in that "job" that takes them to the margin of society where they stay forever.

## XI JUDICIAL - PROTECTIVE RIGHTS

### ***1. Children in conflict with law - juvenile delinquency***

In reporting period, or better said in last three years, Institution did not receive not even one complaint that indicates violation of rights of child that is in conflict with the law. Therefore, neither parents nor children have indicated violations of child's rights in relevant procedures at competent bodies or such violations were found in prescribed measures. This fact confirms improvement in this field, not only in normative part but also in actual proceedings of competent bodies.

Numerous international documents indicate and oblige that reaction of society towards children whose behaviour is unacceptable must be focused at juvenile's personality and his/her rehabilitation and reintegration and in situations when children are in conflict with law adequate alternative solutions outside the frame of formal criminal procedure must be found.

UN Convention on Rights of a Child<sup>156</sup> requires that in procedure at court juvenile has the right to actively participate in procedure, without discrimination on any basis and with respect given to child's best interest.

According to a international standards general approach, when children in conflict with the law are in question, must be assistance and support to children. Each reaction of society towards those children must be proportional to the circumstances related to juvenile and to committed act in each specific case, where in addition to the gravity of violation; in consideration must be taken personality and personal characteristics of juvenile. As one of basic principles of society reaction must be stating measures gradually, meaning that the most grievous measures are the last ones used.

Emphasis is always on educational measures and recommendations; so legal protection of juvenile is focused on educating and not on punishing. Practical use of educational measures and recommendations should enable assistance and support to a juvenile, supervision, education and proper development of juvenile's personality aiming development of juveniles' personal responsibility. The Law on Protection and and Treatment of Children and Juveniles in Criminal Proceedings<sup>157</sup> puts in foreground educational measures and recommendations whose goal is:

- a) diverting a juvenile offender of criminal act from the ordinary criminal procedure in order to avoid negative effects on the personality of the minor and its development,
- b) that minor considers the consequences of its act and takes responsibility for what he/she did,
- c) preventing juvenile in repeating criminal act.<sup>158</sup>

<sup>156</sup> UN Convention on Rights of a Child, Article 40.

<sup>157</sup> The Law on Protection and and Treatment of Children and Juveniles in Criminal Proceedings, „Official Gazette of Republic of Srpska“, number 13/10

<sup>158</sup> Regulation on the Application of Educational Recommendations to Juveniles, „Official Gazette of Republic of Srpska“, number 10/10, Article 4.

It is highly important that juvenile, in this part of procedure, understands consequences of what he/she has committed and take responsibility for his/her acts. Also, it is important that juvenile accepts recommended measures and this acceptance is not irrevocable, because juvenile could give its consent out of pure desperation, and to diminish every possibility of extortion or intimidation of juvenile in all phases of procedure. Juvenile must not feel any pressure nor may he/she be pressured to accept suggested educational program.<sup>159</sup>

Beijing Regulations call for respecting juvenile right to privacy in all phases of procedure and that none information may be published that could reveal juvenile's identity because young persons are prone to stigmatization and harmful effect on their personality when qualified as "delinquent" or "criminal".

The new quality of the Law in normative sense and new approach towards juvenile offenders requires adequate application of alternative measures, their execution, because only in this way society will have final confirmation of existing legal solutions efficiency. Consequences are partially seen in number of returnees – juveniles in repeated commitment of criminal acts.

Ministry of Internal Affairs (MIA) data on juveniles in conflict with the law state number of complaints against juvenile perpetrators has been significantly decreased in comparison with year 2010 when the number of complaints was 705, in 2012 this number was 556. Eventhough there was a slight increase in number of cases for year 2011 (this number was 488), one must state that number of filed complaints in last three years has been significantly decreased.

According to MIA's<sup>160</sup> statistics, juvenile offenders, in most cases, are committing crimes against property. Out of the total number of reported juveniles in 2012, 396 reports were related to criminal offense against property (theft and aggravated theft), 45 reports for criminal offense against life and body, and 32 reports for other criminal offenses of general crime.

By age structure, out of the total number of reported juveniles 354 of them are 16 - 18 years of age, 165 are 14 - 16 years of age and 37 to 14 years of age. 23 of recorded juvenile offenders are girls. In comparison to the previous reporting period, higher number of reports is related to juveniles age 16-18, while number of offenders of other age groups has stayed at the same level. Here only the number of complaints against girl juvenile offenders has been decreased from 32 (as in year 2011) to 23 (in 2012).

In the group of criminally responsible children, in conflict with the law most often are children of 16 and 17 years, though, presence of younger children who come into conflict with the law is noticeable. Such behavior is often preceded or followed by, neglect of the child within the family and interruption of regular schooling. Criminal offenses are often carried out together with other juveniles or young adults. Children, perpetrators of criminal acts, come from all social statuses.

The number of 37 juveniles who do not even have 14 years of age is warning. Children at this age, according to the law, are not held criminally responsible, procedure does not get

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<sup>159</sup> UN Standard Minimal Regulations for Juvenile Court Proceedings from 1985 – Beijing Regulations

<sup>160</sup> MIA of Republic of Srpska data for year 2012

initiated against them; all proceedings against those children are in the frame of competencies of Centers for Social Work. Even in these cases Police files certain complaints against parents, however, lacking are appropriate measures of family legal protection – supervision and increased supervision that would provide appropriate assistance and support to a family.

If taken in account that, in the narrow sense, juvenile delinquency represents criminal acts committed by juveniles that are prescribed as criminal acts or offenses, while in broader sense it includes violation of moral norms as well as all kinds of anti-social behaviors of juveniles, for the sake of preventing juvenile delinquency most important is to recognize at the very beginning the anti-social behavior of children and react immediately. Whether it is about running from school or from home, problem with alcohol, conflict with the peer... each of those behaviors has its causes that should be eliminated in order to protect children from further and heavier conflict with the law.

The risk factors that lead children to conflict with law may be very different and are related to:

- family - child neglect, poor family relationships, lack of supervision, child abuse, criminal activities of parents;
- school - attending school irregularly or leaving school, poor results, the influence of peer group;
- social factors - the use of alcohol, drugs, various forms of abuse and neglect,
- adolescents themselves, who because of their social and emotional immaturity have the need to prove and to queue up and unfortunately they do so by performing various criminal acts.

Unfortunately, in most situations several factors at the same time contribute to such behavior of children. Therefore, very important is cooperation of parents and school. Timely recognition of unacceptable behavior of children, recognition of certain risk factors that lead to such behavior and appropriate measures will prevent such behavior that leads child in conflict with the law.

Juvenile justice is a system that involves all subjects of protection and their activities from the moment a child is at risk; from coming into conflict with law to its full reintegration, therefore parents and family, peers, school, social welfare centers, police, prosecutors, courts, the media.

Passing of a new Law and by-laws, education of professionals in implementing the Law, establishing appropriate institutions that law obliges on and by passing the Action plans in numerous municipalities to prevent juvenile delinquency in which the emphasis is exactly on the application of alternative measures in local community, day centers have been established for work with children at risk, MIA's and other organizations especially NGOs programs are in function of prevention of juvenile delinquency.

Significant steps have been made in this field in last couple of years that are obliging on further systematic, planned and continuous prevention measures and activities of all protection services.

A new approach to juveniles in conflict with the law requires, among the others, a new method of keeping records on juveniles with all relevant data at all institutions in such proceedings.

## ***2. The right of the child to protection from sexual abuse and exploitation***

**The worst form of child abuse is sexual abuse and exploitation, as the most perfidious way of demonstrating power where perpetrator uses his/her emotional and economic power, authority and similar and abuses child in order to fulfill his/her needs.**

In order to justify their sick "I" child abusers demonstrate their power by doing evil things to powerless, state experts.

Nowadays all agree that sexual abuse and child abuse are serious social problems that society must recognized as a problem, children must freely speak about it and perpetrators of those crimes must be adequately punished.

The public is often presented with information on various forms of sexual abuse of a child and information on perpetrators of such acts. All present media inscription on our territory and surrounding countries suggest that this problem is gaining huge proportions. This is everlasting problem. Awareness and readiness of all competent institutions to respond adequately for the consequence has increased number of reports about sexual abuse. Therefore, important are systematic and planned measures and activities in different sectors, especially programs of prevention not forgetting responsibility of those who see all grievousness and consequences of such acts.

Information on committed act are usually consequence of long-term abuse of child what opens many questions - has child and to whom it spoke of a crime and why there was no reaction are there prevention programs that teach not only children but their parents too on how to recognize such cases, how to work with a child, how to trust a child, what next to do and similar. Such crimes are never isolated case or an incident; on the contrary, this crime are planned and if they get revealed it happens after number of years during which child stays captivated by perpetrator.

In the letter to Institution it has been stated: *"For two years now, girl is in emotional relationship with older man who sexually, physically and mentally abuses her. Girl's father has died ten years ago, mother is a person with mild mental retardation and she is providing care for three children."*<sup>161</sup>

Time period from committed act to reporting such crime is significantly shorter when perpetrator is a person that child does not know, however, when perpetrator is someone from familiar surroundings and to whom child completely trusts this time period lasts much longer. The fact that huge number of reported cases speaks of "perpetrators" who have

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<sup>161</sup> Case number"1341-92-PZ/12

unconditional trust of a child is additional alarm for all competent institutions, primarily in part of prevention but also in stricter sanctioning policy.

Sexual abuse is a threat to every child. Perpetrators of these acts may deceive, and they do, even those adults who believe to know this problem very well. Perpetrators are persons for whom no one ever would say that they are capable of committing such crime, they are kind, good with children, know to gain their trust, able to deceive and manipulate children and than they blackmail them. Maintaining constant fear and by blackmails they minimize possibilities for children to speak out. In over 90% of cases, child knows perpetrator and trusts him/her and therefore teaching children not to open the door for strangers and not to make contact with strangers and similar, will not protect children from sexual abuse.

Every child may become victim of sexual abuse and younger the child and longer time it stays captivated in fear from perpetrator; harder are the consequences for child's development and maturation. Acts of sexual abuse usually happen in the home of child or perpetrator what confirms that children trust persons who are abusing them. Children today can hardly recognize this type of violence that is happening to them. And even when they recognize it, they do not speak about it because they are ashamed and in fear. They are in fear that they will compromise the family, that no one will believe them, that they will be laughed at in the school, that it is their fault ... They are afraid of the perpetrators who, with various threats and blackmail, keep them in fear of the consequences that will happen to them if they speak out.

When they speak about it, no one believes them and those who children address they do not want to talk on this topic. Experts warn that children never lie about that and those who listen to them and really hear what children are saying can recognize the existence of some form of violence child suffers.

Behaving in certain ways children are sending a message that they have a problem – with their mood swings, change in behaving pattern-they become very aggressive or totally withdrawn, nightmares, fears, isolation, eating and sleeping disorder, problems with studying, school absence, running away from home, problems in communication with peer, family or adults,...

Consequences on a child are numerous and very damaging and in situation when child is not being trusted, when child is being convinced child that he/she misunderstood, or that it is impossible and when they are told not to speak of it and similar, is another form of abuse of a child.

In such situations child is completely alone, disgraced and humiliated and with no support that would help him/her in certain way to lessen consequences of what has been done.

*"A girl age 12, at the time of abuse was 8. When talking about herself she speaks of period before and after trauma which she is trying to forget and suppress. She says that she use to be mischievous and playful, now is withdrawn and obedient. She is not doing so well in school now and because of lack of understanding she changed three schools and three places of living. Occasionally there are persons who give her support but without continuous and encompassing treatment. None of family members were included in psycho-social treatment. First year after trauma she went to Kumbor where she felt good because no one*

*knew for her trauma. Lately, she did not have contact with professionals of Center for Social Work.*<sup>162</sup>

The UN Convention on the Rights of the Child in Articles 19. and 34. stipulates the obligation of state to take all legislative, administrative, educational and social measures to protect the child from any form of violence, including sexual abuse, while in the care of parents, legal guardians or other person who provide care to a child.<sup>163</sup>

Council of Europe Convention<sup>164</sup> obliges to series of measures and activities that must be taken in different sectors in order to diminish risks of various forms of sexual abuse, abuse and exploitation of children.<sup>165</sup>

In practice one comes across inadequate reaction of competent institutions towards perpetrators of such crimes. The most common reaction is that they inform police of it because perpetrators responsibility is being investigated only in a criminal procedure, what is separate problem. Institution and companies such persons work for, do not initiate question of alleged perpetrator's responsibility but wait for court's decision on that. They do not question violation of duty of alleged perpetrator, there are no disciplinary procedures against them nor do they determine responsibility of such persons.

Cases like case of a social worker from Banja Luka, teacher from Modrica and Doboje speak best of actions competent bodies take in such situations. In first case, from the very beginning child was not properly provided care and in second case school failed to take measures that according to the Law it was obliged on. Only school in Doboje, after suspension of this teacher, has completed disciplinary procedure and it passed decision on termination of employment for a perpetrator.

Statistical indicators of sexual abuse and exploitation of children do not show the real situation in the field. Firstly, because children often out of fear and shame do not speak about it. But, the problem is that even those who know something about that do not speak of it.

At the same time the question is whether they told the parents or a wall of silence is being raised there preventing any attempt of further conversation on the subject. It is objected to the child that he/she misunderstood something and that it certainly is not the case.

In 2012 Institution has received 11 complaints that indicate violation of children's rights on these grounds. On the same basis in 2011 there were 18 complaints.

Perpetrators, according to the received complaints from persons whom children have entrusted their problem, are usually fathers, stepfathers, neighbors and victims are girls age 9 to 16.

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<sup>162</sup> Interview with a girl who is a victim of sexual abuse

<sup>163</sup> UN Convention on Rights of a Child, Article 19.

<sup>164</sup> B&H has ratified Convention of Council of Europe on protection of children from sexual exploitation and sexual abuse on September 27<sup>th</sup>, 2012, "Official Gazette of B&H", International Agreements, number 11/12

<sup>165</sup> Convention besides others, obliges to: education of children on risks of sexual exploitation and sexual abuse (Article 6), approach to various programs and intervention measures (Article 7), adoption of national measures of coordination and cooperation (Article 10), implementation of protection measures and assistance to victims (Article 11 – 14)

In period December 2011 to may 2012 Institution has conducted research in Republic of Srpska on all forms of sexual exploitation of children as defined by Articles 18 to 23 of the Convention. Research included collecting relevant data on presence of this occurrence, identification and analysis of legal frame, focus group interviews with representatives of institutions and non-government organizations, individual interviews with children victims of abuse, identification of measures of prevention and protection, and quantity and quality of process of re-socialization of children, relation between social factors and risks of sexual exploitation of children.

According to the collected data:

1) Children – victims of sexual exploitation in period January 1<sup>st</sup>, 2008 to end of June, 2011

In accordance with data of	Number of children victims of sexual exploitation
Centers for Social Work	86
Public Security Centers	148
District Prosecutor’s Offices	118
Basic Court	92
District Courts	27
NGOs	44

Children-victims of sexual exploitation according to data provided by stated institutions

By analyzing data given by stated institutions noticed is significant difference in number of children who were victims of sexual exploitation. There is a huge difference related between data of Public Security Centers (148) and Centers for Social Work (86). Data provided by Public Security Centers is related to children who came as damaged party in criminal acts that PSC submits in their reports on committed crimes and where investigations should be conducted based on orders of District Prosecutor’s Office.

Question of why is there such a discrepancy in number of children-victims between Centers for Social Work and Public Security Centers is raised because such difference should not exist in practice, at least not in this number since, according to the positive legislative, in all cases of sexual exploitation of children involvement of Centers for Social Work is mandatory (mandatory presence of Center’s professionals at taking statement from child, identification of child’s family circumstances, social-psychological anamnesis of a child-victim, identification and implementation of measures of psycho-social treatment, etc.).

Stated difference is a consequence of insufficient data exchange between institutions that act in these cases and non-existence of unified database on perpetrators and on victims of sexual exploitation of children. Unfortunately, this discrepancy is result of opinion of a number of Centers for Social Work that such issues are in domain of Centers for Mental Health and not Centers for Social Work. Departments for analytics at Public Security Centers, every three months deliver reports to Ministry of Internal Affairs of RS containing data on children-victims of sexual exploitation. However, this is not case in other institutions and services.

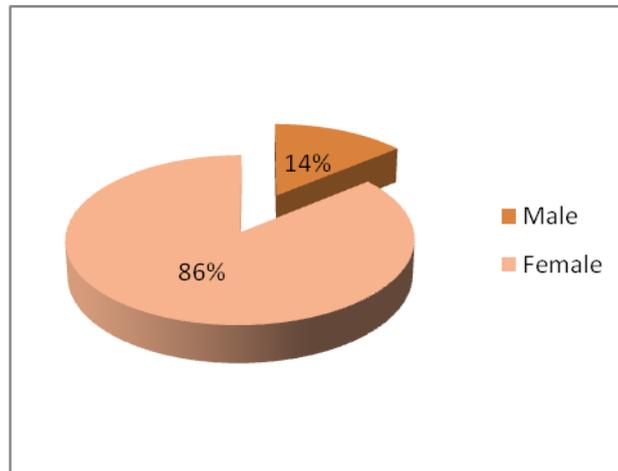
2) Children-victims based on form of sexual exploitation and related to data collected from all examinees

Form of exploitation	Centers for Social Works	Public Security Center	District Prosecutor's Offices	District Courts	Basic Courts	NGO
Rape	3	8	2	2	3	1
Sexual intercourse with helpless person	14	6	17	6	2	1
Sexual abuse of a child	9	62	60	17	30	11
Sexual intercourse by abuse of official position	2	7	6		8	5
Satisfaction of sexual passion in presence of others	12	11	4		4	6
Human Trafficking for prostitution	9	4	6	2	9	7
Child and juvenile abuse for pornography		5	4		18	2
Production, possession and distribution of child pornography		4	1		2	
Incest	5	7	1		3	6
Common-law marriage with a juvenile	32	34	17		13	3
International recruiting for prostitution						2
Sexual intercourse with helpless person						
<b>TOTAL</b>	<b>86</b>	<b>148</b>	<b>118</b>	<b>27</b>	<b>92</b>	<b>44</b>

Children-victims according to exploitation form

The above stated data indicate that the most common forms of sexual exploitation are sexual abuse of a child and common-law marriage with a juvenile.

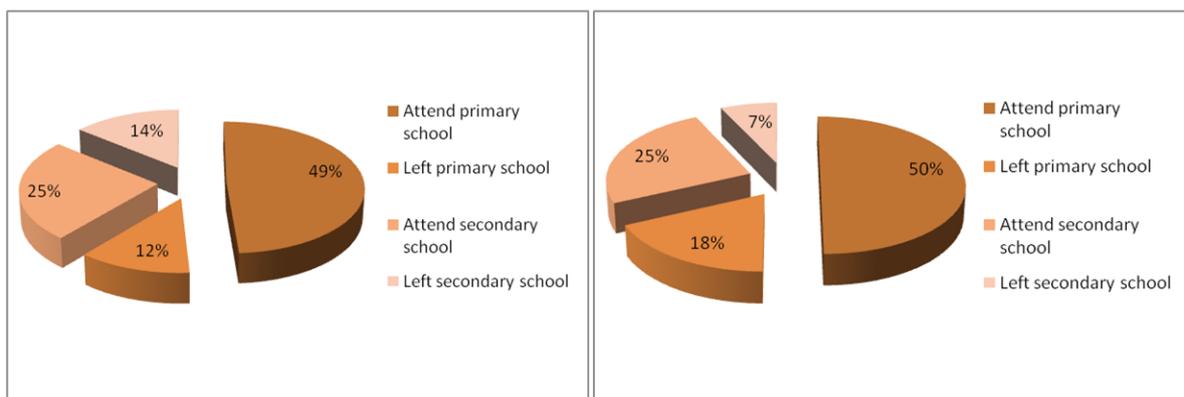
3) Children – victims of sexual exploitation by gender – data of Centers/Services for Social Work



Children - victims of sexual exploitation by gender – data of Centers/Services for Social Work

Analysis of Center's for Social Work data indisputably shows that girls are more prone to a risk of becoming victims of sexual exploitation than boys.

4) Children – victims of sexual exploitation based on their educational status – data of Centers/Services for Social Work and NGO

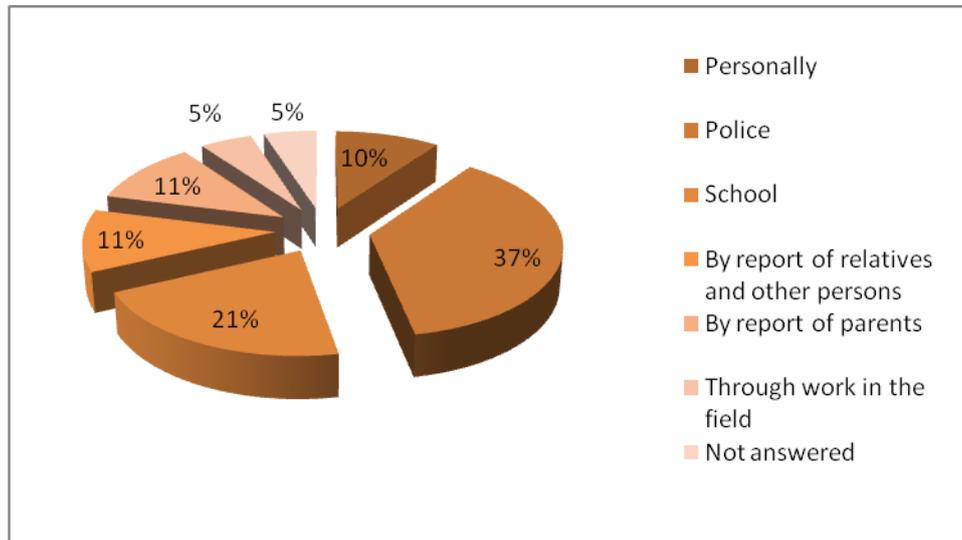


Children – victims of sexual exploitation based on their educational status according to data of Centers for Social Work and NGOs

Analysis of Centers for Social Work data on educational status of children-victims of sexual exploitation indicates that 35 (49%) children-victims attend primary school, 18 (25%) attends secondary school, 9 (12%) children-victims have abandoned primary school and 10 (14%) children-victims have abandoned secondary school.

Analysis of NGOs data on educational status of children victims shows that primary school children are at the greater risk of sexual exploitation. Same conclusion was made by data analysis of Centers for Social Work and Public Security Centers.

5) Methods of collecting data on children-victims of sexual exploitation of Centers for Social Work

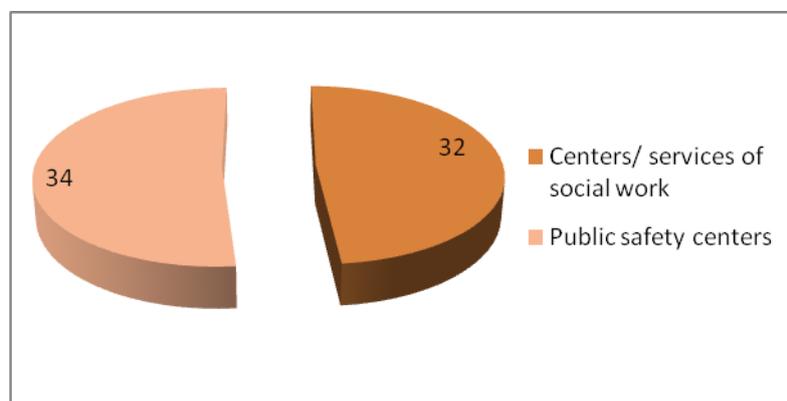


Methods of collecting data on children-victims of sexual exploitation

Information on children-victims of sexual exploitation in 37% of cases Centers for Social Work got from police, 21% from schools, 11% through complaint of a parent or other relative or third person, 10% from children-victims themselves, while 5% they learned by working in the field. 5% of Centers for Social Work who submitted questionnaire did not answer to this question.

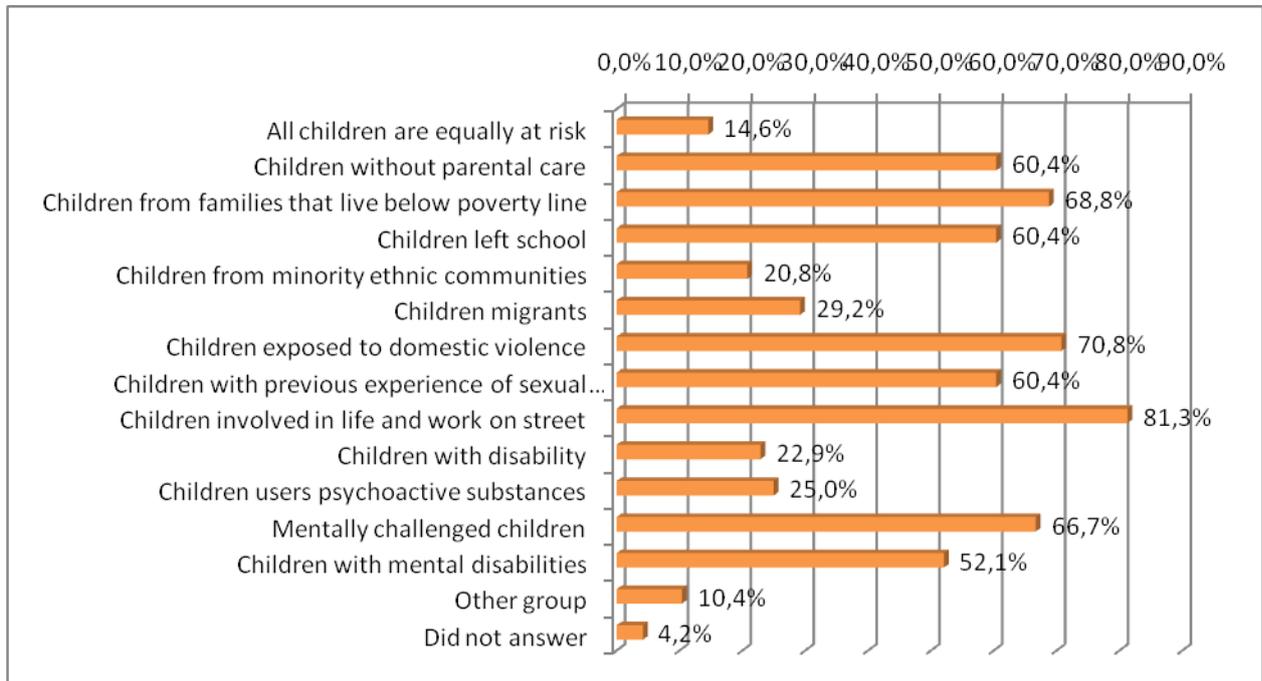
6) Common-law marriage with a juvenile according to data of Centers for Social Work and Public Security Centers

Statistics show that number of cases of sexual abuse of children registered by Centers for Social Work is much lower than number of those cases at Public Security Centers. On the other side, number of registered common-law marriage with juvenile is almost same at Centers for Social Work and Public Security Centers.



Cases of common-law marriages with juveniles according to data of Centers for Social Work and Public Security Centers

## 7) Exposure to a risk of certain groups of children according to data of Centers for Social Work



Exposure to a risk of certain groups of children and trends (victim's profiles and category mapping) according to Center for Social Work data

Analysis of collected data indisputably indicates that certain factors related to family status, social-economic status and health condition of a child-victim and its family might influence raise of risk from sexual exploitation.

When speaking of family status of a child victim of sexual exploitation, analysis shows that most of children-victims come from dysfunctional families and/or incomplete families. Analysis shows that domestic violence cases are usually followed by sexual abuse. Also, more prone to becoming victims of sexual exploitation are children whose one of parents abuses alcohol or children who are being neglected.

Social-economic status of child's-victim family is very low. Most children-victims come from families where usually neither parent has full-time job, but they work on temporary and usually physical tasks.

Data analysis on health condition of a child-victim indicates that children challenged in their development are often victims of sexual exploitation, and also indicative is that psychological problems or family member addiction problem could be cause of sexual exploitation of children.

Analysis of focus group interviews shows that profile of children-victims of sexual exploitation, which professionals-participants of focus groups have met in reporting period usually come from dysfunctional families. All agree that children who lack love and attention within their families, perpetrators easily recognize and gain their trust. Due to the big age

difference, victim identifies perpetrator with "father, brother, and similar", what represents additional problem in judicial process of proving guilt of perpetrator.

Victims of sexual exploitation are younger children that are being available to perpetrators thanks to development of modern technologies. Children often have their own internet accounts parents have no access to. Also, evident is a problem that children are not aware of situations when they are committing violence (inappropriate verbal communication among children) and often they do not recognize situations where they are exposed to real danger of becoming victim of violence. General conclusion is that children-victims have almost no awareness of this problem, have partial information and are easily influenced.

Protection of children from sexual exploitation and abuse requires systematic and planned actions of different sectors that, among other, include:

### **1. Changes of Criminal Code**

- **statute of limitation for prosecution of crimes** against children, define bylaw in a way that it starts as of moment child becomes of legal age what gives children possibility, when they became of legal age and overgrown fear and shame and influence of parents and surroundings, to make their own decision on initiating procedure against those who have destroyed their childhood and have left permanent consequences on their life,
- **age limit for voluntary sexual intercourse** should be moved from 15 to 16 years of age, what would put responsibility on those who manipulate, abuse and exploit children for their own satisfaction,
- **strengthen penalties for perpetrators of these acts.** No punishment is sufficient for perpetrator because he/she has destroyed child's life but if given minimal punishment than once again child has been abused. Minimal punishments should be much higher in order to be adequate to the gravity of committed crime and, at the same time, it should contribute to prevention of such crimes. Latest verdicts for perpetrators of these crimes show that judicial policy is changing positively but it must become a rule and not just occasional occurrence.

**2. In addition to imprisonment additional measures towards** perpetrators of these crimes should be determined: mandatory treatment-psychosocial treatment, prohibition of any form of vocational engagement with children (kindergartens, schools, sport clubs,...). The problem is that perpetrators even after they are sentenced usually do not go through special programs and treatments that would prevent, once they leave prison, repetition of same criminal act and experts warn that regardless of the length of imprisonment, after certain time, they would do the same if they for the time of imprisonment do not go through various program and treatments.

**3. Create database of perpetrators as** one of the measures that would contribute to better protection of children from persons who already have committed these criminal acts basically protection of children from returnees to these crimes. The goal, therefore, is that such persons are under permanent surveillance of competent institutions and to avoid every possibility that they, after time served in prison and laps of some time, get in situation to work with children.

**4. Ensure measures of psycho-social assistance and support** for children-victims of sexual abuse and violence, but also for victim's family, including types of measures, methods and periods for implementing such measures by competent services in order to lessen, as far as possible, the consequences of the committed deed and provide rehabilitation and

reintegration of a child. Problems that child-victim of sexual abuse lives with will not pass with time and therefore psycho-social assistance and support, as a form of treatment done by professional team (psychologist and social worker) is necessary for both victim of abuse and to its family. The goal is to provide help in one segment of psycho-social needs; security, understanding, respect, emotional and social support or assistance, knowledge and similar.

**5. Create programs of informing and educating** children about violence in general and especially about sexual abuse and exploitation, possible risks, methods of recognition, consequences it leaves on child's development and growing up, about children's right to assistance and support from their earliest age and adapted to their age and needs.

**6. Create programs of informing and educating all professionals** who work with children, especially those employed in educational system, about legislations, possible causes and risks of child abuse, methods of recognition children-victims of violence, consequences that violence leaves on children development and growth, measures that must be taken and methods of supporting and assisting child in order to be able to respond to their tasks in prevention, recognition and intervention in all cases of child abuse.

Based on initiative of Ombudsman for Children Protocol on Proceedings in cases of child abuse or neglecting has been passed and it puts responsibility on competent services and institutions to take all necessary measures in frame of their competencies to help children but also to establish continuous cooperation with other services in order to ensure multidisciplinary approach in prevention, education and proceedings as well as for maintaining appropriate records in this field.

Children-victims of abuse should be encouraged to speak of their problem and to ask for help. They must know to whom they can go and what kind of help they can get. Here, very important is that reaction of competent institutions is prompt and relevant, firstly in child protection and than in processing and adequate punishment of perpetrators. Otherwise, consequences it leaves on a child may be even worse.

### ***3. Children in traffic***

Protection of children in traffic as well as many other children's rights requires engagement of numerous subjects of protection.

Primarily, those are parents. They, in accordance with the Family Law, have obligation to provide care for healthy development of their children and this, among other things, includes taking necessary measures and activities in protecting children in traffic – teaching child from its earliest age basic traffic rules and need to obey them, but also supervision of children and preventing children to drive vehicles without driver's license. MIA's data on exclusion of juveniles from traffic because they were driving without driver's license and from the experiences of driving schools who stated that many children who come for training already have driving experience warns of a existing problem that, unfortunately, very often has grievous and tragic consequences.

Additional parental obligation is, when they together with their children participate in traffic, to pay special attention to children's safety, not allow them to sit in front passenger's seat, without seatbelt, child seats, in the lap of driver and similar where even minor car accidents can be fatal for a child.

School's obligation, when speaking of organized student's transportation that is in accordance with the Law on Primary Education, is to regulate all questions related to children's safety by agreement they sign with transporter.

Agreements on students transportation that Institution had insight in, do not have clearly defined rights and obligations of contractual sides that relate to the safety of students.

In certain number of cases sent to Institution it is stated that safety of children is jeopardized because near school there is no appropriate signalization. Same situation is found on certain locations children must go through on their way to school and which are not properly secured.

The Ministry of Internal Affairs, in order to prevent and protect children in traffic, every year, at the beginning of school year, throughout Republic of Srpska implements the action "Let's protect children in traffic", by which in addition to increased presence of police patrols near schools, urges on drivers to take caution in traffic and organizes workshops in schools for children about traffic safety.

Number of drivers excluded from traffic for driving under the influence of alcohol<sup>166</sup>, warns that the existing fines prescribed by the Law do not have a preventive role, therefore, it is necessary to increase by amendments of the Law primarily the fines for driving under the influence of alcohol, what would contribute to higher safety of children and all other participants in traffic.

Thus, protection of children in traffic requires permanent programs of prevention but also a policy of punishing that would be in function of prevention.

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<sup>166</sup> According to the MIA of Republic of Srpska records in 2011. from traffic was excluded 18164 drivers for driving under the influence of alcohol.

## **XII WORK EX OFFICIO**

### ***1. Special reports***

Special reports should contribute to the systematic problem solving in order to protect children whose rights were violated or could be violated on same basis as it is stated in report. In order to define measures that should be taken for the sake of obviating situations when children rights are violated, special report brings complete analysis on situation in certain segment, legislative, situation in field and conclusions on violation of stated rights of a child.

Special report indicates omissions that could be very different but which lead to violation of children rights. These omissions may be related to the existing legal solutions that are not sufficient guarantee for exercising and protection of children rights in accordance with demands and principles of UN Convention and other international documents in regard to children rights, or competent bodies with inappropriate application of effective laws lead to violation of child's rights or they violate them in a procedure that is not in accordance with the positive law.

Given that the issues which are the subject of Special reports with this Report already presented, reports in this part are only stated:

1. Prevention of Child Exploitation in South-East Europe – Sexual Exploitation of Children in Republic of Srpska
2. Special Report on Peer Bullying
3. Reproductive Health
4. Enrollment of Children in First Grade
5. About Your Rights in Your School

### ***2. Recommendations***

Recommendation is a measure which Ombudsman uses in situations where in the procedure of mediation i with the responsible party it did not find compromising solution or when in a particular area it indicates the need of taking specific measures to remedy situations that lead to a violation of the rights of the child.

The Law on Ombudsman for Children clearly defines powers of the Institution to propose to the bodies of state administration, bodies or services of local governance as well as to other legal and civil persons who perform tasks that are in relation with children to undertake measures for preventing harmful proceedings that are endangering their rights and interests, to warn on irregularities, and to demand reports on undertaken measures.<sup>167</sup>

Recommendations made during the reporting period generally do not apply to individual cases, but to the need for taking measures in certain fields, in order to identify situations that lead to violations of the rights of the child and seek for adequate solutions for their elimination.

1. Recommendation to the Center for Social Work Celinac
2. No Child out of Educational System

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<sup>167</sup> The Law on Ombudsman for Children, Article 9.

3. Education of Children about their Reproductive health
4. Recommendation on taking measures
5. Center for preschool education
6. Recommendation on supervising procedure
7. Amendments of Criminal Code
8. Actions of Center for Social Work in cases of violence against children
9. School duty hours for students
10. Regulating student transportation expenses
11. Assistants in schools
12. Implementation of rights of children challenged in development according to Article 5. of Regulations on classification of persons with physical and mental developmental challenges
13. Student files
14. Conditions for student accommodation
15. Passing Regulation on organization and financing of special schools
16. School bags are too heavy
17. Regulation on disciplinary and material liability of a student
18. The right of a child to express opinion
19. Peer bullying
20. School excursions

### ***3. Opinions***

In accordance with Article 7. of the Law on Ombudsman for Children by which the Institution is authorized, in the process of drafting of legislation to give opinions to draft laws and other regulations, if they govern matters that are of importance for the protection of the rights of the child, the Institution has submitted:

1. Opinion on Draft Law on games of Chance

### ***4. Initiatives***

According to Article 7. of the Law, the Ombudsman for Children is authorized to submit the initiative for amendments of laws and other regulations and general acts, if it considers that a violation of the rights of the child is a result of deficiencies in regulations.

Since there is increase in number of complaints that indicate violation of rights of a child due to inappropriate reaction of competent bodies in protection of children from different forms of violence, abuse and neglecting, Institution has made initiative for passing following:

1. Protocol on proceedings in cases of violence, child abuse and/or neglecting

## XIII COOPERATION WITH CHILDREN

Ombudsman for Children in accordance with the Law on Ombudsman for Children<sup>168</sup> has continuous cooperation whose aim is teaching children their rights in accordance with Convention<sup>169</sup> and also teaching them how to exercise and protect their rights and interests. Within this cooperation Ombudsman encourages children to express their opinions and very often gets information based on which Institution initiates public activities whose focus is improvement of social position of a child, and it proposes measures that would increase influence of a child in society.

This way Ombudsman for Children contributes to implementation of one of UN Committee for Children Rights Recommendation from 2005 to "increase efforts in informing public about Convention and to raise awareness of its principles and provisions, especially among children and parents."<sup>170</sup>

In its Recommendation for 2012, Committee has expressed its concern that "there is limited awareness and knowledge of Convention amongst children", and once again recommended Member States to continue "increasing media engagement in public awareness of Convention in child-friendly way, by using newspaper, radio, television, internet and other media as well as with active participation of children in public field activities."<sup>171</sup>

### 1. Workshops for children

In 2012 Ombudsman for Children has organized workshops for children that were premeditated in its annual plan and workshops that organized based on invitation of a school or institution. Visits and workshops were organized in primary and secondary schools in whole Republic of Srpska with the goal of introducing children with their rights, obligations and responsibilities, and to talk with children about their health and healthy lifestyles, advantages and risks at internet and other topics that are highly important during their growth.

"About your rights at your school" are workshops that Ombudsman for Children is implementing in September, October and November (until International Child Rights Day) with the goal of introducing children with their rights, UN Convention principles and to get information from children that could be basis for proceedings at Institution of Ombudsman. Topics of this year's workshops in Primary and Secondary schools were Children's Right to Health Protection in 28 schools, 15 secondary and 13 primary schools, in 20 municipalities:

1. "Vuk Karadzic", Teslic
2. "Stanko Rakita", Banja Luka
3. "Sveti Sava", Dobojski
4. "Petar Kocic", Mrkonjic Grad
5. "Aleksa Santic", Istocna Ilidza
6. "Vuk Stefanovic Karadzic", Dobojski

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<sup>168</sup> The Law on Ombudsman for Children, Article 6.

<sup>169</sup> UN Convention on Rights of a Child, Article 42: "State members are taking obligation to actively and appropriately introduce adults and children with principles and provisions of UN Convention."

<sup>170</sup> UN Committee for Rights of a Child, Final conclusions and recommendations 2005, point 23.

<sup>171</sup> UN Committee for Rights of a Child, Final conclusions and recommendations 2012, point 22.

7. "J. J. Zmaj", Trebinje
8. "Sveti Sava", Brod
9. "Majka Knezopoljka", Knezica
10. "Vuk Karadzic", Visegrad
11. "Vasa Cubrilovic", Gradisla
12. "Sveti Sava", Foca
13. "Zmaj Jovan Jovanovic", Banja Luka
14. SS "Djuro Radmanovic", Novi Grad
15. SS "Svetozar Corovic", Ljubinje
16. SS "Aleksa Santic", Nevesinje
17. SS "Sokolac", Sokolac
18. Secondary School of Economics, Bijeljina
19. SS "Petar Kocic", Sipovo
20. Medical Secondary School, Prijedor
21. Gymnasium and Vocational School, Istocna Ilidza
22. SS "Nikola Tesla", Samac
23. Secondary Business School, Banja Luka
24. Agricultural and Medical School, Bijeljina
25. SS "Mihajlo Petrovic Alas", Ugljevik
26. Secondary School of Economics, Banja Luka
27. SS "Foca", Foca
28. Technical School, Dobo

Visits to schools were arranged in advance and they were done through:

- Conversations with school administration (director, pedagogue/psychologist/social worker)
- Workshops with student councils.

The goal of workshops that were related to exercising rights of children to health protection<sup>172</sup> was primarily to introduce children with their rights to healthy childhood but also to get their opinion on:

- their knowledge about right to health protection,
- adult's but also their obligation to care for their health by means of healthy nutrition, physical activity, healthy surroundings,
- school activities related to prevention and education of children about health,
- necessity of learning about health, maintaining healthy lifestyle and other related topics.

Regardless of their age and school they attend, students have recognized importance of healthy nutrition; physical activities, rest and recuperation, as well as they knew that protection from tobacco, alcohol and drugs is a prerequisite for protection and improvement of health. The most of students believes that from their earliest age, in school, during their regular classes they should get reliable and quality information that are important in health improvement. Primary and secondary school students state that they want to learn about healthy food, hygiene, physical and mental health and they emphasize topic of reproductive health which, as they have said, is still considered a "taboo".

After summarizing results on conducted activities, certain reactions and opinions have been highlighted for which, according to opinion of Ombudsman for Children, additional measures

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<sup>172</sup> UN Convention on Rights of Child, Article 24.

and activities should be taken in order to overcome situation or to improve care for children in certain areas and as Special report were sent to relevant Ministries. Children opinions speak of their needs and are invitation for adults to recognize and act upon those needs.

Workshops upon invitation were organized as part of activity on educating children of their rights, but topics were proposed by schools or institutions who have invited Ombudsman for children to do workshops. These invitations are always indicating that recognized is importance of educating children of their rights and as well as importance of providing children with proper and quality information that is, at the same time, child-friendly.

Upon invitation of one class of primary School "Mladen Stojanovic" Gornji Podgradci, employees of Ombudsman talked with children about advantages and dangers of internet in order to prepare those students for upcoming municipal competition in democracy.

In Primary School "Aleksa Santic" Vojkovici, upon invitation of Center for Social Work, workshop on peer bullying was held.

During "Meeting of Children's Homes" that was held in Banja Luka, representatives of Ombudsman for Children in cooperation with Professor of Communication Tatjana Duronjic have prepared debate "Advantages and disadvantages of internet, social networks and mobile phones" where they spoke with children about responsible use of internet.

Upon invitation of Agency of Local Democracy Prijedor, workshop in Primary School "Desanka Maksimovic" Prijedor was held and its topic was "Learn children's rights".

In Gymnasium Prnjavor, upon invitation of Student's Council, employees of Ombudsman for Children have held workshop about internet and peer education.

Peer education – Ombudsman for Children have educated Young Advisors to Ombudsman for Children about topics related to children's rights and in cooperation with Gender Center of RS Government issues of gender equality were covered, and in cooperation with national Coordinator for Reproductive Health this topic was covered. Young Advisors, with support of Ombudsman for Children and after education, have organized workshops in secondary schools in Foca, Samac, Modrica, Vlasenica, Kozarska Dubica, Doboje, Derventa, Prnjavor, Gradiska and Banja Luka. This form of education is well accepted by children who attended workshops and by school administrations that have shown understanding for this form of cooperation and they have enabled children to share their knowledge with their peers.

## **2. Children's socialization program**

The project "Socialization of children of Republic of Srpska" takes place at the camp in Kumbor, Montenegro, since 2002 and its implementation is the answer, primarily, to meeting the needs of children whose development is hindered by adverse social, economic, health or family circumstances and assistance to family in exercising its role in socialization and protection of children.

The Ombudsman for Children for four years now visits children in Kumbor and on these occasions' implements workshops on the rights of a child. In 2012 Ombudsman for Children visited tenth group of children that stayed in Kumbor in period from August 13<sup>th</sup> to August 22<sup>nd</sup>. This group had 132 children from different municipalities such as gradiska, Derventa, Teslic, Vlasenica, Visegrad, Istocni Stari Grad and Novo Gorazde. Group Coordinator was

Zeljko Blagojevic, and Associate to camp was Ms Sladjana Trifunovic from Child protection Fund.

Dr. Duska Miljanovic and Milka Milicevic provided medical support and since camp has many sport activities for this segment responsible were Gorica Bilak and Dejan Klacar. Students volunteers Danko Raus –social studies Zagorka Bogdanovic – pedagogic studies, Snjezana Zivkovic –psychology studies and Nikola Tripkovic- science of physical culture gave their contribution in work with children to whom this engagement should be a recommendation for further professional engagement. The whole team may take credit for implementation of planned program in whole and for great atmosphere in camp to the satisfaction of all participants, including engagement of Fund Administration, Director Momir Popic and his deputy Jovanka Vukovic.

This form of cooperation with children is very important for Institution because in one place gathered are children from different surroundings, different schools, different age and social status, children challenged in development and talented children.

Conversation with children is usually organized by groups according to age and during the afternoon break, on their rights in general and particularly those relating to school, but also relating stay at the camp. Children very openly talked about different situations encountered and almost all of their questions and comments are related to their education, school discipline, relations with teachers, safe use of the Internet, violence at school, equipment in possession of school and the fact that in school they learn very little about their rights. According to their statements, the children have gone through different workshops about their rights, but situations in practice are difficult to associate with their rights.

Their stay in camp they graded excellent and they did not have any complaints regarding accommodation in camp, food, personnel and relation towards them. They proposed that period from the end of supper to beginning of entertainment program should be shortened, what was done on the same evening.

Camp personnel praises project in whole, stating their expectations that each year project will include more children in a way that existing capacities of camp are used in longer period of time and not only in period June 1<sup>st</sup> to September 15<sup>th</sup>.

Children, parents, employees, volunteers and local communities from which children come have no complaints on Kumbor Camp what additionally obligates all competent to maintain quality and work on its improvement in sense of having bigger capacity and involving all interested institutions and organizations in realization of this project.

Ministry of Health and Social Protection and Public Fund for Child Protection make great efforts not only to maintain the project but also to advance it with more contents on satisfaction of children and their parents.

In period of eleven years that this project is ongoing, more than 15 000 children from entire Republic of Srpska attended this camp.

### **3. Children's Week**

"Children's week" is traditionally marked in whole Republic of Srpska having for the aim promotion of children's rights, improvement of social care for children and enforcing responsibility of all subjects of child protection.

This year Children's Week was marked from October 1<sup>st</sup> to October 7<sup>th</sup> under common slogan "Family- where life begins and love never ends".

Program passed by Minister of Health and Social Care, numerous activities and manifestations on level of entire Republic of Srpska has indicated the importance of recognizing needs of children in different periods of their childhood, where special role plays family as primary and natural surrounding that provides stability and security, love and respect necessary for proper growth and development of each child.

In this sense, Ombudsman for Children has organized numerous activities, primarily meetings and conversations with children on territory of entire Republic of Srpska.

Ombudsman for Children has visited children in Kindergarten "Kolibri" and she answered all questions they had about their rights and she also visited children who are at Clinic for Infectious Diseases in Banja Luka.

In Istocno Sarajevo Ombudsman for Children had spend time with the youngest members of Association of Children and Parents "Return our smile", children in the youngest kindergarten group within day center and she made sure that even the youngest ones know their rights.

During Children's Week workshops on children rights were held in Primary School "Petar Kocic" in Mrkonjic Grad, School of Economic in Bijeljina and in Secondary Schools Center in Sokolac. These workshops, besides primary topic, also pointed out the significance of Children's Week in promotion of children's rights.

During Children's Week Ombudsman for Children has cooperated in all activities related to Meetings of Children Homes in the region whose host was Children's Home "Rada Vranjesevic".

Prior to the Children's Week, in cooperation with Gender Center, Training Seminar of Young Advisors to Ombudsman for Children of RS with the topic "Right to protection against violence" was held in the frame of project "Certification of peer educator on children rights for young advisors to Ombudsman for Children of Republic of Srpska", financed by FIGAP Program.

A new quality of "Children's week" this year is central manifestation that additionally indicates importance of continuous and coordinated cooperation of all subjects of protection, mainly in part of prevention but also because of continuous surveillance over Convention application and the influence legislative and defined policies have on children, their rights and interests. Ministry of Family, Youth and Sports and Ombudsman for Children have organized Central manifestation that promoted publication "Selection of International Provisions on rights of a Child" that was intended to all working with children and for a goal has promotion of new attitude towards children, what Convention requires. Besides promotion of publication of Ministry of Family, Youth and Sports and Ombudsman for

Children, in Central manifestation program preschoolers, primary school students and secondary school students have been presented. Children of all age groups in one place have shown their talents, knowledge and skills and they send message to adults that they should recognize these qualities.

#### **4. International Child's Right Day**

November 20<sup>th</sup>, day recognized as International Child's Right Day is a day when 23 years ago UN Convention on Rights of a Child was passed as a universal document dedicated to children and is result of a need to provide special protection and care for children.

On the occasion of International Day of Children Rights, in 2012 in Republic of Srpska, Protocol on Proceedings in cases of violence, abuse and neglecting of a child has been signed on initiative of Ombudsman for Children of Republic of Srpska. Protocol was signed by ministry of Health and Social Care, Ministry of Family, Youth and Sports, Ministry of Education and Culture and Ministry of Internal Affairs of Republic of Srpska.

Protocol aim is protection of a child from all forms of violence, abuse and neglecting and enforcement of responsibility of all institutions and services that, in the frame of its legal authorities, take measures and activities in protecting children from all forms of violence.

For the third year now, on initiative of Ombudsman for Children, host of Central manifestation of International Child's Right Day is a school that according to the Ministry's of Education and Culture data and data of Republic Pedagogic Bureau has the best results in studying and behaving. The goal, therefore, is to additionally motivate schools in improving their educational work and getting better results. This year's host, based on its results, was Primary School "Georgi Stojkov Rakovski" from Banja Luka.

The host was delighted that they were chosen because it represents recognition of 40 years of their educational work with children in this school. Central manifestation was opportunity for students of this school to prepare great cultural program under name "Come on people, let's be kids" and to have at one place all children, parents, teachers, representatives of relevant Ministries, local community and other schools.

Traditionally, the Competition for the best art work was opened on the occasion of International Child's Rights Day with the topic "I grow and learn in peace and freedom" and it was opened by Ministry of Education and Culture and Republic Pedagogic Bureau in cooperation with Ombudsman for Children. At the central manifestation prizes were awarded for the best student papers which were provided by the Public Fund for Child Protection, Ministry of Education and Culture and Ministry of Family, Youth and Sports of Republic of Srpska.

In last three years, the hosts of manifestation were also Primary School "Branko Copic" from Banja Luka and School of Economics from Bijeljina because they had the best results in studying and behaving. Besides those two schools, among the five best where Primary School "Ivo Andric" Banja Luka, "Branko Copic" Prnjavor and "Zmaj Jova Jovanovic" Trebinje and among secondary schools only School of Economics from Bijeljina was among top five.

On the occasion of International Children's Day, Ombudsman for Children has organized in Banja Luka a Round table on "Obstacle elimination - condition for socializing challenged children" and another Round table "Preventive measures of health protection of children in educational system" was organized In Bijeljina in cooperation with International Association

of Physicians for South-east Europe. Both topics have triggered great interest of professionals and institutions and organizations representatives that work with and for children and resulting from their discussions and conclusions are recommendations delivered to relevant ministries.

In the frame of its activities during International Children's Day Ombudsman for Children took part in Constitutive Session of Coordination Board for implementing "Towns/municipalities- friends of children" which joins Banja Luka into big family of towns, friends of children.

Ombudsman for Children of Republic of Srpska representative in Foca visited Kindergarten "Klincograd" and enjoyed program called "My rights on my road to adulthood" prepared by youngest kindergarten children.

Young Advisors to Ombudsman for Children in Secondary Schools Center in Foca on occasion of International Children's Day have organized presentation and workshop for their peers called "Friendship against peer bullying".

Young Advisors for this occasion in several schools have had info-desks and boards where they informed students and teachers of rights of child and activities that network of Young Advisors is implementing.

The Ombudsman for Children attended the ceremonial session of the VI Conference of mResurs held on the occasion of the International Child's Rights Day. This meeting was also an opportunity for secondary school students to address the representatives of relevant ministries, local community, the Republic Pedagogical Institute, MPs and other guests and ask questions and give their suggestions and comments and indicate a need for continuous and real cooperation with relevant ministries and more active participation in addressing the issues that are important to them.

It is particularly important to point out that in the marking of the International Child's Rights Day a growing number of institutions, organizations, communities, schools and individuals are included which further draws the attention to all subjects of society to the importance of child care.

## **5. International Human Rights Day**

23 years ago, UN Convention on Rights of a Child, has not only laid foundation of a new attitude towards children, but also for the better tomorrow for society in a whole by promoting idea of children having human rights. By investing in children today, the society really invests in its future, in which today's children will take over responsibility to the extent and in such manner as we have taught them today.

Therefore, for a third year in a row, Ombudsman for Children specially plans its activities for International Human Rights Day. In 2012, prior to Human Rights Day, training-seminar named "Right to express opinion and right to participate" was held for Young Advisors with the goal of introducing young people with possibilities and need to express their opinions as well as taking active role in solving all issues related to them especially in schools and local community.

Since Young Advisors together with Institution have implemented research on reproductive health in secondary schools in Republic of Srpska, this training-seminar was an opportunity

for them to state results of research, make conclusions and to prepare presentation for Round table "Reproductive health-youth opinions."

Round table "Reproductive health – youth opinions" was held on Human Rights Day and Medical School from Banja Luka was the host. Students from School of Economics, Medical School, Gymnasium, Secondary School "Ljubisa Mladenovic" Banja Luka and Gymnasium Gradiska had opportunity to hear on this Round table opinions on this topics from various experts, representatives of relevant Ministries, Council for Children, Republic Pedagogic Institute, city and, of course, opinion of Ombudsman for Children of Republic of Srpska.

After results of research on reproductive health implemented by Young Advisors were presented, young people have stated their opinions on this issue and they emphasized a need of getting necessary information during their regular classes. Once again children have stressed out how important it is to them that someone asks for and wants to hear out their opinions.

Special Report and Recommendations on children opinions related to protection of their health was written by Ombudsman for Children and delivered to the competent ministries. This method of work is an example of the actual participation of children in solving issues related to them.

## **6. The Ombudsman at manifestations of children's creativity**

Manifestation of children's knowledge and creativity always gathers talented children and Ombudsman for Children gives great deal of attention to these manifestations. To develop and motivate the creativity in children is one of the priorities of any society, because in this way the preconditions for the formation of future artists, scientists, researchers, athletes are created. In these socializations with children the expression of due care to achievements of children in various fields of art, science and sport is especially important and encouraging all adults who work with children to identify, direct and assist in developing talents in children.

Very important is to motivate and award children who take part in these manifestations but it is even more important to motivate and give recognition to adults, primarily teachers who work with children. With such encouragement they would make greater effort in engaging, directing and supporting children who need additional professional assistance in developing their talents.

The number of sport manifestations for children are grater every year but sport manifestation where children challenged in their development take part, in our country, are very rare. One of those manifestations under the name "Let's play floor ball" was organized by Association for Supporting Children with Special needs from Doboje and Ombudsman for Children attended this manifestation. On this occasion, children have shown that they can be active participants in society and also they have shown that they are just children, with same needs as their peers.

Children expressing their creativity in literature or art had opportunity to participate in several competitions and the best among them were awarded on manifestations that traditionally gather little masters of pen and brush.

International Festival of Children Poetry "Mikrofin Children's Kingdom" is significant cultural manifestation for children because it promotes cultural creativity of children and it

contributes to their development. Festival should contribute to nurturing literal creativity of children and young persons, promotion of young authors and talents and to pay respect to children's friends – poets and literary artists. International Festival of Children's Poetry once again was opened by Ombudsman for Children representative.

Citizen's Association "Center of Youth" from Kotor Varos, for the third year now, has organized literary manifestation "Hozic's pen of child" with the topic "Great people lives forever" and students of all primary schools in Bosnia and Herzegovina have participated.

The Ombudsman for Children has several times visited the showroom "Koraci" on the occasion of exhibition of drawings and illustrations of students and teachers of both primary and secondary schools. Two exhibitions promoted works from the art workshops organized by Ministry in cooperation with Art Academy. Art works exhibition in "Koraci" is usually followed by promotion of young dance artists, musicians, poets, actors who get opportunity to present them publicly and get support in their future work.

Every year Ombudsman for Children pays special attention to exhibition of works made by children challenged in their development. These exhibitions familiarized visitors with children's creativity that occurs under specific conditions, among children with special needs but often a special talent that could be seen in every piece they have created.

Republic Pedagogic Institute organizes every year manifestation where students of primary and secondary school with their art and literary works celebrate birthday of their Republic. Every year closing ceremony, traditionally, is held in different town/municipality. This year host was City of Banja Luka. On this occasion exhibition of the best students works was facilitated and entire cultural program was performed by students of primary and secondary schools.

Among important manifestation certainly is reception organized by Ministry of Education and Culture for the most successful students of primary and secondary schools. Children from all parts of Republic of Srpska come to this gathering; winners at various competitions and more than 400 of them, once again get due attention and message that their work and good results are acknowledged and awarded is sent out.

Response of adults, parents, teachers and institutions representatives on these manifestations each year is greater what gives guarantee that such manifestations will be continued what for the consequence has increased number of children participating by promoting their knowledge and talents.

## **7. The Ombudsman for Children in a visit**

Institutions where children spend their time and get educated are institutions where celebrations and manifestations are always done in atmosphere of promotion of children's rights and are opportunity for children to show what they have learned during classes, in extracurricular activities, how they cooperate with local community, institutions and organizations. Gatherings on such occasions are always special because all parents, teachers and guests enjoy children's successes.

During 2012 Ombudsman was invited to visit institutions who during their manifestations open doors to many guests and show how children, in traditional manner but in accordance with new times learn and develop their talents. We were guests at: Gymnasium Banja Luka

for St. Sava where current and former students were promoted, in Children's Home "Rada Vranjesevic" during Meeting of Children Homes and for St. Nicholas, Bureau for Physical Medicine and Rehabilitation "Miroslav Zotovic" for the occasion of their patrons' graduation patron, in Kindergarten "Kolibri" during Children's Week. Primary School "Georgi Stojkov Rakovski" from Banja Luka celebrated 40 years of work and we enjoyed together with children, teachers and other guests academy where students demonstrated how much work and understanding was invested in their education.

Ombudsman's representatives in Doboj were guests of Primary School "Vuk Stefanovic Karadzic" at manifestation where students challenged in development and students in inclusion have also participated. They presented themselves to the large audience with reciting, singing, dancing and acting. Audiences very emotionally reacted to their presentation and with great applause have awarded their successful and interesting appearance. Children from Doboj once again spent time with our representatives on the occasion of waiting for Santa Clause who have brought Christmas presents for the children.

Institution representat5ive from Foca is a regular guest of Kindergarten "Kolibri" Foca and in Istocno Sarajevo she was the guest of Central library- child department and also of Secondary Schools Center Foca for the School Day where she enjoyed program where presented were many talents of secondary school students.

Every year Institution gets more and more invitations and unfortunately is not in position to respond to all of them. Increased number of invitations is also a signal that protection of children's rights and interests is getting to its right position and that children recognize importance of their rights and obligations.

### **8.The Network of Young Advisors of the Ombudsman for Children**

Respecting the principle of UN Convention on Rights of Child that obliges on involving children in solving all issues related to them, Ombudsman for Children has established the Network of Young Advisors of the Ombudsman for Children that gathers secondary school students from entire Republic of Srpska with the goal of:

- exercising the right to participation of children / young people in all matters affecting them,
- their free expression of opinions,
- facilitating access to information,
- introducing young people with UN Convention on Rights of Child.

In achieving the above stated goals, network members deal with issues related to all rights guaranteed to them by Convention and in this manner they contribute to a quality and complete insight of current children's rights situation in Republic of Srpska.

Through membership in the Network of Young Advisors children / young people acquire the opportunity of joining the European Network of Young Advisors of the Ombudsmen for Children and taking part in activities outside Republic of Srpska.

In 2012 Ombudsman for Children intensively worked with the Network of Young Advisors through education, research and participation at Round Tables.

*Education*

Cooperation of Ombudsman for Children with gender Center of Government of Republic of Srpska for result had implementation of program "Preparation for certification of peer educators on children rights for Young Advisors to Ombudsman for Children of Republic of Srpska", financed with FIGAP program funds.

The goal of this program was to educate children, through seminars, of children rights, with special accent on gender equality and learning skills of peer educating that will facilitate participation of young persons in educating their peers in schools, local communities and non-government organizations and also participation on international level.

The goal was reached in three phases (3 phases- 3 seminars) in order to gradually develop children's awareness for understanding children's rights and introducing them with basic children rights. Simultaneously ongoing was education on gender equality and teaching children skills for organizing workshops.

First seminar "UN Convention on Rights of Child and gender Equality" for a goal had introducing young persons with basic rights and principles of Convention and introduction to gender equality.

Second seminar "The Right on Protection from Violence and Discrimination" for goal had introducing young persons with all forms of violence and its prevention.

Third seminar "The Right to Express Opinion and participation" for a goal had introduction of possibilities for children to express their opinions and actively participate in all issues related to them especially in the school and local community.

35 Young Advisors of 19 schools from 16 municipalities of Republic of Srpska were educated. Gained knowledge on children rights, gender equality, violence, reproductive health and right to express opinion Young Advisors – peer educator shared with their peers in schools in Modrica, Samac, Prnjavor, Banja Luka, Doboje, Derвента, Gradiska, Teslic, Vlasenica and Vukosavlje where more than 15 workshops was held and around 400 secondary school students got information on children rights.

### **Participation of Young Advisors in other activities of Institution**

Ombudsman for Children, by following principle of UN Convention on right of child to express its opinion and participate in all processes related to him/her, has engaged Young Advisors in all Round Tables organized by Institution and gave Young Advisors opportunity to state their opinion on safety on internet, reproductive health, children challenged in development, sexual exploitation and school bag weight. Children have expressed their opinions, asked professionals relevant questions and gave their opinions and recommendations that were the basis for further proceedings not only of Ombudsman for Children but for the other competent bodies (schools, Ministry of Education and Culture, republic Pedagogic Institute, Ministry of Health).

Great significance has the work of Network members on researches that Institution has implemented on their proposal. They proposed survey on opinion of students on presence of peer bullying in schools and they surveyed 1241 students, 566 primary school students from 18 schools and 675 secondary school students from 17 schools in Republic of Srpska. After summarizing results of this survey, young people have made their own conclusions and proposed measures of this occurrence prevention.

Reproductive health is a topic that this year children asked for information on several occasions and they proposed survey on opinion of secondary schools students on this topic. Survey was done in 17 secondary schools and 523 students were surveyed. Gathered opinions were presented by Young Advisors on Round Table and as result of this activity Ombudsman for Children has made Recommendation to Ministry of Education and Culture.

### **Young Advisors in other institutions and organizations activities**

- Network of Student Councils of secondary school of Republic of Srpska  
Almost all children who were educated through training Seminars during 2012 are members of Student Councils in their schools and Young Advisors to Ombudsman for Children Dejana Trkulja from Kozarska Dubica, Sasa Trivic from Samac and Jovana Djuric from Doboje are members of regional presidencies in network of Student Councils of RS.
- Twelve Young Advisors took active role on Conference on Participation of Young persons in development of gender equality that was organized by Ministry of Family, youth and sports and Gender Center. They shared their experiences on topic of children rights, cooperation with Gender Center and gave their proposal for improvement of gender equality in presentation called "Young Advisors of Ombudsman for Children and children rights in the light of gender equality".
- On Scientific Congress on children rights in Istocno Sarajevo held June 29<sup>th</sup> and 30<sup>th</sup>, 2012 that was organized by Faculty of Law in Istocno Sarajevo in cooperation with Ombudsman for Children and Gender Center, Young Advisor have presented their perception of children rights during the introduction part of this Congress.
- Young Advisor that already has peer educator experience was invited to attend EPCD II International summer school "Promotion and health protection of reproductive health" in Miločer, Montenegro from June 25<sup>th</sup> to June 29<sup>th</sup>. Jovana Djuric from Doboje has shared her experiences as Young Advisor on topic of gender equality.
- 16<sup>th</sup> Meetings of Youth of Republic of Srpska in Trebinje organized by Ministry of Family, Youth and Sports and Youth Council was an opportunity for 11 Young Advisors (Natalija Bilbija, Dragutin Dedic, Radomirka Savic, Igor Marjanovic, Marko Grujic, Aleksandra Letic, Marija Brankovic, Branka Grubacic, Jovana Djuric, Isidora Vukovic and Aleksandra Drakulic) to spend time with their peers from entire Republic of Srpska and gain wider knowledge on different topics that were presented at Workshops they have attended. It is important to emphasize that OSRS have invited Young Advisors to participate these Meetings because they were recognized as interested and responsible young persons who can contribute every event with their knowledge and behavior.
- On October 3<sup>rd</sup>, 2012 Central Manifestation was held in regard to Children's Week where Young Advisors to Ombudsman for Children, Nikolina Civcic and Marko Grujic, on behalf of secondary school students have introduced all present with organization of this manifestation, work methods and they have promoted all ongoing activities in year 2012.
- November 20<sup>th</sup>, International Day of Children's Rights Young Advisors marked in their schools in many ways. In some schools they have held workshops on children's rights, and in others they had info desks where Young Advisors gave away Network's of Young Advisors promotional material on Convention on Rights of Child, poster and flyers.
- December 10<sup>th</sup>, International Day of Human Rights, Young Advisors have marked with their activity during Round Table in Banja Luka on "Reproductive health –

youth's opinions" and in Doboj they paid a visit to manifestation of Primary School "Vuk Karadzic" where floor ball competition for children challenged in their development was held.

### • **Activities on regional level**

Young Advisors of Ombudsman for Children of Republic of Srpska are also active in non-government sector. During year 2012 Young Advisors have made proposals for two projects that were recognized by Council of Europe and Non-government Organization Foundation FOP that enabled training of 50 young persons from B&H including 6 Young Advisors on seminars related to children and human rights.

- Young Advisor from Derventa Slaven Dimitric with assistance of FOP Foundation on May 12<sup>th</sup> and 13<sup>th</sup>, 2012 has organized seminar with topic "Democracy and Human Rights" in Derventa. About 30 participants from RS and FB&H were present at this seminar. This seminar covered topics related to stereotypes and prejudices, equality, children rights and during one of workshops participants were introduced with Ombudsman for Children activities.
- Project "Yesterday, today, tomorrow" supported by Council of Europe and held on Mrakovica from December 10<sup>th</sup> to December 17<sup>th</sup>, 2012 brought together 20 young persons from B&H that completed training on human and children rights and among those young persons were 3 Young Advisors (Igor Marjanovic from Doboj, Natalija Bilbija from Nova Topola and Blazenka Lukic from Modrica). Project was implemented with assistance of Ombudsman for Children and Citizen's Association "Petar Kocic" from Romanovici whose member, a former Young Advisor, is Council of Europe Ambassador of Peace.

## **9. ENOC/ENYA**

Both seminars had regional character and their goal was education on rights of child and through active participation of Young Advisors Network of Young Advisors was presented as model of true participation of young people in promotion and protection of children rights.

Young Advisors of Ombudsman for Children in a short period of time have been recognized as active, responsible and creative young people whose knowledge about children rights is a good basis for further improvement.

ENYA – European Network of Young Advisors of Ombudsman for Children was founded in 2010 on initiative of ENOC in order to enable children/youth on European level to state their opinions on current issues related to them.

Ombudsman for Children has recognized the importance of involving children of Republic of Srpska in ENYA because it enables children to cooperate with their peers and exchange their experiences in familiarity, protection, exercising and promotion of children rights on European level and get the picture on experiences and opinions of their peers from 17 different European countries.

First meeting of Young Advisors was held in Strasbourg in October 2010 where Republic of Srpska had its representative. Young Advisor Dejan Tatic fro Gymnasium Doboj has shard opinions with European peers from 17 different countries on net-forum that was initiated by ENYA what created possibility for him to get further engagement in this project.

Second ENOC/ENYA meeting was held in Belfast, North Ireland in July 2011 and besides Dejan Tatic from Republic of Srpska present was Milica Kopuz from Mrkonjic Grad. They participated in activities of Work groups Education and Internet where they exchanged experiences with their peers from other European countries and offered proposals and recommendations for Ombudsmen for Children. On this meeting, Young Advisors from Europe have chosen Young Advisor from Republic of Srpska to state their recommendation, together with Young Advisor from Cyprus, regarding education on Annual Conference of European Network of Ombudsman for Children.

On 15<sup>th</sup> Annual Conference of European Network of Ombudsman for Children that was held in Warsaw from September 14<sup>th</sup> to September 16<sup>th</sup>, Young Advisor from Republic of Srpska, Dejan Tatic presented opinions of Young Advisors of ENOC on education. In March 2012 ENYA forum activities have started and based on children's proposal it offered two topics for discussion: Juvenile delinquency and Children at institutional care.

Young Advisors from Republic of Srpska have participated in work of ENYA forum, and the most active were Blazenka Lukic student of Secondary Schools center "Jovan Cvijic" Modrica and Stefan Marinkovic student of Secondary School "Nikola Tesla" Samac and based on their objections, opinions comments and suggestions left on forum they were chosen to represent opinions of youth on ENYA Meeting in Warsaw from August 29<sup>th</sup> to August 31<sup>st</sup>, 2012.

Chosen Young Advisors together with their peers, Young Advisors from Greece, France, Cyprus, Malta, Ireland, Norway and other European countries, gave their proposals and suggestions on stated topics.

Proposals and conclusions of Young Advisors in Warsaw were presented to Ombudsmen for Children on 16<sup>th</sup> Annual Conference of ENOC that was held in Nicosia in October, 2012. Topic of this year's conference was "Juvenile delinquency – child-friendly judiciary, structures and processes for prevention and intervention". Deputy Ombudsman for Children, Zlatoljub Misic, has participated in work of two thematic workshops and on the first one he presented result of Ombudsman for Children of Republic of Srpska research on economic exploitation of children. During second workshop member countries have presented examples of good practice. Deputy Ombudsman for Children of RS has stated as example of good practice cooperation of Institution and competent ministry that resulted in Protocol on proceedings in cases of violence, abuse and child neglecting, which he presented at this workshop.

## XIV COOPERATION WITH NON-GOVERNMENT ORGANIZATIONS

Non-government sector, as a pillar of civil society, has very important role in promotion and protection of children rights.

The role of non-government sector is directed, foremost, to raising citizen's consciousness about human rights in general and especial about children rights, their implementation and protection. For Ombudsman for Children activities of these organizations are often a source of information of violation of children rights, especially children of marginalized groups.

With their daily activities in the field, these organizations indicate problems not only in individual cases but for certain category of children, they indicate problem of violence against children and among children, problems of children challenged in their development, Roma children problems, etc and at the same time they point out measures and activities necessary for adequate support and assistance for children.

Regardless of different work methods and bylaw competencies, Institution soon after its establishment have recognized the need of joint work on concrete problem or topic that for the basic goal has faster and more efficient completion of set joint goal.

Partnership with non-government organizations Institution has used in all cases of changes and amendments of existing legal solutions or initiatives for passing new laws, in order to contribute better protection of children and their rights with their work –related experiences and to – *increase level of cooperation with non-government sector and other sectors of civil society that work with children and for children.*<sup>173</sup>

For short period of time, Institution received initiatives of many non-government organizations from different fields of child growth and development.

Some of those initiatives were enforced in 2012.

### **1. Save the Children**

Regional program "Prevention of Child Exploitation in South-East Europe" was started during 2011 with support of international organization Save the Children and was related to the problem of child beggary. Project is ongoing until 2012 and it is expression of the will and determination of institutions who work on promotion and protection of children rights and who constantly work on improvement of system on protecting children from all forms of neglecting and/or abuse, especially of children who were victims of any form of exploitation or are at a risk to become, by means of connecting and harmonizing system of child protection on regional level.

Second research in the frame of this program is dedicated to the problem of sexual exploitation of children, and third one deals with child exploitation on internet. Topics of these researches were jointly proposed and harmonized by institutions of states in region - Program participants what speaks for itself about presence of these problems in the region and need of joint work in overcoming it.

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<sup>173</sup> UN Committee for Children Rights, Final Conclusions and recommendations, 2005, point 21

Occurrence of sexual exploitation of children is not a new thing, however in last couple of years noticed is higher sensibility to its presence and consequences it leaves on growth and development of a child and therefore a need for strengthening system of protection of children in this field is much higher.

Exploitation of children by means of new technologies is more and more present and researches related to it have special significance in taking measure in the field of prevention, education and protection of children.

Researching these occurrences, with the support of Save the Children, enables Institution to have insight in this problem in Republic of Srpska, compare with neighboring countries situation in this field, and based on that Institution can propose measures and activities related to protection of children and their rights.

## **2. UNICEF**

In the frame of joint initiative of European Union and UNICEF in battle against violence against children "Protection of Children against Violence in Southeast Europe", UNICEF Office for Southeast Europe in Sarajevo has organized activities for "Strengthening Systems of Child Protection in purpose of Battle Against Violence Against Children", where Institution of Ombudsman for Children actively participated and gave its contribution in idea and experience exchange with colleagues from other countries, as well as with international experts of child protection field.

## **3. Center for Promotion of European Values "Europlus" Dobož**

The Ombudsman for Children of Republic of Srpska – Dobož Office for couple of years now successfully cooperates with the Centre for Promotion of European values "Europlus" in Dobož that for year 2012 was done through participation of Institution representatives in panel discussion "European Union in School", organized by Center for Promotion of European values "Europlus" and European Institute from Sofia, and in cooperation with Directorate for European Integration of B&H.

## **4. International Association of Medical Doctors for Southeast Europe from Bijeljina**

In addressing the issue of school bags weight and its influence on child's health, Institution has established cooperation with International Association of Medical Doctors for Southeast Europe in Bijeljina who have conducted research on this issue. Round Table "Preventive measures of health protection of children in educational system" in Bijeljina, where representatives of competent institutions and organizations were present, was a joint activity of Association and Institution that for the goal had finding solution to this problem.

Result of joint activities is recommendations of Ombudsman for Children delivered to competent institution for further measures and activities in prevention of consequences school bag weight has on children development and growth.

## **5. Flexus Jeugdplein, Non-government organization from Holland**

Holland non-government organization Flexus Jeugdplein works on different projects in Holland that are related to child assistance, mostly to those children institutionalized in institutions of social care. In intention to share their 50 years of experience on territory of our country, organization together with Ombudsman for Children has started project in Children's Home "Rada Vranjesevic".

Implementation of project, with assistance of Holland Government, has started in February 2010. Project defines that children of final years of secondary schools that are placed in Children's Home are moved in a separate part of institution and with support of teachers and this organization representatives are going through special program whose goal, firstly, is to prepare children to leave institution. First experiences have shown what and in which direction work with this group of children should be going in order to have positive effects of the program on children, but also would be beneficiary for society in a whole. Besides stated, in 2012 activities on implementation of a new project, that should be ongoing another three years, have been started and goal of this project is additional work with children who manifest problems in behavior. Organized work with these children, with the principle one teacher – one child should contribute to correction of behavior and building liability in those children. New program of activities in Children's Home is a part of Strategy for Improvement of Position of Children without Parental Care.

#### **6. United Women, Banja Luka**

Activities of this association for years now are focused on protection of women and children from various forms of violence and abuse and in reporting period Institution has established cooperation with this association regarding research on sexual exploitation of children. Years of experience that this association has, primarily in work with victims of violence, indicated the need for adopting Protocol on Proceedings in Cases of Violence, Abuse and Neglecting of Children. Representatives of Association actively participated and made great contribution in drafting of this protocol.

#### **7. Citizen's Association "Buducnost" Modrica**

From its very beginning, Institution cooperates with Association of citizens "Buducnost" from Modrica who focuses its activities to fight against all forms of violence within family and, especially, to work with victims of such violence. In reporting period Institution has signed agreement on cooperation with this NGO in order to jointly contribute to improvement of measures of system in child protection.

Since children are always victims of domestic violence and this organization has long experience in working with children victims of all forms of abuse and neglect, Institution has established cooperation with „Buducnost“ on drafting Protocol on proceedings in cases of violence, abuse and neglecting of a child and in work groups gave great contribution to drafting of this document.

#### **8. Association to help children and women victims of domestic violence "Women's Center" Trebinje**

Cooperation with Association was established through project "Sexual exploitation of Children in Republic of Srpska" when Association organized focus group discussion with various professionals (police, judiciary, centers for social work, schools) that contributed analysis of this issue with their professional knowledge and experiences.

Ombudsman took active role in Conference that this association organized on topic "Improvement of the Law that Protects Victims of Domestic Violence in Republic of Srpska" where harmonized were proposals of NGOs for amendment of the laws related to protection of domestic violence victims.

## **9. Woman's Organization "Lara" Bijeljina**

Ombudsman for Children of Republic of Srpska nad Woman's Organization "Lara" Bijeljina in reporting period have signed in Bijeljina Memorandum on Cooperation that for a goal had joint and coordinated actions on promotion and protection of children's rights.

Signatories of memorandum have agreed that they will, based on principles of mutual respect and understanding, ensure exchange of information, knowledge and needed support in mutual activities on promotion of children rights and prevention of violation or breach of rights of a child, and they will provide all necessary assistance and support to children whose rights have been violated or are victims of any form of neglecting or abuse.

Woman's organization "Lara" provided for Institution premises for use where Ombudsman for Children once a month works with clients. Organization's representatives, as members of Work Group, have actively participated in drafting Protocol on Proceedings in cases of violence, abuse and child neglecting. Taking in account their years of experience in protection of abuse victims, their participation and contribution in drafting Protocol is certainly highly important.

## **10. Association to help children with special needs, Dobo**

Cooperation with this association is reflected in participation of Institution representative in all activities this Association organizes what puts an accent on the need for reaction of all society segment in solving problems that children with special need have in exercising their rights. This year Association has organized Round table related to those problems, but what also should be emphasized is sports manifestation FlorDo where children challenged in their development took active part and shown that if given opportunity they could do almost anything.

## **11. Citizen's Association, Youth Center "Petar Kocic", Romanovci**

Ombudsman for Children of RS cooperates with Citizen's Association "Youth Center "Petar Kocic" from Romanovci that is implementing project "yesterday, today, tomorrow"- Training Seminar for young trainer on human rights and education of children for peace that was approved by Council of Europe.

Ombudsman for Children was invited to cooperate on this project by Young Advisor Ratko Savic who is one of Young Ambassadors of Peace of Council of Europe. In the frame of this project Institution provided professional assistance regarding children's rights, promotion of their rights and it actively participated in preparations and at training seminar that was held from December 9<sup>th</sup> to December 17<sup>th</sup>, 2012 on Kozara.

## **12. "Zdravo da ste" Banja Luka**

In reporting period Institution continued its cooperation with non-government organization "Zdravo da ste" whose activities are focused on education of children about numerous topics related to rights of child. During 2012 "Zdravo da ste" has invited Ombudsman for Children to cooperate in research on sexual and reproductive health of children what was topic which Institution already dealt with and it was opportunity for Institution to hear out and examine children's opinions. Participation in Work group enabled Institution to give opinion and compare methods and goals of research what will contribute to broader insight to this issue.

### **13. Citizen's Association "Otaharin" Bijeljina**

Cooperation with "Otaharin" was established through research on child beggary in Republic of Srpska. Activities of this NGO are focused on providing appropriate support and assistance to Roma children. Since this NGO has premises at the same address as Woman's Organization "Lara", whose premises Institution uses once a month it is always a good opportunity to meet and exchange opinions with association's representatives and get additional information on measures taken in protection of this very sensitive category of children.

### **14. In Foundation**

Ombudsman for Children cooperates with In Foundation on establishment of Daycare Centers for children at risk and on project "Support for parents in developing and strengthening positive parental skills". Institution followed presentation of research that In Foundation has conducted on experiences of young persons related to different forms of abuse and childhood traumas.

## **XV COOPERATION WITH INSTITUTIONS**

Implementation of children rights and their protection in before the competent bodies is still not at the appropriate level even though attitude of competent bodies towards requests and recommendations of Ombudsman is getting better with each year. Cooperation of competent institution and Ombudsman for Children speaks of attitude of the competent towards those questions and concerns that indicate violations and endangerment of children. Therefore, it is highly important that cooperation for result has implementation of all necessary measures and activities that in given situation are possible.

More and more organizations and institutions acknowledge the role and importance of Ombudsman for Children and necessity of joint actions in order of improving position of children and protection of children in different segments and consequently increased is the number of requests addressed to Institution in finding solutions in individual cases as well as in proposing system solutions.

Institution has great cooperation with Ministry of Internal Affairs in different areas of protecting children's rights. Protection of children against violence, domestic violence, sexual abuse of children, violence on internet, peer bullying and media, use of pyrotechnic devices, prevention of juvenile delinquency are just some of topic Institution worked on in cooperation with Ministry of Internal Affairs of Republic of Srpska. Numerous services that Institution has contacted have shown not only willingness but also an initiative and need for preventive work with children and adults in order to decrease their engagement when problem that needs their intervention occurs what at the end is the best protection of children – prevention.

In reporting period, Institution has established cooperation with Ministry of Family, Youth and Sports with whom it organized Central Manifestation of Children's Week. At this manifestation publication "Selection of International Documents on Rights of Child" whose publisher was Ministry and Ombudsman, was promoted. The goal of this Publication is to encourage all protection subjects to take more active and responsible role and joint actions on improving society's concern for every child.

Ministry of Health and Ministry of Education and Culture are the ministries which Institution most frequently has addressed, what, on one side was expected because a big share of cases Institution acted upon relates to actions of Centers for Social Work in proceedings for implementation and protection of children's rights. As Second Instance body, in all cases within legal timeframe, Ministry has passed second instance decision, and in couple of cases it had supervised proceedings of services or bodies under its competition. Besides that, Ombudsman for Children was regularly informed on Ministry's activities related to ongoing system measures and activities (law changes, adoption of strategies and similar) but also about promotions and presentations of different activities from the field of health and social protection of children.

Since it was established Institution had cooperation with Public Found for Children's Protection primarily in implementation of project of child socialization and with its engagement Institution is giving contribution to efforts of Fund in realization of this activity

that is ongoing for couple of years now on great satisfaction of children and their parents in Republic of Srpska.

Institution in reporting period on couple occasions has addressed competent inspection services. Based on lawful authority of inspection to assess, by inspecting, individual cases, how competent bodies have acted in different situations in accordance with the law - passing appropriate administrative act, inspection of children playhouses, control of stated disciplinary measures and assessment of students in schools, application of the law that relates to protection of children from alcohol and tobacco consummation, lottery and similar, this cooperation could have been much better. With timely and proper reaction of inspection services in individual cases in many sectors and number of complaints to the Institution would be decreased. In reporting period, Institution frequently addressed Inspection of Education requesting measures of their jurisdiction, protection of children and their interests and to Administration Inspection. In some cases it was repeated action because the replays in certain number of cases were mere recounting of already known events, without opinion of inspection on actions taken by responsible persons in individual cases or they just stated that extraordinary inspection audit was conducted, without further explanation which would give insight in results of such audit.

In reporting period Institution continued cooperation with Gender center of Government of Republic of Srpska primarily in part of protecting children from all forms of violence and especially domestic violence, exercising children's right to education, but also in joint activity of educating children on their rights in general, especially their protection from all forms of violence and on gender equality as well as on joint work on individual cases. This cooperation was performed through couple different activities what only confirmed already established good cooperation. Gender Center has recognized importance of educating children and their participation in all questions relevant to them so it supported implementation of Program "Preparations for Certification of Ombudsman for Children of Republic of Srpska Peer Educator on Children Rights" that was financed with FIGAP Program funds. Participation of Gender Center employees in activities during implementation of this program contributed to better understanding of rights of child and gender equality. Yung Advisors were also invited to take part in activities of Conference on Participation of Young persons in Development of Gender Equality.

Cooperation with Agency for Information Society of Republic of Srpska was related mostly to Internet, its advantages and risks, through establishing internet web page on protection of children on internet, printing of brochures, and workshops for children with the topic on responsible use of internet, Round Tables in local communities in child protection in this field. For a third year now, Ombudsman for Children and Agency jointly are organizing marking of International Safe Internet day and Agency gave its contribution in research that Institution is implementing in protecting children on internet.

Cooperation with faculties in Republic of Srpska is very important for Institution. First of all, experts from various fields with their knowledge should contribute not only that certain issues of exercise of children's rights be recognized, but also what is very important to understand their complexity, causes and consequences on development of a child and possible ways of protection. By its expert and argumentative approach they contribute to better understanding of the rights of the child, resulting in more adequate protection of

children in different fields. Due to that, the Institution has, in the reporting period, established close cooperation with the Faculty of Philosophy and Faculty of Political Science in Banja Luka primarily by organizing discussions about certain issues to which they always gave their expert contribution.

Additional cooperation in reporting period was established with Faculty of Law in Istocno Sarajevo on whose initiative scientific meeting "Rights of Child and Gender Equality – between normative and real" was held where experts from different fields coming from various faculties of former Yugoslavia, from several aspects pointed to the problem of the normative and the actual realization of the right of child and its protection.

Representatives of relevant ministries, competent judiciary institutions, education, social protection and Young Advisors have participated in work of scientific meeting. This scientific meeting was held on June 28<sup>th</sup> and 29<sup>th</sup>, 2012 and organizers of this meeting together with faculty were Ombudsman for Children and Gender Center of Government of RS.

In reporting period, cooperation with Police College was established through mutual research on peer bullying. In order to have insight in this problem from different professionals' point of view, and based on completed researches, this College has scheduled International Conference on peer bullying in March 2013. During International Week of Children's Rights, at two days conference, College has presented its research results, and respecting work experience and research done by Ombudsman for Children, it made recommendations for competent bodies.

Institution has cooperated on different basis with health institutions employees. With great understanding of core problem for many issues we have contacted them for, with their professional knowledge and experience they have been great support for Institution in questions demanding special professional knowledge such as juvenile marriages, underage mothers, children and alcohol, emergency services, divorces and entrusting child. Special cooperation has been established with Institute "Dr. Miroslav Zotovic" that, in certain number of cases Institution has acted upon, has put great effort in providing support for children challenged in their development.

Institution in reporting period had cooperated with City of Banja Luka in finding system solution for improvement of care for children on local level and with participation of Institution in Coordination Board for implementation of action "Townships/municipalities friends of children", that with cooperation of many different subjects should contribute to recognition of good practices and better protection of children's rights in different areas.

Good cooperation with municipality Modrica started in 2009, in reporting period, has been continued. With full understanding of municipal authorities and Mayor personally, daycare center for children at risk was opened. Sensibility to all questions that childhood bears, competent persons of municipality Modrica keep showing with constantly running new priorities of municipality in the field of child protection.

Also, Institution in reporting period cooperated with municipality Prijedor that has shown understanding for the need of Institution to be present in this local community on permanent basis during field office days and it provided premises for Institution's activities.

Cooperation was established with Central Library in Istocno Sarajevo that has numerous activities for children and who by initiative for additional contents indicates that it does not

only recognize the needs of children in different periods but it implements them. Once a month, Library provides premises for Institution to use during field office days.

Institution also cooperated with Free Legal Aid Center. Since recognized is the need for their additional engagement in cases received by Institution, and which require appropriate procedures and are related to implementation of rights of children to support and alimony, Institution has signed agreement with Center on joint engagement on this issues.

Youth Council of Republic of Srpska, for three years now, in its activities includes Young Advisors of Ombudsman for Children. It recognized them as interested and responsible young people who with their knowledge and experience can contribute to various activities of youth organizing.

Cooperation is established with certain number of Centers for Social Work and Centers for Mental Health, Primary and Secondary Schools that are interested for different topics and problems which Institution has indicated, but also with other institutions and services whose knowledge and experience could contribute to better insight of situation in the field, and consequently in better solutions for overcoming current situation.

In upcoming period Institution will intensify cooperation with faculties in order to get to the next level of education and sensitization of public related to problems children face on their road to adulthood.

## XVI PUBLIC RELATIONS

The Law on Ombudsman for Children<sup>174</sup> stipulates that the Ombudsman for Children informs public about the state of the right of the child in Republic of Srpska. Acting in accordance with the authorities stipulated by the Law, the Ombudsman for Children has, with cooperation with the Media, established additional cooperation with citizens, aiming to contribute not only to resolution of individual cases but also to systematic recognition and defining of basic requests and principles which will contribute to better position of children in different areas of their growing up.

One of basic specificities of functioning of Institution of Ombudsman is its relation towards public, whose role in functioning of Institution is multiple, among others, it makes Institution visible, closer to the citizen's needs, informs of individual violation of rights of a child, indicates needs for system solutions in certain areas.

In reporting period Institution used different forms to expose its activities and work to those for whom it has been established.

Primarily, Institution used media. Huge interest of media for Institution's activities has made significant contribution to 'visibility' of Institution in public and also on informing public on implementation of children's rights in general, especially in areas where their rights often are violated. In reporting period, Institution had cooperated with almost all media, written and electronic, on local and national level. With some media this cooperation was better and it is expression of their need to inform public on issues related to protection of children's rights, thus creating a number of issues that have so far never been written about.

In 2012 Institution has received 142 requests where journalists ask opinion of Institution on numerous questions related to childhood issues.

Interest of media was related to almost all areas of child hood and all rights of child, and most often it was about problems of violence against children, especially cases of sexual abuse and exploitation, juvenile marriage and common-law marriages of juveniles, juvenile pregnancy, child beggary, non-payment of child support and problems faced by single parents, protection of children from alcohol abuse, risks on internets, child neglecting,...

Since explanation and comments on individual cases of violation of rights of child really need specific professional knowledge from different areas, social, pedagogic, psychological, communicational and others, Institution has also addressed media on other subjects whose knowledge and experiences should contribute to quality informing of public on numerous problems of childhood and providing care for children, actually about consequences that certain violation of rights leave on child's development.

In reporting period Institution received from media certain number of complaints on violation of children's rights and in one number of cases, where media reported on violation of rights of child, Institution has found basis to seek response from responsible bodies on actions taken in relation to occurrence public was informed of. Also, for actualization of certain questions, media have used researches and reports that Institution has published on its website.

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<sup>174</sup> The Law on Ombudsman for Children, Article 5.

The Media undoubtedly, by its engagement, contribute to raising awareness on importance of recognition of the rights of the child and the necessity of adequate reactions in given situations indicating violation of the rights of the child in various fields, and also it indicates the weaknesses in the system –those parts that did not respond to the needs of children.

Informing the public about violation of the rights of the child at the same time has preventive and educational role - protection of future similar acts and introduction, of not only children but of those who care for them, on manners and possibilities of exercise and protection of the rights of the child.

Activities of the Institution regarding problems in implementation and protection of children's rights and interests that media wrote about has caused reaction in a sense of higher number of addressing the Institution, either by filing new complaints for same or similar problems, or by seeking additional information for situations in which the child is. Certain number of citizens, like in the previous year, contacted the Institution to give support for the topic and the manner of talking about it. This situation was present when media reported on results of research on weight of school bags. Parents sent us messages by phone and email where they confirmed that they have this problem, that they weighted their child's school bag and so on.

The Institution had the same approach to all the Media, meaning that announcements made by the Institution simultaneously go to all media services and also the Institution have responded to all media requests for information in given deadline.

Besides cooperation with the Media, the Institution has used other ways, in order to inform public about its activities.

Web page of the Institution is recognizable by its content and is not only of informative character, but it is in educational function of its users. The Content on the web page is updated daily and is intended primarily for children and for those who care for them but also for the Media and the widest public. Therefore, on the web page many works of professionals from different fields are published but also the answers to frequently asked questions to the Institution.

For the Institution constant increase in the number of visitors on the web page **www.djeca.rs.ba** also obliges to additional contents. Web pages of many primary and secondary schools refer their users to the web page of the Ombudsman for Children.

In one parent's addressing it is stated: *"First of all let me express my satisfaction with content of your web page where at one place one can find useful information on your work and children's rights"*<sup>175</sup>. Similar was said about Institution's web page by non-government organizations and experts of this field.

Besides stated, printing of the Annual Report, its publishing on the Institution's web page and delivering to many addresses for the goal has informing the widest public with activities of the Institution regarding the exercise and protection of the rights of the child in different fields and with those issues and questions that usually indicate and lead to violation of children's rights.

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<sup>175</sup> Case number : 1096-9-PZ/13

In addition to the Annual, Special Reports of the Ombudsman for Children as well are available to the public. Special reports are always derived from a broader discussion on specific issues with which the public is familiar already during the discussion, and then further by its publishing on the web page of the Institution. Besides reports, all recommendations, opinions and initiatives of Institution are published for public. Practically, all daily activities of Institution are available for public, providing information for media which they use.

To inform public, the Institution has also used personal contacts with different target groups (student's councils, kindergarten visits, school visits, cooperation with governmental institutions, cooperation with NGO...), which is of great importance for the Institution.

Exercise and protection of the rights of the child, among others, requires reporting on all subjects and all examples and good practices that unfortunately are not recognized, it requires more contents for the children of different age groups, opinion of children about all relevant questions and cooperation with media of all institution and services that work with children. Media, in contact with Institution, often emphasize that it is hard to get company to speak with in certain services, especially if the topic is sensitive and representatives of such services expect more sensibility from media when reporting about events related to children.

In that sense, the Institution will, in the best interest of the child, also in the forthcoming period continue cooperation with the Media and also it will encourage protection subjects to make their work with children more transparent and to make their activities, programs, measures and general acts available to whom they are intended for.

## XVII OTHER ACTIVITIES

Questions and problems indicated by organizations and institutions that work on protection of children's rights in surrounding countries are almost identical with those indicated in Republic Srpska and Bosnia and Herzegovina. Even the structure of complaints and priorities of Institutions of surrounding countries, confirm that differences are insignificant, regardless the fact that certain legal solutions, service organization and its work are completely different. Therefore very important is cooperation with all who built good practice, have years of experience and normative frame, and whose solution have full application in the field.

The Institution, on the invitation, has attended international conferences

### **International conferences:**

Belgrade	May 15 <sup>th</sup> , 2012 Regional Round Table "Burden of Proving Non-discrimination"
Podgorica	May 17 <sup>th</sup> , 2012 CRONSEE Thematic Meeting
Warsaw	August 29 <sup>th</sup> to 31 <sup>st</sup> , 2012 ENYA Meeting
Budva	September 12 <sup>th</sup> to 14 <sup>th</sup> , 2012 Regular Annual Conference of CRONSEE
Nicosia	October 10 <sup>th</sup> to 12 <sup>th</sup> , 2012 16 <sup>th</sup> Annual Conference and general Assembly of ENOC

### **The Institution, on the invitation of the organizers, has attended:**

Banja Luka	January 5 <sup>th</sup> , 2012 "To Republic of Srpska for its birthday"- Closing ceremony of manifestation organized by republic Pedagogic Institute
Banja Luka	January 31 <sup>st</sup> , 2012 "Supporting parents in development and strengthening positive parental skills"
Teslic	February 15 <sup>th</sup> to 17 <sup>th</sup> , 2012 Educational Seminar on "Sexual abuse of children – identifying, interview and criteria for confirmation"
Banja Luka	February 16 <sup>th</sup> , 2012 Conference "Benefits of information technology in educational system"
Banja Luka	February 20 <sup>th</sup> , 2012 Presentation of Report "Monitoring and analysis of criminal proceeding in front of the Court in the field of gender-based violence including Basic and District Courts Banja Luka, Bijeljina, Doboje, Istočno Sarajevo and Trebinje".
Banja Luka	February 29 <sup>th</sup> , 2012 Round Table on "Improvement of multi-sector approach in work with victims of sexual abuse and neglected juveniles"
Sarajevo	March 19 <sup>th</sup> , 2012 Public Hearing "Code of Ethic on researches with and about children in B&H"
Vlasic	March 26 <sup>th</sup> to 29 <sup>th</sup> , 2012 Training Seminar "Education for social justice"

I. Ilidza	April 4 <sup>th</sup> , 2012 Participation in workshop related to project "Education of students on Peer Bullying" for students of grade VI organized by Center for Social Work Istocna Ilidza
Teslic	April 5 <sup>th</sup> and 6 <sup>th</sup> , 2012 Round Table "Promotion of alternative care and placement of children without parental care"
Banja Luka	April 7 <sup>th</sup> to 20 <sup>th</sup> , 2012 VI International Festival of Children Poetry "Children's Kingdom Mikrofin"
Trebinje	May 3 <sup>rd</sup> and 4 <sup>th</sup> , 2012 Conference: Improvement of the laws that protect victims of domestic abuse in Republic of Srpska"
Doboj	Maj 15 <sup>th</sup> , 2012 Panel Discussion "European Union in Schools"
Banja Luka	May 16 <sup>th</sup> , 2012 Presentation of document "Policy of nutrition improvement for children up to 5 years in Republic of Srpska"
Sarajevo	June 11 <sup>th</sup> to 13 <sup>th</sup> , 2012 Training Seminar "Training for OCD in monitoring implementation of national strategy for fight against child abuse in B&H for period 2011 – 2015 and shadow reporting"
Banja Luka	June 18 <sup>th</sup> , 2012 Conference "Participation of Young persons in Development of Gender Equality"
Banja Luka	June 19 <sup>th</sup> , 2012 Conference "Violence among youth, results of research and prevention program"
Banja Luka	August 30 <sup>th</sup> , 2012 Round Table "Inclusive education in Republic of Srpska –situation and perspective"
Banja Luka	August 31 <sup>st</sup> , 2012 Round Table "Advancement of multidisciplinary approach in fight against gender based violence"
Banja Luka	September 12 <sup>th</sup> and 13 <sup>th</sup> , 2012 Seminar "Juvenile Delinquency – Perspective and EU experiences"
Sarajevo	September 18 <sup>th</sup> and 19 <sup>th</sup> , 2012 Conference "Strengthening System of Child Protection in Fight against Child Abuse"
Banja Luka	October 5 <sup>th</sup> , 2012 "XIII Meetings of Children Homes in B&H"- Debate on topic "Advantages and risks of Internet, Social Networks and Mobile Phones"
Banja Luka	November 19 <sup>th</sup> , 2012 Presentation of results of research "Researching frequency of anemia and factors that lead to anemia in general population in Republic of Srpska"
Teslic	November 22 <sup>nd</sup> , 2012 Round Table "Peer Bullying"
Sarajevo	December 13 <sup>th</sup> , 2012 Regional Conference "Comprehensive approach to problem of safety of children and young persons on the Internet"

### **The Institution has organized:**

Banja Luka	February 28 <sup>th</sup> , 2012 Conference "Let's discover digital world together...safely!" in ceremony of marking International Safe Internet Day
Banja Luka	April 26 <sup>th</sup> , 2012 Round Table "Sexual exploitation of children in Republic of Srpska"
Doboj	May 30 <sup>th</sup> , 2012 Presentation of research results on sexual exploitation of children in Republic of Srpska
I.Sarajevo	June 29 <sup>th</sup> and 30 <sup>th</sup> , 2012 Scientific Meeting – "Rights of child, between normative and real"
Banja Luka	November 19 <sup>th</sup> , 2012 Round Table "Obstacle removal – condition for including children challenged in development into society"
Bijeljina	November 23 <sup>rd</sup> , 2012 Round Table "preventive measures of health protection of children in educational system"
Banja Luka	December 10 <sup>th</sup> , 2012 Round Table "Reproductive health – opinions of young persons"

### **PUBLICATIONS**

In 2012 Institution has published following publications:

1. Prevention of exploitation of Children in Southeast Europe, Sexual exploitation of Children in Republic of Srpska
2. Manual for peer Educators
3. Peer Bullying, Research of Ombudsman for Children and Network of Young Advisors
4. Selection of International Regulations on children's rights  
This publication is published in cooperation with Ministry of family, Youth and Sport. Publication contains Declaration on Rights of a Child (1924), Declaration on Rights of Child from 1955, Convention on Children's Rights and its Facultative Protocols, and all 13 General Comments of Committee for Children's Rights as well as European Convention on Implementing Children's Rights. The goal of publication is to encourage all subjects of protection to take more active and responsible role and jointly act on improvement of social care for each child.
5. Convention on Rights of Child written in a child-friendly language
6. Children on Internet
7. Network of Young Advisors – flyer

## XVIII THE BUDGET

No.	Analytical account	THE NAME OF ACCOUNT	FUND 01
<b>I</b>	<b>411111</b>	<b>Gross income and allowances</b>	<b>653.495,53</b>
	<b>411200</b>	Expenses for gross income	653.495,53
1	4111-11	Expenses on basic income	393.859,32
2	4111-21	Expenses on allowances for income for maternity which are refunded	1.356,50
3	4111-91	Expenses on income taxes	43.065,03
4	4111-92	Expenses for pension and disability insurances	122.620,63
5	4111-95	Expenses for health insurance	76.289,86
6	4111-97	Expenses for unemployment insurances	6.427,14
7	4111-98	Expenses for contribution for child protection	9.877,05
<b>II</b>	<b>412111</b>	<b>Expenses for renting</b>	<b>47.844,78</b>
1	4121-12	Expenses for renting business facilities and spaces	47.844,78
<b>III</b>	<b>412200</b>	<b>Expenses for usage of energy, utility, communication and transport services</b>	<b>24.813,96</b>
1	4122-11	Expenses for usage of electrical energy	3.278,11
2	4122-12	Expenses for central heating	7.698,88
3	4122-21	Expenses for water supply and sewerage	529,20
4	4122-22	Expenses for transportation of garbage	581,70
5	4122-23	Expenses for deratization	70,75
6	4122-31	Expenses for usage of telephone	5.312,14
7	4122-32	Expenses for usage of mobile telephone	2.645,86
8	4122-33	Expenses for Internet	1.334,50
9	4122-34	Expenses for postal services	1.407,60
10	4122-35	Expenses for broadcasting subscription	21,65
11	4122-39	Expenses for other communication services – renting a line	1.933,57
<b>IV</b>	<b>412300</b>	<b>Expenses for office material</b>	<b>4.992,88</b>
1	4123-11	Expenses for PC material	1.747,50
2	4123-12	Expenses for forms and paper	260,21

3	4123-13	Expenses for binders, folders and covers	252,14
4	4123-19	Expenses for other office material	114,63
5	4123-21	Expenses for chemical materials for cleaning	95,13
6	4123-29	Expenses for other material for cleaning	869,57
7	4123-31	Expenses for daily newspapers	589,91
8	4123-32	Expenses for official publications	506,10
9	4123-33	Expenses for expert magazines	295,00
10	4123-34	Expenses for books	150,00
11	4123-99	Expenses for other material	65,20
<b>V</b>	<b>412500</b>	<b>Expenses for maintenance</b>	<b>3.616,93</b>
1	14125-31	Expenses for maintenance of transport vehicles	2.014,87
2	4125-32	Expenses for maintenance of office equipment	569,80
3	4125-33	Expenses for maintenance of communication equipment	911,96
4	4125-34	Expenses for maintenance of heating, cooling and protective equipment	120,30
<b>VI</b>	<b>412600</b>	<b>Expenses for travels and accommodation</b>	<b>14.496,03</b>
1	4126-11	Expenses for travels per diem within country	1.100,00
2	4126-12	Expenses for accommodation and food for official traveling within country	183,60
3	4126-19	Other expenses for official travelling within country	86,48
4	4126-21	Expenses for travels per diem to foreign country	1.848,71
5	4126-22	Expenses for accommodation and food for official traveling to foreign country	3.494,54
6	4126-23	Expenses for public transport for official travelling to foreign country	1.059,00
7	4126-26	Expenses for public transport for official travelling to foreign country	460,00
9	4126-29	Other expenses for official travelling to foreign county	865,20
10	4126-31	Expenses for usage of petrol	5.398,50
<b>VII</b>	<b>412700</b>	<b>Expenses for professional services</b>	<b>3.183,57</b>

1	4127-21	Expenses for insurance of vehicles	994,86
2	4127-25	Expenses for insurance of employees	460,13
3	4127-29	Expenses for other insurance services	8,00
4	4127-31	Expenses for services of printing, graphical processing, copying, etc.	1.050,75
5	4127-71	Expenses for IT maintenance services	669,83
<b>VII</b>	<b>412900</b>	<b>Other non mentioned expenses</b>	<b>9.005,04</b>
1	4129-22	Expenses for registration fees for seminars, conferences, and symposiums for employees	859,55
2	4129-31	Expenses for gross allowances for volunteers	1.025,36
3	4129-37	Expenses for gross allowances for part time contract	1.733,34
4	4129-41	Expenses for representation within country	873,75
5	4129-42	Expenses for representation out of country	166,62
6	4129-43	Expenses for organization of receptions, manifestations etc.	1.267,75
7	4129-44	Expenses for Christmas gift for employee's children	300,27
8	4129-73	Expenses for taxes and allowances for vehicle registration	587,89
9	4129-92	Expenses for memberships	2.110,83
10	4129-99	Other non mentioned expenses	79,68
1	APPROVED BUDGET FOR 2012		<b>755.000,00</b>
2	ADDITIONALLY ALOCATED FUNDS		6.978,54
3	TOTAL (1+2)		<b>761.978,54</b>
4	TOTAL SPENT IN 2012		761.448,72
5	DIFFERENCE		<b>529,82</b>

#### FUNDS RECEIVED BY DONATORS IN 2012

Current grants from international organizations	52.555,51
Transfers for current grants in the country (FIGAP)	20.259,83
<b>TOTAL FUNDS FROM DONATIONS -GRANTS</b>	<b>72.815,34</b>

## **XIX PLANNED ACTIVITIES FOR YEAR 2013.**

In accordance to the authority prescribed by the law:

- Institution will, as in previous period, follow the activities in preparation of laws and other regulations which define issues of importance for the protection of the rights of the child and in accordance with powers established by the Law actively participate in passing the same;
- In 2013, Institution will focus its activities primarily on application of Protocol on Proceedings in cases of violence, abuse and neglecting children, in sense of promotion and presentation of the Protocol and by providing education for subjects of protection to whom this Protocol relates, and especially educating children;
- In 2013, Institution will continue activities on informing public about safe use of Internet, promotion of responsible use of Internet and on indicating to possible risks and dangers to which children may be exposed to through the Internet related to the results of research initiated at the end of 2012;
- Institution will complete research on measures of family legal protection that, according to the Family Law, are determined by guardianship body (permanent supervision, increased supervision, increased supervision within other family, increased supervision of guardianship body) in order to provide protection of child and its interests so additional emphasis is placed on necessity of appropriate measures of family legal protection for the need of diminishing consequences that are result of measure absence.

The Ombudsman for Children will continue to cooperate with children and schools and it will, according to the determined plan, but also by invitation, organize workshops in schools in order to familiarize children with their rights and possibilities of protection of those rights and encourage them in presenting their opinions.

The Institution will continue cooperation with primary school Student's Councils and the Network of Students' Councils of Secondary Schools, updating topics and problems which on issues for which they think that should be further defined, or on which they should know more, in order to, by joint action, contribute to their better realization.

The Institution will, in 2013, strengthen the Network of Young Advisors and work with children and young people who are primarily interested to contribute, by their engagement, together with the Institution, on those issues and problems they encounter on daily basis.

The Institution will, in work with children, particularly update issues of the rights, obligations and responsibilities of children in educational system, the rights of children in family, and the rights of children in conflict with law.

In 2012, the Institution will, in the frame of project of socialization of children, take additional measures to assure that its presence with children in this camp would be accomplished, if possible, in more shifts with the aim of educating children and encouraging them to state their opinions and also obtaining information about how their rights are exercised in their schools, in family and local community.

In the next year as well the Institution will pay due respect to marking of Children's Week and Child's Rights Day, Safe Internet Day, primarily for the promotion of children's rights

and more active role of all institutions and individuals in the protection of children and their interests.

The Institution will, of course, work continuously on citizens' complaints that indicate violation of rights and interests of children, expecting that with each year, in the total number of complaints the interest of children as complainant will be recognized.

Continue cooperation with the Media with the aim to inform public about the state of children's rights, violation of those rights and the activities of the Institution on improving the situation in some areas of the rights of a child.

Continue cooperation with NGOs on all issues where with common engagement we can accomplish a better result, especially related to application of Protocol on Proceedings in case of violence, abuse and child neglecting.

The Institution will continue cooperation with institutions of Ombudsman from surrounding countries, and as a full member of ENOC and CRONSEE will actively contribute to the improvement of these associations's work.