

**Implementation of the Convention on the Rights of the
Child in Montenegro
Coalition of NGOs from Montenegro**

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The Report was prepared by the Coalition of NGOs from Montenegro with coordination of the Centre for Children's Rights of Montenegro (CRC MNE).

(Integral parts of the Report are children's opinions received through continuous work of the CRC and children's parliaments from 11 primary schools from a number of towns at the territory of Montenegro. Opinions have been received through three-days thematic workshops focused on reporting, focus groups held with children with developmental disabilities, children in conflict with the law, children from foster families, children victims of violence, children – refugees and Roma children).

Coalition is made of the following NGOs:

Centre for Children's Rights of Montenegro, Centre for Human and Minority Rights – Podgorica, Centre for Protection of a Women and Child – Podgorica, Children First – Podgorica, New Chance in Novi – Herceg Novi, Legal Centre – Podgorica, „Mačak“ (Cat)– Nikšić; Safe Women House – Podgorica, Centre for Development of Local Communities - Podgorica, Beginning - Nikšić; Infants – Rožaje; Youth Forum and Non-formal Education – Podgorica; Humanitarian – Nikšić; Association of Parents of Children with Special Needs of Montenegro - Podgorica; Union of Association of Parents of Children and Youth with developmental difficulties “Our Initiative” - Podgorica; Association of Parents of Montenegro – Podgorica; Montenegrin Women's Lobby – Podgorica; Pedagogues Centre – Podgorica; Association of Youth with Handicaps - Podgorica



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I INTRODUCTION

General information about Montenegro

According to its Constitutional organization, Montenegro is a republic. It covers an area of about 13, 812 km². According to the census from 2003, in Montenegro live 620,145 inhabitants, out of which 176,848 are children, aged from 0 to 19. Podgorica is the capital city of Montenegro and Cetinje is historic capital of Montenegro

Area of Montenegro	13.812 km²
Citizens population	620.145
Population of citizens aged from 0 to 19 years	176.848
Number of municipalities	21
Number of local communities	368
Number of individual settlements	1.256
Density	45 citizens per km².
Average age of population	36

According to the national or ethnical structure, Montenegro is a very heterogeneous country, and with Bosnia and Herzegovina it is the only country in the Europe in which the nation with the biggest population is not represented by an absolute majority.

Montenegrins	43,00%
Serbians	32,00%
Bosnians and Muslims	11,70%
Albanians	5,00%
Croatians	1,10%
Other	7,00%

Montenegro as social-economic and political environment

Upon the completion of the referendum and the declaration of its independence, Montenegro in 2006 has created preconditions to, independently and in full sovereignty, assume the rights and obligations in international law. In a great part, its concept has been based on the principle of succession of rights and obligations from contracts concluded in the frame of previous state – law arrangements.

Child rights system is not absolutely new in Montenegro, but the content of children's rights and especially the manner of their implementation are quite new. This is partly a consequence of a rather conservative view on the role and rights of the child within the family, especially in relation to certain sociological groups

Implementation as a very complex process and the requirements for the implementation of a great number of international standards causes the life and dynamic legislation activities, which is not followed by adequate social grounds for implementation of the laws

Reporting system established by the civil sector in Montenegro has provided a great contribution to the creation of the realistic picture about the situation of children's rights in both expert and general public.

For this reporting period we can talk about Montenegro as a state of political, economic and security stability, with dynamic economic and democratic development. Montenegro submitted an application for membership in the EU

in December 2008 in Paris. It seems that all this represents also a formal confirmation of the relevant European institutions that Montenegro has made efforts, in a responsible way, for the implementation of the Stabilization and Association Agreement and Interim Agreement. It also means substantial appreciation of the obvious results in the field of economic and democratic development, modernization of the Montenegrin society, as well as encouragement of the determination of Montenegro to become a part of a united Europe in terms of its legal, political, institutional, economic, and security capacities.

Montenegro has become a part of the Adriatic Charter, and officially submitted a request for membership in the MAP program, vestibule of the NATO Alliance. With particular attention and responsibility, Montenegro has continued to maintain good neighbouring and regional cooperation, thus contributing to the overall stability in Western Balkans. During this year, Montenegro has shown its full commitments in this regard, it has become a full member of the Union for the Mediterranean and the Adriatic Charter. In this period, the Government has prepared 101 draft laws that were sent to the Parliament for further procedure.

According to recently published official data of MONSTAT (Statistical Bureau of Montenegro), the rate of GDP growth for 2007 was 10.7%, whereas GDP of Montenegro has reached a level of 2.81 billion Euros, which is for 30%, in absolute amounts, more than it was in 2006. In the previous year, 2006, it was recorded that the real growth was 8.6% and this was at the similar level as it was for 2008 - about 8%. Hence, an evaluation of Montenegro as one of the fastest growing economy in Europe was completely justified. A rapid inflow of foreign direct investments (FDI) has continued also during the current year. According to the preliminary data of the Central Bank of Montenegro, net inflows of FDI during the period January - November 2008 has been amounted to 538.5 million Euros, which is 18.1% of increase over the same period of 2007. Trend of reducing unemployment has been continued, and its rate at end of 2008 was below 10.7%. According to the reports that were presented to the general public, this year, measured by a pace of development, was one of the most successful, not only after the restoration of its statehood, but also throughout the whole history of Montenegro. Along with the support and cooperation with international institutions, the acceptance of an application for candidate status for EU membership, it is realistic to expect a continuation of efforts to meet the other obligations in achieving this goal, including particularly responsible attitudes towards children, which have to be seen as developmental potential for future

The economic crisis that affected Europe and the whole world can greatly slow down the development of Montenegro. In a level in which Montenegro is ready to recognize the need to adapt to such conditions and their politicians and population understand the consequences of the crisis for the country, upcoming years should be seen as a special challenge, a new responsibility and demanding and a stronger commitment to national interests. These are priority tasks for the state administration, for all political subjects and for all citizens of Montenegro.

In general, the position of a child in Montenegro is characterised by the following elements:

- A significant part of the population in Montenegro lives on the verge of poverty, a family living standard is not at a high level, so neither the position of the child;
- Lack of funds for better and faster implementation of reforms in systems of education, social and child protection and health care;
- A large percentage of divorces;
- The increase of juvenile delinquency;
- Drugs and alcohol abuse;
- Child labour, in particular begging by children (mostly by Roma children);
- Bad situation of children belonging to certain ethnic groups, especially the Roma population;
- Deterioration of a status of children of displaced persons as a result of unsolved status;

From the above mentioned we can develop the following **general recommendations** for improvement of a state of children's rights in Montenegro:

- To improve the respect of the rights of children in accordance with the Convention on the Rights of the Child, through comprehensive and ongoing promotion of this document;
- To establish the deputy Protector for the Rights of the Child as a separate mandate within the institution of the Protector of human rights and freedoms;
- To urgently adopt a special law that would comprehensively protect the rights of children (Law on the Rights of the Child);
- To establish and strengthen youth and children parliaments and similar bodies at the level of the Government and local governments;

- To develop new and implement existing national plans of action for the children, strategies and prevention programs;
- To strengthen cooperation between the state and non-governmental organizations dealing with the promotion and protection of children's rights;
- To provide a separate part of the state budget to support non-governmental organizations dealing with children;
- To develop various services within the public, civil and private sector
- To adopt as soon as possible the Law on Juvenile Justice (the Draft is with the Government at the moment)

Concrete recommendations for the strengthening of the child rights system are as follows:

- To connect governmental, nongovernmental (local and international) and other organizations dealing with the protection of children's rights;
- To Systematize data, create databases and ensure their availability;
- To provide a greater degree of participation and respect for children's opinions on all matters that affect them;
- To develop Codes for children's participation in media and to provide for regular monitoring of media reporting about children;
- To establish and develop mechanisms for protection of privacy of children in media, education, health and social welfare systems (privacy of children in the homes of pupils and the collective centres, homes for the children without parental care, refugee settlements);
- To provide free health care for all children;
- To provide bigger and more timely social welfare;
- To establish counselling centres for children;
- To establish counselling centres for supporting the family;
- To improve family-law protection of children, especially children from divorced marriages
- To ensure continuous education of professionals working with children and to improve inter-sectoral cooperation;
- To ensure better support to families with children with developmental disabilities; greater coverage of children with inclusive education, to develop social services of support at the local level, and training programs for work according to their capabilities, to provide access to the institutions and services by removing architectural barriers;
- To ensure transformation of institutions for the accommodation of children and bureaus, and this would include the separation of children from adults, avoiding the interference of wards as one of the ways for prevention of children abuse in institutions.
- To promote all alternative forms of care for children;
- To provide for professional supervision and continuous control of the Institutions for the accommodation and care for children with special needs, which didn't exist so far
- To increase the control and professional supervision over the work of social care services, capacity building and programmatic empowerment of social work centres, the introduction of new methods and standards of services;
- To provide more quality, free and accessible education to all children
- To introduce reform programs, modern methods and approaches to work, through additional education of teachers – professors;
- To raise awareness about children's rights of all professionals dealing with protection and care about children (health system, education system and social welfare system);
- To identify, prevent and sanction criminal groups abusing children (inappropriate operation, abduction, trafficking of children, sexual exploitation, the use of psycho-active substances, abuse, child pornography, prostitution...

In Montenegro there is an obvious lack of adequate statistical researches and deep analysis about the state of children's rights. Existing data bases have not been used in sufficient manner (example of DEVINFO software),

and this creates problem more visible. The state has not expressed visible interest for stimulation of similar projects, regardless the environment (state or civil sector) such initiatives come from.

Attitude towards researches, i.e. allocation in the state budget for research is in such level that it does not offer the slightest hope that the situation in the area will be improved (allocations are only about 1.6% of the national budget or not even that much). All efforts are mainly linked to donor initiatives within the activities of civil society, and on this occasion we have to say that they are very weak also.

It should be specially emphasized, sometimes strictly formal approach of international donor institutions in providing funds, whereas they pay a much greater attention to the application forms, than to the very content and outcome that the projects aims to achieve in practical terms

II GENERAL MEASURES OF THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD

Legislative and Judicial Measures

The whole period 2006 - 2007 in Montenegro has been characterized by numerous factual blockades of legislative, economic and administrative processes as a consequence of pre-referendum state, the referendum itself and the events that followed. Although legislative action has not been fully blocked, the fact is that it was not possible to reach political consensus on the drafting procedure and the content of the constitutional act, and that the Montenegrin political and overall social reality in 2006 was marked by political confrontations and sharp debates more about the internal, than about the foreign policy issues and priorities.

During 2008 and 2009 Montenegro has carried out an intensive legislative campaign for harmonization of national legislation with international standards. This applies particularly to the field of juvenile justice reform, protection from domestic violence, non-discrimination, providing free or subsidized legal assistance; amendment of the existing regulations in the field of national institutions for the protection of human rights and freedoms, reform of regulations in the field of minority rights, reform of the misdemeanour legislation and so on

At its session held on 7th July 2005, the Government adopted the Initial Report on Implementation of the Millennium Development Goals in Montenegro, with clearly expressed attitude that a "challenge" for full achievement of particular goals until 2015 still stays, with realistic and justified expectations that they will be completely realized in Montenegro. The estimations have been based on favourable economic conditions and indicators of continuous growth, development of the necessary legal framework and relevant strategic documents.

In the Constitution of Montenegro, there is no separate chapter related to the definition and rights of the child, in accordance with the recommended legislative measures consisted in the General Comment No. 5 (Paragraph 21) of the Committee on the Rights of the Child, and all constitutional guarantees were reduced to the general norm of the Article 74 of the Constitution, which states that: "A child shall enjoy rights and freedoms appropriate to his age and maturity", and "A child shall be guaranteed special protection from psychological, physical, economic and any other exploitation or abuse"

Other rights and obligations in relation to the child are given within the individual constitutional provisions through the institutes that relates to other users of guaranties in the field of human rights. To make this approach based on facts and justified, more detailed analysis of the constitutional provisions about rights and effective, and/or appropriate legal protection of children through set general legal institutes would be required, and they are now missing in the theory and practice. In this way, the prescribed constitutional guarantees certainly do not include all the rights and obligations arising from international legal status of the child and its specificity in relation to other subjects of international human rights law.

The principle of supremacy of international law over the domestic law in Montenegro is not clearly defined. The Constitution, in its Article 9, says that ratified and published international treaties and generally accepted rules of international law are integral part of the national legal order, have primacy over national legislation and are directly applicable when governing relations differently from the national legislation. Norm set in such way implies that the primacy of international law does not apply in relation to the Constitution of Montenegro. However, the Article 17 of the Constitution stipulates that the rights and freedoms are to be realized based on the Constitution and ratified international agreements, by which the status of the international law is put at least at the same level with the Constitution of Montenegro. Furthermore, the principle of harmonization of legislation with the Constitution of Montenegro refers to the obligation that the law must be harmonized with the international obligations of the state (otherwise it is unconstitutional), and in this part, we can derive a logical conclusion that the norms of international law, directly or indirectly, have precedence in the domestic legal framework in Montenegro. Such attitude is important in terms of the principles of a current or self-execution of standards of the

Convention on the Rights of the Child in the domestic law, according to the already mentioned General Comment No.5 of the Committee on the Rights of the Child (Paragraph 19)

Reform of the family legislation, under the condition that it is fully implemented, presents one of the most positive examples of the implementation of the Convention. However, adoption of the set of legislation has been planned, but not realized in this reporting period (2006 – 2008). In addition to that, conditions for implementation of particular legal solution in the area of criminal legislation have not been created yet, and this is the task of the special Law on Juvenile Justice which adoption is in the procedure

Based to the knowledge of civil society when it comes to the court practice in Montenegro, we can conclude that the soundness of court judgments and referring to the provisions of the Convention on the Rights of the Child are not often the case.

Strategic and administrative measures

A great number of strategies and operative plans have been adopted in Montenegro in function of the realization and protection of the rights of a child. Representatives of civil society have actively participated in the process of drafting and adoption of these planning documents (as well as the State/initial reports) and this is essentially a new quality in the work and performance of state authorities. What was emphasized as a significant deficiency in this process is an extremely low level of implementation of planned measures and lack of transparency in reporting.

According to available data, it can be concluded that something more has been done regarding the inclusion of children with development disabilities, establishment and capacity building of operational teams and their training, but when it comes to the effects of these measures there is no data with which the general and professional public, not even at members of the working bodies responsible for the implementation of program activities are familiar with. The initial / state report does not also mention the degree of implementation as an important indicator of monitoring the implementation of the adopted strategies.

In relation to the above mentioned, we should particularly emphasize that the basic national instrument, National Plan of Action for Children (NPAC) in Montenegro, 2004 – 2010, has been almost entirely devaluated due to the lack of monitoring over the implementation of its objectives. According to our knowledge, there was no any report on the state level that indicated the degree of implementation of this document, or not known to be made. The document itself foresees the responsibility of monitoring and evaluation that includes a mechanism for evaluation in order to allow "control of the progress in meeting its goals and objectives",¹ so it seems that this should be a priority in the work of the Council for the Rights of the Child.

In that sense, the **role of the Council for the Rights of the Child** is particularly important, so it is expected to intensify its work on monitoring the implementation of relevant regulations and other strategic documents, to improve its cooperation with NGO and to make more transparent the results of its work on the protection of the rights of the child.

NPAC has established also the financial projection of prerequisites for implementation, which set the amount of 154,54 millions of Euros only for the first three years of implementation (2004-2006), and for the period of the 7 years it should be allocated an average sum of 37 million Euro per year.²

Almost nothing of the above mentioned has been done or there is no information that could refute this conclusion.

Economic and Administrative Measures

Based on the data published by the State, we can conclude that the state has made additional efforts for increasing funds in the area of social and child protection, as one of the vital sectors in the realization of children's rights. Experience of the civil sector points out to the constant threat to the social sector which comes from some international financial institutions and is directed toward the reduction of the state budget for these purposes, which is opposite to the requests that international standards in the area of human rights, as well as the Convention on the Rights of the Child, put before the state..

Of course, the general economic measures can also have an indirect impact on the status of the child because it directly depends on the economic status of the family and its members. Therefore, reasons for total suspension of the implementation of the Regulation on Social carton³ are still unclear. This Regulation has provided for the introduction of records within unified information system of state authorities, local self-government, organizations

¹ *National Plan of Action for Children*, Publication of the Government of Montenegro, 2004, page 98.

² Same as previous, page 100.

³ "Off. Gazete of MNE", No.41/01, August 3rd, 2001

of social security, the authorized user's of a payment system, public companies, funds and institutions. This even before, because the foreseen instrument doesn't have only a social character, but can be extremely important in other areas of activity of state authorities, particularly in proper determination of a power of taxpayers, their fiscal capacity, and thus in proper determination of the sources of state revenues, which are, everywhere in the world, tagged as the area of the biggest state and social interests

Period of property and management transition in Montenegro has left a deep negative mark in the social sector. With all due understanding of the need for economic development, there is a very critical attitude towards the balance of economic and social policy in Montenegro, whereaa a burden of economic crisis has been more and more transferred to employees and persons connected with them, and especially children.

III DEFINITION OF THE CHILD

(Article 1)

In Montenegrin legislation (or in the Constitutions) there is no general definition of the child, and this brings the issue of adoption of the separate law that would regulate some basic issues, .The Family Law, which in systematic way regulates the area of family relations, is based on the Convention on the Rights of the Child to the great extent and it determines the limit of the legal age (18 years), whereby every human being up to 18 years old should be considered as a child. Some legal texts stipulated the limits of the business capacity in relation to age, i.e years of the child, whereas such standards are not fully harmonized in the context of different legal texts. Similar as in the neighbouring countries (for example in the Republic of Serbia), testimonial ability is prescribed for a person who reaches 15 years of life without restrictions on the disposition of property after death. At the same time, a child of the same age needs parental consent for the conclusion of the legal work relating to the disposal of the property for the life, except for property acquired by its work (Article 307 of the Family Law). On the other side, a person older than 15 but younger than 18 years, would need the prior consent of the parents, as a special condition for a conclusion of a contract of employment.

In terms of respect for the opinion of the child in some procedures the age limit of the child was set up to 10 years, regardless of its Psychophysical abilities, which indicates the dominance of formalism in relation to the substance of rights and opportunities for children younger than 10 years to present its opinion about the particular issue. This is particularly important because such issue does not exist in the field of criminal procedural law (the child as a witness).

In the Criminal Code, the lowest age limit of criminal responsibility in relation to the child is 14 years, which made terminological discrepancy in relation to the Convention which provides that a minor as a person below the age of 18 years of age should be considered as a child. Following this analogies Law on Police makes a distinction between minors and child, which is also a terminological discrepancy with the Convention, because a minor is a person bellow the age of 18 years, meaning a child. The same provision is consisted in the Law on Misdemeanours. In this sense a positive example are the provisions of the Law on Safety of Traffic on the Roads, which, regardless the sub classification of certain age groups, uses the term "child" for all persons under the age of 18 years.

Some laws leave the space for discussion and dilemma why the age limit was established under the age of 18 years, especially if we bear in mind the aim of the legal provision. In this way, the Law on Public Order and Peace foresees misdemeanour procedure for everyone who sells the alcohol drinks to a person below the age of 16 years. If we bear in mind the hazards of alcohol and its influence on the development of the child, then this limit is below the standard provided by the Convention, meaning that it should be set to the age of 18 years.

Military Law of Montenegro does not foresees the age limit as a general and special condition for entering into military service, but this is subordinated to the obligation that candidate is required to have Montenegrin nationality, physical or mental capabilities, that it have not been punished, and that against him/her there are no criminal proceedings. Law hasn't made a distinction whether this is related to the extraordinary conditions that would exist in the events of mobilization, or declaration of war, or to the regular circumstances.

IV BASIC PRINCIPLES

Protection from discrimination

(Article 2)

From the standpoint of the legal framework, existing laws in Montenegro, and especially the Constitution, provide guarantees for the exercise of the rights, but the system of legal protection still stays doubtful.

Repressive measures for suppression of various forms of discrimination are used as a very rarely resort, both by administrative authorities, as well as by the judicial institutions. What further worries are constant attempts to justify acts of discrimination (not by state institutions, but individuals and groups), and this points out to the inevitable need for additional action to raise awareness of all social factors, not just these bodies. In this regard, we should appreciate the efforts that the state has taken to stimulate tolerance and affirmation of ethnic groups as the basis of mutual co-existence in Montenegro, through various projects and other activities.

In Montenegro, there is still no specific, systematic law on the prohibition of discrimination, even though the initiatives of the NGO sector went in that direction even at the beginning of this decade. The main reason for the adoption of such legislation lays in the need for ensuring an efficient and effective remedy for the protection from all forms of discrimination, especially in the area of civil - law protection, since the criminal legislation has already defined this issue.

The procedure for adoption of a special law is in progress, but it is followed by a chronic lack of transparency in regard to the contents of the draft law, while a great number of concerns, identified by international organizations (the Venice Commission, OSCE) and civil society, were abstracted by state authorities for a long time and totally without reason. This has been particularly relevant for the lack of appropriate definitions, penal provisions, inaccuracies in the exercise of protection in judicial proceedings and the lack of legal and administrative capacities of the Office of the Protector of Human Rights and Freedoms in Montenegro, which according to the Draft Law on the Prohibition of Discrimination should be primarily responsible state authority.

Discrimination on gender basis particularly affects female children, and most pronounced is in the Roma, Ashkali and Egyptian (RAE)⁴ population. Empirical data suggest that this phenomenon has been manifested in two ways. First, the traditional patriarchal organization of RAE families puts women in a subordinate position. Education of female children is treated as an unnecessary and expensive; their freedom has been limited in every field and the traditional-patriarchal views of life without possibility to comment and have a choice have been imposed. Another form of discrimination, even worse and especially pronounced in the RAE population, is a believe that a female child as a very young, often already in the teen age, should establish her family through the most commonly imposed, and by the families agreed, a marriage union.

This way of concluding marriages is followed by the so-called "Marriage redemption", which means that the groom pays an appropriate fee to the family, and as the girl younger a fee is higher. Although the RAE population consider this as their customary traditions and heritage, it is clear that, from the legal aspect, this is a process of a kind of trafficking, and certainly the way of threatening children's and women's rights.

Recommendations

The State should:

- Adopt, as soon as possible, the general law against discrimination and ensure its consistent implementation;
- Take measures to ensure tolerance and respect for diversities
- Ensure implementation of strategies for inclusion of children with disabilities, .

The right to life, survival and development

(Article 6)

In protecting the rights of children there is an extensive legal background material for the detection, prosecution and punishment of perpetrators of criminal acts to the detriment of the child. However, in the domain of the positive obligations of the state, there are the data that speak about the increase of criminal acts committed against minors for almost 25% in 2007 (206 committed acts) compared to 2006 (166). The NGO sector has slightly different data: in 2007 children have been victims of criminal offences in 353 cases (136 older and 115 younger juveniles were damaged by criminal offences, and 102 children were recorded in that capacity), out of

⁴ Roma, Ashkali and Egyptian

which number, 87 criminal acts were with elements of violence, 83 with the elements of property offences, and 23 cases with elements of sexual violence.⁵

Regardless of the fact that these data have been received from the Police Administration (which is to say that it is not the number of prosecuted or finally completed cases), the attention of all factors should be focused to both, prevention and repressive actions in terms of preventing this criminal phenomenon. Additional effort must be made on the analysis of the causes of this phenomenon, considering that its major parts are criminal offences of domestic violence, violent behaviour, serious bodily injury and assault of a minor. These serious criminal offences indicate to the strong presence of the phenomenon of violence in general, as well as to the necessity of taking appropriate strategic measures to overcome systemic problems.

One part of the public has seen the undertake of specific security measures in educational facilities (installation of video surveillance) as an infringement on the privacy of children, regardless of the fact that the phenomenon of violence has been clearly observed within school age youth, with characteristics of a brutality and ruthlessness, which directly leads to the violation of the right to life, survival and development.

In the domain of health care, rights of the child should be put to the forefront and keep them as a priority, both in the material, as well as in institutional terms. Notwithstanding the comparability of data from other countries, the relevant data indicate the presence of a number of infant mortality (83 cases in 2006, 58 cases in 2007), which, compared to the population and demographic trends in Montenegro, requires special attention. A similar conclusion could be performed with mortality rates of children under 5 years of age. For the final attitude about the undertaking of measures it is necessary to analyze the causes of death, after which would follow the appropriate measures that state must apply for the reduction and elimination of this phenomenon.

Also, pointing out to environmental factors as possible causes of deterioration of a health state, Initial report of the State has directly projected goal of consistent implementation of regulations on environmental protection and in particular on the use and storage of dangerous and toxic materials, as well as potentially dangerous for developing diseases, harmful to the health and survival of the child. In this sense the importance of projecting and exploitation of warehouses of communal and other waste has been particularly emphasized, and for this there are appropriate master plans in Montenegro.

Montenegro has registered certain number of juvenile offenders who drive motor vehicles without a driver's license or under the influence of alcohol. In a number of cases, this phenomenon resulted in serious injuries or even had a fatal outcome, about which we are informed mostly through the media, because we could not get the official and accurate data. It is interesting that the police authorities have continuously carried out activities to suppress this phenomenon, with quite limited results. It is obvious that this campaign has to be focused also on the responsibility of parents as the owners of motor vehicles, education at the level educational institutions, as well as to continuation of media campaign that started several years ago, primarily due to increase in the number of incidents and situations that endangers lives.

The best interests of the child

(Article 3)

Normative regulation, through the establishment of the general provision on the best interests of the child, is not in the function of a comprehensive and systematic consideration of this institute for the simple reason that there is no such general definition in international and domestic law.

So far we are not familiar with the practice that indicates the use of criteria for further determination of the best interest of the child, except for some general and abstract legal positions taken by the judicial authorities, thus an inability to conduct a proper assessment of the actions of state authorities and parents resulted as a consequence of the uneven practices

Respect for the views of the Child

(Article 12)

The State initial report speaks only about the legal norms regarding **respect for the views of the Child**, but mechanisms for realization of this right have nowhere mentioned, which indirectly speaks about the situation in practice. When the legislature prescribes the right to express an opinion, the mechanism by which this right is implemented in practice remains unclear.

⁵ Source:: www.upravapolicije.com/crna-gora-uprava-policije-godisnji-izvjestaj_1570_7_33.html - Report on the work of the Police of Montenegro for 2007

In relation to the respect for the views of the Child we have to say that there have been some movements in the recent legislation, although there is still no awareness of the need for such an attitude in various situations. However, the most important element of this right - the realization in practice, still faces various obstacles. First of all, it is very difficult to change awareness that children are equal human beings who participate in social life and have their own opinions, demands, rights and obligations.

The first substantial progress steps towards ensuring the respect for the views, have occurred in the educational process through the system of participation at the children's parliaments. These first steps began in non-institutional projects that have a slightly different approach than the one prescribed by law.

The special quality of a number of adopted national strategies and local plans of action, has been given by the participatory approach in their development, through the active participation of children in the part of needs assessment, mapping of existing and planning of missing services, and the like.

Recommendations

The State should:

- take active measures to promote participation through training of professionals who work directly with children;
- allow the expression of views of children of all ages when they are capable of reasoning (not just for children of 10 years and over as it is provided by civil proceedings) and in all cases and proceedings before state and other authorities, wherever it is possible and without any kind of discrimination;
- allow the expression of views of minors toward the purpose of punishment and the possible impact of punishment on the future status of minors, so not to lose from a sight the whole system based, in addition to the repression, also on the prevention and resocialisation. The same applies in the process of achieving restorative justice, i.e. implementation of divertive measures as alternatives to the criminal prosecution;
- support developed models children's participation (the real work of children's parliaments), as part of a regular program in the education system.

V CIVIL RIGHTS AND FREEDOMS

(Articles 7, 8, 13, 14, 15, 16, 17, 37)

The right to a name and nationality

(Article 7)

Law on Civil Registers (Official Gazette, No.47/08) does not elaborate, in a sufficiently clear and precise way, the procedure for subsequent registration in the register of births, which is why problems arise in the practical application of the law. Most noticeable problem is the uneven practice of civil services and regional units of the Ministry of Internal Affairs and Public Administration of Montenegro and the delays of the proceedings of subsequent registration due to the complicated registration procedures.

Problem of no registering children born in Montenegro in the registers is particularly pronounced among the RAE population. Obstacles and problems the RAE population in Montenegro is facing when applying for subsequent registration are: the inability to obtain documents from Serbia and Kosovo required for the subsequent registration of birth, validity of documents, insufficient information of RAE population in terms of legislation and documents that must be submitted in the process of subsequent registration.

Results of the research conducted by the NGO "Legal Centre" on a sample of 7.166 persons, out of which 3.546 were domicile RAE, and 3.620 were RAE refugees from Kosovo, have shown that 2.767 (38.6%) persons do not have complete documentation and need to make additional registration or restoration of previous registration in relevant civil registers. Out of the number of 2767 persons who do not have the complete personal documentation, 1928 are children. According to these surveys, children, therefore, represent more than two-thirds of the total number of persons which should be registered in the register (714 should be registered in the register of births and 1214 in the register of citizens). The results showed that 318 children born in Montenegro are not registered in the register of births, which represent a failure in achieving one of the strategic objectives set out in

the National Plan of Action for the Rights of Children in Montenegro 2004-2010, **"that all children are enrolled in the birth registry and have a certificate of nationality".⁶**

During the initial phase of the implementation of existing laws, there were perceived difficulties in entering data into registers in the language and the script of ethnic groups to which the child belongs. In that context it has been explained that the problem was of a more technical nature, after which this standard has really began to be implemented in accordance with internationally recognized rules.

Law on Montenegrin Nationality provides a possibility to a very small number of refugees from Bosnia and Herzegovina and Croatia to apply for admission to the nationality of Montenegro. The provisions that cause particular concern are the provision of Article 3, 4 and 5 of the by-law, **"Decision about the criteria for determining the conditions for gaining Montenegrin nationality by admission"** (**"Official Gazette of RM" no. 47/08**). Conditions and criteria set forth in the above regulations are an example of covert discrimination against members of the refugee population in Montenegro, which is in contradiction with Article 8 of the Constitution of Montenegro, which prohibits discrimination on any grounds. In practice, these conditions can not be met so easy and they have a direct negative effect on this population when we take into account their specific life situation and the undefined status in Montenegro. Relevant examples for this are as follows: request for continuous permanent residence during a period of 10 years and continuity of residence caused by non-possession of the identity card or passport of the country of origin, in a situation when you know that many members of the refugee population in Montenegro have these documents for the purpose of crossing the border and realizing different rights in the country of origin; demands for ensured accommodation and permanent sources of income by the refugee population which is among the poorest segments of society

Special problem is the provision of documents required for submission of requests for acquisition of nationality for persons who are not able to go to the country of origin and time validity of these documents. Going to the country of origin as well as the administrative fees presents a great expense that many refugees, especially the RAE population, can not pay, and there are those who for various reasons can not or do not want to go to the place of their former residence. It is required that the birth certificate and other documents, can not be older than 6 months.

These criteria do not cover internally displaced persons from Kosovo, because the register for that category of persons is not maintained by the Ministry of Internal Affairs and Public Administration, and therefore, internally displaced persons from Kosovo can not apply for acquiring the Montenegrin nationality.

The legal period of 6 months prescribed for issuing a decision upon an application for admission to the nationality of Montenegro is not respected in practice. This is particularly indicative in the proceedings initiated by the application for naturalization of refugees from Bosnia and Croatia, when for the decision they wait longer than a year. The period of one year prescribed for submission of the request for acquisition of Montenegrin nationality by admission for people who have reported residence in Montenegro before the 3rd June 2006 (Article 41 of the Law on Montenegrin Nationality) is a short and particularly affects the domicile population of Roma, Ashkali and Egyptians in Montenegro, which in that period will not be able to obtain all necessary documents.

Recommendations

The state should:

- accelerate and systematize the ongoing activities, in order to define the legal status of the local population, especially the RAE population, as well as refugees / internally displaced persons, as provided for in national strategies;
- provide additional resources to regulate the legal status and identity documents, with particular attention to the two most vulnerable groups, children of RAE population and children of refugees / displaced persons;
- simplify the procedure for acquiring nationality for persons who have had permanent residence in Montenegro before the 3rd June 2006⁷

⁶ Civil registration and prevention of Apatrides: Research among RAE population in Montenegro; NGO "Legal Centre, May 2009, State Department report on Situation of Human Rights in Montenegro – 2008, EC Progress Report for Montenegro 2007, NPA for Children in Montenegro 2004-2010; Documented cases by NGO "Legal Centre" (legal representation of 15 children in the procedure of subsequent registration in the register of birth)

⁷ Legal aspects of local integration of refugees from Croatia and B&H in Montenegro – UNHCR Office in Montenegro - August 2008 State Department report on Situation of Human Rights in Montenegro – 2008.; MIAaPA press release from 17.03.2009.; Documented cases of the NGO „Legal Centre" (Certificates issued by the MIAaPA about the date of submission of request for admission in Montenegrin nationality

Freedom of expression and access to appropriate information

(Article 13 and Article 17)

Freedom of expression still does not mean that the opinions of children are respected in decisions concerning them.

Although there is prescribed possibility to allow the child to take an active part in social life by expressing his/her own opinion, it is noted the lack of data that indicates how much the rights of children in this area have been really respected.

Law on Primary and Secondary Education prescribes the forms of organizing students, like in associations through which students should be able to freely express their opinions and influence the decisions that are related to their work, life and duties within the school. We believe that this has made a positive progress in the schools, but we are witnesses also that the associations of students are often only formally arranged, without enough quality preparation and designed activities. One gets the impression that children are "allowed" to deal with specific issues and topics that are choice of adults.

Through the more active role of non-governmental organizations a significant progress has been made in empowering children in relation to the implementation of their participatory rights, whereas trying to avoid any kind of formalism and decoration.

Participation of children in the total population of Montenegro is about 22%. Participation of the contents in which children are mentioned in the daily press is 1.46%. A huge difference in the percentage is evident and therefore we can conclude that the presence of children in daily newspapers is very low compared to the entire children's population.

The law prescribes the obligation that programming content of media that can endanger the health, moral, intellectual, emotional and social development of the child must be in advance clearly and visibly marked as such and distributed in a manner that is least likely to be used by a child, which we could not tell about the newspapers with a content inappropriate for children which are visibly exposed, and which children can freely buy in each newspaper store, as well as the for the contents which are daily displayed on TV (reality shows / like Big Brother and the Farm /, low-budget TV series, game shows and game of chance and shows of a questionable quality).

Results of the survey of NGO Media Institute of Montenegro performed in December 2006 (*Media and education*), show that more than half of respondents (56.9%) believe that the media play a significant role in education of young persons. On the question: "what in media is making a bad influence on the development of young people" the following answers were given: presentation of bad models (28.3%), violence on TV (30.3%), lack of educational content (29%) and quality of language and style (11, 3%).

The Daily Press has published a number of contents that speak about the events that are directly related to the child, whereas personal data and sometime photos have been published and this represents a violation of the rights of children and this usually occurs as a result of journalistic ignorance, negligence or need to have sensational news.

Freedom of thought, conscience and religion

(Article 14)

The consequences of religious and internal religious conflicts in Montenegro are still visible. Although they, fortunately, have not been serious, it is necessary to conduct a broader social action in which the state should be the mediator (not an arbitrator) in the function to overcome conflicts.

The problems in relation to this area have been often transferred by media and as such have a serious role in creating awareness of young people. Although the actors are mostly adults, the images that show abuse of children and their presence to such events are not rare. In addition to that, the media point to the physical conflicts caused by religious commitment, particularly in the relationship between the two Orthodox Churches in Montenegro. It seems that there was no timely and decisive

response of all state authorities (not just the police who needs to prevent conflict and sanction the actors).

Right to privacy

(Article 16)

Realisation of the right to privacy is directly caused by the local culture and traditional relations of parents toward children, who do not appreciate their need for privacy. The parents still have a dominant role in the lives of children so that they, in principle, "determine" the privacy of their children.

Children who live in collective centres and alternative accommodation or in families with low living standards have a particular problem with this issue. The right to privacy, unfortunately, is not also realized in full extent in institutions, where this should have to be an integral part of the professional relationships of all who work with children. Information about children and their family circumstances are being given illegally by the police, health, educational and social institutions which present a drastic violation of the right to privacy.

So, for an example, in media reports on criminal and other proceedings where the child appears as a person in conflict with the law, as a victim or as a holder of any other rights and obligations, the identity of the child is determined in a way that it is stated directly or it can be easily derived indirectly from the information

The existing general legal framework is not an obstacle to full implementation of the right to privacy (except in the part of the mechanisms of protection), but here is the word more about the lack of awareness of all stakeholders about the importance of its implementation.

Recommendations:

The state should:

- Work on the establishment of clear procedures and codes of conduct (including also explicit appeal procedures), particularly in the institutions of the system (schools, institutions, health and social care, etc.), as well as in the media ..

The right of the child to protection from torture and unlawful or arbitrary deprivation of liberty

(Article 37)

The relevant legislation framework contains provisions that provide the right of the child to protection from torture and unlawful or arbitrary deprivation of liberty. It still remains an open question in which extent they are consistently implemented, although the laws passed in the meantime, are in compliance with the Constitution in this part. A special concern is related to the extent to which the right of the detained persons to have his/her counsel present at the first interrogation is respected, and that during his/her detention it should be taken into account that it must be reduced to the shortest possible time. It is not rare that, when a counsel by a duty, access to the police to attend the first interrogation of a suspect, it turns out that the police has already had a conversation with him/her. This is evident when children are being taken to the detention, which made meaningless the right of the suspect to counsel during the first examination.

At the time of writing the State Report we paid attention to the length of detention for minors, which, in our opinion, was too long, the more so if we know that the deadlines for action if responsible authorities in relation to the juvenile detention are extremely short, and also testing procedures performed by the court panel.

The quality of the execution of educational measures is questionable due to the institutional and spatial deficits in Montenegro. Premises in the Institute for execution of criminal sanctions (ZIKS) have been subsequently renovated, but in relation to the implementation of the measures, particularly in institutional terms, there was no progress, except for adoption of the Program of Transformation of the Centre for Children and Youth "Ljubović.

In relation to the application of police powers, the article 16 of the Law on Police still seems controversial. This Article states that these powers can be applied to minors without a presence of a parent or legal representative (albeit exceptionally) if this is:

1. precluded by reasons for pre-trial proceedings, and
2. required by needs for urgent acting or other circumstances.

This provision gives too much discretion powers to the police and it should have to be much more specified on the level of the Law or by-law which determines the conduct of the police toward minors.

The state report does not include analysis of the application of Article 37 in part related to the protection of children from inadequate treatment of employees who work with children or who come into contact with children (educational staff, medical staff, staff of social welfare institutions, the staff of the judicial system), and which is very important for all children in order to avoid torture and other inhuman, degrading treatment and punishment (in school, social, educational and other institutions).

The problem is still reflected in the application of police powers and the treatment of minors. Although it occurs sporadically, there is still a serious problem in relation toward minors.

In terms of the existence of adequate accommodation of minors while being in detention or serving sentences of juvenile imprisonment or correctional measures for more than two years, there is still a problem, since in Montenegro there are no special facilities or special institutions that would provided housing of juveniles separately from adults, in accordance with international standards in this area (Convention on the Rights of the

Child, the UN Rules for the Protection of juveniles deprived of their liberty as a supplement to the UN Standard Minimum Rules for Juvenile Justice - The Beijing Rules). The establishment of a specialized correctional institution would be in line with international instruments in terms of the fact that children should be deprived of liberty only in exceptional cases and for the shortest appropriate period of time. According to international documents detention of juveniles should be done only under conditions that fully take into account their specific needs, status and special requirements, bearing in mind their age, personality, gender and mental health, as well as the type and severity of the criminal act.

Juvenile justice reform in the section related to the adoption of the new law is in final stage and it is now difficult to make any concrete conclusions about its outcome. In any case, it would have to respect the specificities of Montenegro, its infrastructural and institutional capacity, in order to avoid situation which exists at the moment, that there are educational measures of referral to an educational-correctional facilities, and that such an institution in Montenegro does not exist, so the measure itself has been made meaningless in advance.

My opinion is that you can be beaten in the police even when you are not guilty I was once picked from the street even though I did not do anything wrong. I wasn't guilty, but I have been "known" to the police. I was interrogated without the presence of social workers; they have not called anyone from my family. The inspector asked and answered and forced me to confess. He was yelling and waving with his hands. They kept me in the custody for 24 hours. I have confessed all because I was forced to it by inspector. When I came to court I told the judge that I have all admitted because they have beaten me and the inspector forced me to it; I have said that in front of the police officers who were at the judge's office. I wasn't guilty at that time; I am guilty now, so I am here because of that⁸.

VI FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Parental care and responsibility of parents

(Articles 5 and 18)

Family Law has created some confusion with regard to divorce. Previous law foreseen that in divorce procedure, court is to decide to whom a child will be entrusted for further care, nursing and education. According to the current law, when deciding with which parent the child will continue to live in the same household, the wording "parental custody will be performed by the parent .." is used. This implies that the other parent, with whom a child does not live, does not exercise parental rights, even though the court also obliged him/her to contribute to the maintenance, whereas this commitment is undoubtedly integral part of the performance of parental rights. Therefore, it seems that the solution from the previous law, saying that the court during the divorce procedure decides about the entrusting the child, was more appropriate.

The guardianship authority is obliged to provide appropriate assistance and support to parents, and to take appropriate measures to protect the rights and the best interests of the child. Centres for social work are often the only institution to which the parents can go for help (there are no services that, in organized way and through therapy, work on correcting the adverse marital and family relations, improvement of parenting, reducing the consequences of abuse; there are no appropriate advisory services for marriage and family, for children, youth, addicts, abused, single parents).

According to the report of the Supreme State Prosecutor in 2007 there were two cases related to the violation of family obligations (Article 222 of the Criminal Code), one of which remained unfinished at the end of that year, and for the other one the investigation was in progress. There are no closer data or researches in this area so we can not draw conclusion about the circumstances of specific cases or even say whether this was a sporadic phenomenon, related to the neglect of parental rights

Recommendations

The state should:

- create a system of support parents in exercising responsibilities for the upbringing and development of children (counselling, preventive programs)
- implement measures of supervision over the exercise of parental rights prescribed by the Family Law

⁸ Focus group with children placed in the Centre for Children and Youth »Jubovič« for the purposes of development of Law on Juvenile Justice

Child support

(Article 27, Par. 4)

As part of the previous efforts to implement the appropriate institutional support to this right, the courts in Montenegro have had significantly more problems than the same institution in developed countries. Regardless of the executive court verdict, by which the spouses or one of them, have been obliged to pay a certain sum for child support, avoiding this obligation was not a rare practice in spite of the criminal-law protection. The motives go beyond the material interest of the one who avoids payment and often it seems like a kind of punishment that should hit the guardian of the child or the person to whom the child is entrusted for guardianship.

According to the report of the Supreme State Prosecutor in 2007⁹ there were 67 cases related to the criminal offence of failing to provide a support and 45 indictments have been submitted in total, and 8 criminal charges were dismissed. At the end of the year before these authorities bodies there were 14 unsolved cases. There are no data about the persons who have submitted criminal charges, thus we can not draw the conclusion whether this has been the done by private initiative of a party or by the guardianship authority, i.e. other body that has the obligation to report such case immediately after it gets information about the case.

The proposed measures should necessarily point out to the standards of a reasonable period for administrative actions and courts proceedings, as a way of overcoming the problem. On the other hand, the considerably larger discipline in execution of court orders in the institutions in which parents are employed is expected, so the obligation of supporting children is to be really properly established. This can also be viewed in the context of respect for a court order, i.e. maintaining procedure discipline in judicial proceedings.

Alimonies determined by the national courts in cases that the *NGO Safe Women's House*¹⁰ is familiar with are usually closer to the bottom than to the upper limit of the legally defined amount. It is very often case when the judge conducting the process, asks a parent (whereas this person is the abuser or a person that did not took care about their children during the marriage) whether it is too much for him/her to allocate 20% of salary for the alimony. In such practice we do not see a work for the welfare of children.

Because of the failing in providing child support, the child often becomes the beneficiary of the financial assistance (MOP), which relieves the parent of parental responsibilities (child's best interest is that parents take care of him and this is their duty)

Recommendations

The state should:

- **ensure the consistent implementation of the Article 281, Par. 4 of the Family law** which clearly states that in determining the amount of child support, it should be ensured that "the amount of support should ensure the level of living standards for the child which is at least as the one a parent, a debtor of support, enjoys";
- provide **effective** measures to ensure the support of the child in cases where parents or other persons, avoid payment of alimony;

Separation from parents

(Article 9)

Bearing in mind the number of procedures for entrusting a child to one of the parents, led by the Centres for Social Work in 2007, there was an increase in the number of procedures for entrusting children to one of the parents in relation to the previous reporting period, whether it is a consequence of the procedures of divorce or disturbed family relationships, as well as of increase of the number of children included in these proceedings.

In some situations, it is evident that court decision can not be waited if this is required by reasons of urgency in the treatment and protection of the interests of the child, but even these procedures must be subjected to the judicial control and its consequences in the shortest possible term (adoption of a lawful court decision, compensation of damages for illegal work of the administration authority and violation of parental rights, etc.). The law does not allow the possibility for the guardianship authority to separate children from their parents even temporarily, but it can be done only by the court in the process of restriction and deprivation of parental rights and within 15 days from the date of filing the application. Urgent intervention of the guardianship authority in this situation could be appreciated or justified through the best interest of the child as the supreme principle, especially under the assumption that in such cases there is a suspicion about the existence of a criminal offence

⁹ Resource: Supreme State Prosecutor report for 2007

¹⁰ Source: NGO Safe Women House Podgorica

to the detriment of the child. Any such decision of state authorities would be subjected to judicial control in the shortest possible time. Therefore, the amendment of laws in this area is suggested.

The state report said that there were no criminal acts of deprivation of minors in this reporting period, but it is not clear whether it is about the reported, prosecuted or effectively adjudicated cases. Report of the Supreme State Prosecutor of Montenegro said that these authorities have dealt with 13 cases relating to the deprivation of underage persons (Article 217 of the Criminal Code) during 2007, out of which number they have dismissed six charges, 3 indictments were filed, one request for initiation of the investigation was submitted, and at the end of the year three such cases remained unsolved. There were no closer information on the nature of these acts, the consequences of (taking away to abroad or not), so we can not point to a closer relationship with the standards described in the Article 11 of the Convention on the Rights of the Child.

In obtaining the general picture of this issue it is important to note the experience which shows that such cases become more complicated when these disputes have a foreign element. In such circumstances the scope of state authorities' powers is not sufficient to clarify the occurred dispute and to remedy violations of the right, for which reason more efficient international cooperation of authorities in providing international legal assistance should be achieved, particularly in terms of recognition and enforcement of domestic (Montenegro) court decisions.

As one of the examples we present the experience of the customer of the NGO *Safe Women's House* in the case where the ex-husband took the child for the weekend and then held it, contrary to the court decision. The mother of the child has reported the case to the police, the centre for social work, the court and to the *Safe Women's House*. The case came into the procedure of the High Court in 2008 and it will not be discussed before 2010 – according to the claims of the High Court officer. Until then, the child will see its mother secretly and the most likely they will both get used to this situation. It should be noted that the boy is raised and cared for by his grandmother and grandfather who live in the countryside, while the mother lives and works in Podgorica.¹¹

Recommendations

The state should:

- provide qualified personnel in all institutions that are involved in actions to protect the interests of children in the cases of disturbed family relations, as well as to perform continuous education of employees who deal with this issue;
- change the practice and sanction the non-respect of decisions of entrusting and maintaining contact with children, which directly violates the best interest of the child;
- Ensure the implementation of preventive actions and work on development of programs of protection of children that are separated from their parent on any basis;
- establish adequate records (which are not existing, or are very poorly developed) and conduct research with the aim of analyzing the causes that lead to this phenomenon;
- accompany the implementation of the new legislation by adequate trainings;

Family reunification

(Article 10)

The state report cites the right of an alien to whom a refugee status is granted and a person without nationality to get a travel document for refugees in order to travel abroad. The problems that aroused after the collapse of the former Socialist Federal Republic of Yugoslavia have caused the lack of documentation for a large number of persons and therefore the impossibility of exercising the right to civil status. Additionally, the report has pointed to the rather complex and lengthy procedures for acquiring nationality, whereas the financial problem occurs for the number of persons (amount of administrative fees and costs for obtaining documentation). This problem is particularly pronounced among the Roma population. In this way, a number of citizens are denied the possibility of obtaining travel and others documents, which prevents them objectively to exercise the right to travel and connect with the family when its members live in two or more countries.

The child deprived of family environment

(Articles 20 and 25)

The state is obliged to take care of children without parental care and children whose development is impeded by family circumstances. Application of the measure of accommodation in the institutions of social and child

¹¹ Source: NGO *Safe Women House* Podgorica

protection is present in a somewhat lower extent than family accommodation. Accommodation is being done by the competent centres for social work, in accordance with the provisions of the Law on Social and Child Protection and Family Law.

The specificity of the national environment is a kinship foster care (our foster families are almost exclusively are in family relations with the child they received in their family, in Montenegro there is almost no professional foster care), which is good for the child, but also carries a kind of risk, and also shows the relationship of our community toward the child which is in need of care, and to which foster parents are not related.

The largest number of activities related to this standard of the Convention is observed in the civilian sector but it can not fully replace the obligation of the state to create the necessary conditions. Save the Children UK and the NGO Centre for Children’s Rights of Montenegro have promoted foster care as an alternative form of care for children without parental care and piloted services of support to foster parents through the establishment of fosterers’ clubs and clubs that bring together children from foster families

In these or similar projects support of the state must be more powerful, efficient and sustainable in the long term.

Recommendations

The State should:

- ensure better promotion of foster care, specialized and weekend foster care and encourage the recruitment of foster families. make the extra effort to develop individual plans of care for each child and their innovation in dependence of the specific needs of children, by establishing a mechanism of supervision of this form of care for children with an obligation to submit annual reports to the relevant ministry
- Establish the foster care teams within the centres for social work, as a way to provide institutional solutions for this problem, with adequate security, and trainings and professional development of staff.

Periodic review of placement

(Article 25)

In relation to the periodic check of accommodations, civil society warns that it is often formal, with no real insight into the state of affairs. At the same time the existing legislation has failed to regulate more precisely this area, in the way it was done by the previous law. The previous law has more clearly defined systematic approach, through a special chapter titled as *the guardianship authority’s supervision of the exercise of parental rights* and there was explicit provision according to which the guardianship authority is in charge of supervising the exercise of parental rights. Because of the different systematic of the current Family Law, the role of guardianship authority is derived from the norms that prescribe measures to protect the rights and welfare of the child (special chapter) as well as from the norms that regulate the term of custody, jurisdiction and procedure for placement under guardianship.

Adoption

(Article 21)

The following table gives an overview of adoption, which is registered with state authorities over the past few years:

Year	Number	Domestic Adoption	Foreign Adoption	Female children	Male children
2008	11	6	5	5	6
2007	5	3	2	2	3
2006	12	8	4	8	4
2005	12	11	1	7	5

From these data it can not be concluded how much persons are interested for this type of establishment of family relationships, because for the purposes of this report there are no more detailed analysis and data on the number of submitted requests. There were also no available (or not at all) specific empirical data on difficulties in the implementation of the process of adoption. We have noticed the lack of public campaigns to popularize this form of protection, as well as of the need to continue planned and continuous education of professional staff who are

involved in adoption proceedings. Also, the State must establish a system to monitor growth and development of the adoptee, while conclusion of bilateral and multilateral agreements to precise specified international adoption for those children for which it is not possible to provide an adequate form of protection in Montenegro.

Given that Montenegro has ratified the Hague Convention on Civil Aspects of International Child Adoption, it seems advisable to do so in the case of **the Convention on the Protection of Children and Cooperation in respect to international adoption** (1993). In this way, this important area would be further and more fully regulated in terms of international standards, because the impression is that a strong stance on the exclusion international adoption is still dominated in this matter (which is also only exceptional ability, according to the Family Law), regardless of how the well-being of the child in specific cases (not just need to keep contacts with the homeland, lifestyle, mother tongue) can influence the decision on the approval for international adoption. On this occasion also, the answer must be contained in the detailed data (the number of applicants for domestic and international adoption, the relationship between the number of approved and rejected requests and the like.), as well as in the need for continuous education, not only professionals in the process of decision-making, but also a potential adopters who must understand the significance of the adoption and the legal, financial, psychological and other consequences of this action.

Recommendations

The state should:

- provide support and training to potential adopters;
- provide for system of monitoring and support to all adopted children.

Illicit transfer and non-return

(Article 11)

The lack of accurate information and researches in this field causes a special review in this report, primarily because the State Prosecutor's Report for 2007 lists a number of alleged criminal acts (13 cases in work) concerning the deprivation of a minor, but does not specify the consequences, i.e. the fact whether the taken minors have been transferred and detained across the border, which is the subject of prohibition under this Article of the Convention. Also, the NGOs members of the Coalition involved in the preparation of this report do not possess more detailed information about what has been reported by the State prosecution office about the prosecution of these criminal offences. For these reasons, the state itself should provide for analysis of criminal prosecution, according to what duties and responsibilities of the state should be determined, i.e. creation of policies and taking measures for the prevention and punishment of the phenomenon.

Protection from abuse and neglect

(Article 19)

Montenegro is still rather closed than open society, a society that is inclined to slow changes, the society which is under the large and overall impact of patriarchy and conservatism. In such a society, children and mothers are always declaratively pointed out as our "most holy." In real terms, children are still being physically punished, and many forms of violence against children are considered as common, acceptable, normal and useful - at the private level. At the institutional / social level – in institutions children are cared by staff who is poorly motivated for the necessary changes, mainly due to low salaries, thus a great number of measures for child protection prescribed by the law remain unused. Although there is a huge number of educations, seminars and training for staff in these institutions, organized by both the state and non-governmental organizations, and for the purpose of a better, and more modern and comprehensive work with children, the majority of a "learned" in these seminars is not applied in practice. How else to explain the small effects of reforms in relation to the resources invested in them?

According to UNICEF, the number of children recorded in the inter-sectoral operational teams (MOT) in Montenegro, was around 900 since their establishment in 2002. During 2007, inter-sectoral operational teams, within their work, have recorded the 138 children (compared to the total number of about 120,000 in Montenegro), which means that for every 860 children one child is abused. Bearing in mind that only the negligible number of abused children is being reported, there is a concern that the number of abuses is much higher.

There are still no valid researches on the prevalence of abuse and neglect of children, as well as on the occurrence and consequences of peer violence, although the pilot study has been conducted in some elementary schools in Montenegro. There is no mechanism of control of reporting abuse of children by the office / officers who are required to act if they hear or find out that a child is abused. National program of prevention of violence

and action plan, adopted in 2003 for the period of 3.5 years was not executed, nor is it extended. Education programs in institutions are being implemented partially and non-continuously. The Law on Protection from Domestic Violence is in the longer initial procedure and has not been adopted yet.

In this domain legislative measures of protection have been set forth (the Criminal Code and Family Law), but as an example of legal gaps we can take a situation where, according to the existing legislation, the guardianship authority or other public authority can not even temporarily separate a child from parents before the decision of the court has been made, even when this parent physically, emotionally or sexually abuses the child. Since the process of proving such acts is rather complicated and implies the court procedure for limiting or deprivation of rights of custody, the period from the time when the abuse has been reported up to the moment when children may be placed in the appropriate form of accommodation (another family or institution) realistically is very long.

Data from the Report of the Supreme State Prosecutor's Office speak about the 22 cases in connection with the criminal offence of child abuse and neglect (Article 219. of the Criminal Code), out of which 7 were unsolved at the end of the year. The number of 966 of active cases was registered in relation to the criminal offence of domestic violence - at the end of the year 329 were unsolved (Article 220 of the Criminal Code). Sometime it is difficult to observe this offence separately from the criminal acts of abuse and neglect, because it often has the same action and results, and it is possible to have a situation in which a person is prosecuted under both criminal offences. According to the available report of the Supreme State Prosecutor's Office for the next year (2008), listed offences have not been structured and they were subsumed under the general concept of criminal offences related to domestic violence, which dominate in criminal acts against marriage and family. The fact that the participation of individual criminal acts to the detriment of the child is not structured, as it was done for the previous year (2007), indicates that the prosecution has made a step back, because the statistics is one of the important indicators of a violation of individual rights of children in function of their protection and preventative action to curb this phenomenon.¹²

Recommendations

The State should:

- adopt the Law on Protection against Domestic Violence and consistently implement it;
- give a greater legal authority to social workers;
- support the work of specialized non-governmental organizations and connect services in a field of social protection;
- simplify or speed up the procedure in cases when the centres for social work initiate court proceedings;
- develop a mechanism to remove a parent / abuser from the family (rather than separating the child, such as was the practice before);
- develop services for assistance and treatment to a child - victim, as well as the necessary therapeutic work with perpetrators
- support researches, analysis and maintenance of quality records in the function of their care and preventive action to curb this phenomenon.

VII BASIC HEALTH AND SOCIAL WELFARE

Health care of children

(Article 24)

The available indicators do not show a significant change in the state of respecting the rights of the child to the health and health care, although there are obvious activities of the community to improve health system in all its segments and enhance care for the children members of vulnerable groups (poor, Roma, with development difficulties ...).

Despite a significant decrease in **infant mortality** rates in 2007, it is necessary to take into account fluctuations in the past three years for the purpose of further improvement of the health care of a mother and child, but also of impact on other, external factors that affect health, especially the living conditions and environment. Significant differences in the level of infant mortality rates in municipalities indicate the possibility of uneven access to health care. It is obvious that children in the whole territory of Montenegro do not have the same chances and opportunities for the exercise of the right to health and health care.

¹² Source: Supreme State Prosecutor Report for 2007 and 2008

Health care for mothers during pregnancy and after childbirth, according to available data given in the state report, is available but it is necessary to increase the coverage of women by medical exams, especially by preventative care, which representation is inadequate.

Supervision of the food safety is conducted by certified health care institutions and laboratories. In the observed period from 2004 to 2007 the number of food samples tested in the microbiological analysis has been increased, but also a part of irregular supplies has increased. The number of samples knitted on the physical-chemical analysis during the observed period has decreased, as well as a share of invalid provisions. The fresh fruits vegetables and other products that are sold in markets, including milk products, which are controlled in small number, are still not represented in the structure of the tested foods.

Monitoring over the water hygiene and surveillance of buildings is not carried out continuously and comprehensively throughout the state (e.g. the municipality of Pljevlja, Zabljak, Šavnik). Sanitary protection of the immediate zone and vicinity of some springs is not in accordance with the Law on Waters. Water supply network in its significant part is old, dysfunctional and risk for infection.

Researches done in 2008, for the population aged from 7-19 years, have showed that 21.2% of children and adolescents have an excessive weight. In the researches about the food habits of children and young people noted the deficit in the diet because of the lack of significant biological components (often consumption of a so-called "Fast food" which is of a large energy density, insufficient daily intake of fruit, consumption of a large quantities of sugar concentrates, which often replace some of the main meals)¹³. In Montenegro there was 2.6% of underweighted and 0.7% of very underweight children under 5 years of life. About 3% of the total number of children was registered to have insufficient weight in relation to their height, and 12.9% of examined children were overweight. Only in 19.3% of cases children up to 5 months of life have been exclusively breastfed. Children from 6-9 months have been breastfed, along with other food, in 35.3% cases and children from 12-15 months have been breastfed in 24.6% of cases.¹⁴

According to the available data, it is obvious that the **educational and advisory work related to health** is not equally available to the population of school children and their parents on the whole territory of the republic. The knowledge of children and parents about the protection and improvement of health **are incomplete** (nutrition, healthy styles of life, threatening habits, etc).

The availability of data on **reproductive health** in Montenegro is insufficient, because there are no appropriate protocols. There is unevenness of criteria for monitoring of indicators of reproductive health. Official health statistics recorded episodes of treatment, so we can not get the real picture about the health state of individuals, or on qualitative indicators of health in this area.

The prevalence of **HIV / AIDS** among children in Montenegro is measured by following numbers: 2 children from 0-15 years were registered with HIV (boy and a girl) and a boy who lives with human immunodeficiency virus has been registered within a group aged from 15-18 years. Two children have been infected with HIV through vertical transmission from infected mothers, while one child got the infection by blood transfusion of infected blood. Treatment of paediatric infection and AIDS is not possible in Montenegro, because there are no registered paediatric doses for treatment, the Protocol on control of infected and diseased, Infectious Hospital of the Clinical Centre of Montenegro (KCCG). The number of children who have lost parents due to AIDS is 2 and there is no registered HIV-positive pregnant woman in 2007. In 2006, according to the register of the Antiretroviral Therapy(ART), one pregnant woman began with the ART therapy to prevent transmission of HIV.

Protocol and guide for PMTCT has been prepared (*prevention mother to child transmission*) in collaboration of the Institute of Public Health (IPH) and the Clinical Centre of Montenegro and with the technical support of UNICEF, but the strategy has not been adopted yet. Researches conducted by the Global Fund to fight AIDS, tuberculosis and malaria (GFATM), and which were related to risky behaviour related to HIV among vulnerable population, have included population of youth aged from 18 to 24 years, so the population of children has the least information about the issue of attitudes and knowledge related to HIV

National Strategy for Behaviour Change Communication (BCC *Behaviour change communication*) for the prevention of HIV among adolescents under the greatest risk MARA (*most at risk adolescent*) is in the process of drafting an action plan and the incorporation in the new National Strategy for HIV.

High interest for visits to reproductive health centres, points to the existence of the need for providing advisory work on the entire territory of Montenegro, which is not the case so far.

Poverty, poor, unhygienic living conditions, malnutrition and discrimination from the birth mean also the poor **health of RAE children**. The problem of evaluation of the actual state of health of Roma children is the lack of

¹³ Source: National Strategy of Health safety of the Food, 2006

¹⁴ Multiple Indicator Cluster Survey – Monitoring the situation of children and women, 2005.

official data on morbidity and mortality, which are not recorded by ethnicity. Although we do not know much about their health, it is clear that the health of Roma children is much worse than the health of children of other ethnic groups. The health status of infants is endangered by the nutrition and inadequate health care of the pregnant woman - mother. The data show that in 84.9% of RAE households there is a problem of non-secured food, at 68.1% there is a problem of non-secured food and hunger, and compared with 7.1% in the majority of the population, 47.2% of Roma children has a problem of non-secured food and hunger¹⁵.

According to available data from the region, mortality rate of Roma children under the age of five years, is three times higher than the national average rate. The Roma children suffer from diarrhea three times more often than children in the total population and four times more than others suffering from respiratory infections.¹⁶ Their access to health care has aggravated by social exclusion and discrimination. Illiteracy and lack of information of parents prevents them to provide proper health care and preventive care to their children.

In relation to the gender, it can be noted that the Roma girls are more vulnerable than boys. They get marry and born children as a very young, without the education necessary to preserve their own health and the health of a future child, they are very often exposed to various forms of violence and discrimination that threaten health.

Social isolation of children, poverty and the lack of education encourage risky behaviour related to the abuse psychoactive substances, sexually transmitted diseases, and HIV infection and other conditions and diseases that endanger life and health. Roma children are at an increased risk from delinquency behaviour and crime in comparison to other children in the community. It is an additional risk factor for physical and mental health.

The problem of municipal and other waste is not resolved in satisfactory way, although the situation continued to improve. In the absence of regulated landfills municipal and hazardous waste (infectious, toxic, sharp objects) continue to be deferred along, whereas the total amount of waste becomes hazardous waste.

Recommendations

The state should:

- provide free health care at all levels for all children, especially for children who have no documentation (RAE and displaced persons);
- increase and facilitate access to health care at all levels;
- ensure the implementation of the Protocol on the storage of medical waste;
- facilitate the implementation of continuous education of parents and children about healthy lifestyles (including nutrition, threatening habits, etc.);
- provide for standardization of procedures in order to respect privacy of the child

Children with disabilities

(Article 23)

According to the Law on Social and Child Care, children with disabilities exercise the basic rights from the field of social and child protection, including: family financially secure, support for personal disability, care and support of another person, accommodation in an institution, the right to assistance for education, right to the financial support for children (a supplement for children). These rights are exercised through amounts which are fixed and symbolic and does not meet the basic needs of children with special needs and do not follow the increase in cost of living. Apart from the need to increase cash benefits, special attention should be paid to families who have a child with severe disabilities and families with two or more children with special needs.

Rights of this category of children are further regulated by the Regulation on medical indications for the realization of rights set forth by the Law on Social and Child Protection. This Regulation is very restrictive, so the right such as are now, are being exercised by a very small number of children with special needs, even they meet the criteria defined by the Regulation or Law. The profile and composition of the Commission which make assessments and issues decisions on the realization of these rights, contributes in the great extent to this situation. In Montenegro, there is only one, the National Commission and it makes assessments of children and adults with disabilities. Members of this commission are not specialized experts who can, in a qualitative way, evaluate the needs of children with development difficulties (pediatricians, neurologists, physiatrist etc.), so children are not able to achieve the rights they are entitled by virtue of their developmental disability (handicap) that is acquired by birth or it appeared before their 18 birthday.

¹⁵ Position of Roma in Yugoslavia (Serbia and Montenegro), <http://www.ric.org.yu/Podaci/polozejromaujugoslaviji.htm>, Under the Risk: Social Endangers of Roma, refugees and internally displaced persons in Montenegro, UNDP, Office in Podgorica, 2006.

¹⁶ To break a chain of exclusion of ROMA children in SEE, UNICEF 2007.

Realisation of the right to material support to the family, the right to personal disability, the right to care and support of another person, the right to supplement for children and the right to rest and recreation, which derive from the Law on Social and Child Protection, were impossible for people who do not have nationality of Montenegro (parents who have the status of refugees from 1992 or later, live in Montenegro continuously for more than 5 years, and filed an application for nationality).

I was extremely difficult to find a job for parents who have been treated as refugees, except in "the grey market" because they do not have nationality of Montenegro. This further hampered the living conditions of children with disabilities. The right to liaison and recreation have been denied to the children that move difficultly and children users of wheelchair due to the lack of adjustments of objects to the needs of these children and existence of physical barriers (stairs at the entrance to buildings, rooms at higher floors, narrow doors on the toilets and bathrooms, the lack of elevators) - as for example in the resort at Ivanova Korita (Cetinje).

Realization of the right to health care of children with disabilities is not adequate to their needs in all areas of Montenegro. Underdeveloped services of early detection, rehabilitation and stimulation at the local level is a factor that limits children with disabilities to exercise their rights guaranteed by law.

A major problem in the whole Montenegro is the lack of specialist dentists who are trained for intervention when it comes to children with disabilities, especially children with moderate and severe intellectual disabilities, where this problem is very pronounced.

Regulation on exercising the right to use the services of the Rehabilitation Centre Igalo (the only institution in Montenegro, where children can achieve full rehabilitation), limits these rights only to some diagnosis (and this happened once in 2 years or one per year), it is not based on the needs of children, and parent as a companion is not entitled to a paid stay after the child is six years old, regardless of the degree and severity of developmental disability.

A special problem is the procurement of medications, which often must be purchased in private pharmacies because there are no such medications in public pharmacies. This problem is financially more difficult for the families of single mothers or families with two or more children with development disabilities. It would be optimal that all the necessary medications and orthopaedic devices for children are free of charge.

Centres for support to children with special needs include the work with children up to 15 years, but they should include children of the age up to 18 years, which is not the practice in Montenegro.

Institutional care of children with special and severe disabilities in Montenegro is performed in the institution Special Institution for Children and Youth "Komanski most" in Podgorica, where the 14 children are placed there, of which nine are boys and five girls. 27 children with such problems (15 boys and 12 girls) are placed in the institutions of neighbouring countries (Serbia, Bosnia and Herzegovina), although they are citizens of our country.

Institution for accommodation of children with special needs, "Komanski most" is an institution in which children live next to adults with severe intellectual disabilities, and in this institution there are no programs of education and upbringing of children. This facility is a serious risk of violations of the rights of children with special needs, which is found in several reports, out of which we are citing the last report of the Committee for the Prevention of Torture of the Council of Europe which has been made on a basis of the findings of the visit to this institution performed in 2008.

In this institution, according to the allegations of a number of parents, the abuse (physical, sexual) is present, which is very difficult to prove because these children are not able to testify, the parents have limited access and there is no adequate supervision and control over the work of this institution.

Recommendations

The State should:

- create databases and records of children with special needs at the local and national levels.
- develop services that provide services of early detection, rehabilitation and care at the local level for children with special needs.
- increase financial benefits for care and assistance of another person, personal disability and children's allowance;
- create a connection between health, social and education system in order to ensure quality monitoring over the exercise of rights of children with disabilities.

Social protection and services and facilities for child care

(Section 26 and Section 18, paragraph 3)

Regarding the legal obligation of parents to support children, we should mention that in Montenegro a system of determining a household's economic strength has not been developed yet, and the Regulation on social carton ("Official Gazette of RM" br.41/01) has not been fully implemented. It is an important basis for implementation of measures of family support and child development indirectly. Also, the discrepancy is evident in the evolving capacities of certain regions in Montenegro, although they are not formally defined, and the social stratification of the population and especially vulnerable groups (RAE, displaced persons and refugees, unemployed, technological redundancy).

Realisation of fundamental rights to social and child protection, as well as forms and measures of social protection and social work services the State has, to the greatest extent, entrusted to state agencies - social work centres, which exist in almost all municipalities in Montenegro. In the institutional terms there is no pluralism of providers of social services or a range of such services which should cover needs of users. This means that all problems within the local community are directed towards the centre for social work that operates within the central government.

"The system was mainly focused on the shortcomings and the separation of the users with an identifiable risk, and their placement in institutions. In this way, users are often separated from their place of living, isolated from family and relatives, which was stigmatizing for users and led them into complete dependence on social services. When talking about the dependence on services the similar situation is also with users of material supplement. Namely, due to lack of programs of support for families in crisis, late recognition of risk, customers are rarely in a position to overcome the situation in which they found themselves, and thus become fully dependent on social services, which often results in the trans-generational transfer of poverty.

Standards of services in the social welfare system almost do not exist, the conditions under which different services can be provided - a system of accreditation and licensing, are not prescribed. They did not adopt or specify elements of the code of professional conduct. The existing database of users is insufficient and not adequately linked to the base of other systems.

The system of inspections in the social protection system has not been established in an adequate manner"¹⁷

These allegations are sufficient and so clear that they do not require special comment, but the question of what has been done on this important document. In this way it is pointed again to the discrepancy between the strategic documents and realized goals, as well as to the lack of reports on their implementation, which is repeated in several areas of concern for the realization of the rights of the child.

Due to lack of data on the number of children, it can not be determined how many children to whom these rights have been denied. When it comes to children with disabilities and their enjoyment of the right to personal disability support and the right to care and help of other person, we have to point out that there is a great number children to whom this right has been denied because it has not made a list of children, and there are no relevant data base.

The standard of living

(Article 27, paragraph 1-3)

Estimates of poverty in Montenegro are based on the newly established national poverty line which was established in accordance with the methodology recommended by the World Bank. Analysis of the State report reveals that 11.3% of the population, or nearly 71 000 people of Montenegro were poor in 2006. As a general problem that is indicated in the national report we should mention the lack of valid statistical data on children and especially vulnerable groups. It follows the conclusion that the stated data on poverty are based on a more formal and the available data, not on the real situation. In addition, relevant data indicate that in Montenegro at the end of 2007, 156 408 persons were employed, (166,221 in 2008), with an average salary of 497 EUR (609 EUR in 2008).¹⁸ Data on the unemployment rate suggest that it is moving twice more in the areas of the Northern region in Montenegro in relation to the southern region, which once again speaks about the unbalanced development in the country.¹⁹ According to the same data, the total number of unemployed at the end of the mentioned year is above the 31 465 persons. Transitional issues and privatization in Montenegro have further complicated social picture in Montenegro, which will be later developed into a sharper social conflict at the time of the global economic crisis.

¹⁷ Source: Government of Montenegro, Strategy of Development of Social and Child Protection System, 2007

¹⁸ Source: Annual statistics, *MONSTAT*, 2008.

¹⁹ Source: Employment Bureau Report 2008

Indicative is the fact that in Montenegro in 2007 19,570 children are entitled under the financial security of the family that means that it may be children from families of persons unable to work or capable of such work if it is a pregnant woman, single person, parent that supports minor child or an adult child incapable for work, in which the disability occurred before the age of 18 years of life, a person who has completed training in the education program with customized performance and additional professional help or special education program, a child without parental care to the establishment of employment for indefinite time or for a limited time longer than six months.

Also, the right to financially secure is exercised by families which average monthly incomes from the previous quarter do not exceed the basis for exercising the right to:

- Single-family € 50;
- A family with two members € 60;
- A family with three members € 72;
- A family with four members € 85;
- A family with five or more members € 95.

To some extent these data are contradictory, so the establishment of the actual situation is possible through much deeper and more analytical researches, which would give an accurate picture of economic and social status of families in which the child lives.

There is foreseen support fee for the equipment for the newborn child which a parent can request later up to the first year of life of the child. The fee is paid once, and it is in amount of 100 EUR. Compensation, on the basis of birth of a child, for persons who are registered at the Employment Bureau and full time students, is carried out till the first birthday of the child and over the centre for social work. Fee is in amount of 25 EUR per month. By comparing these amounts with the average salary in Montenegro in 2008, we get information that one-time fee for the birth of a child amounts to 16.4% of the average monthly salary in the country, the monthly fee for newborn child of the unemployed persons and students (up to age of one year life of the Child) amounts to 4.1% of average monthly salary; the lowest child benefit supplement is about 2.79% of average salary in the state, and so on. From these data, as well as due to the fact that the price of the consumer basket in Montenegro exceeds the average monthly salary in the country, it is clear that these amounts are insufficient to affect, in a serious way, the improvement of standards of families with children.

It is also interesting fact about the state subventions for the supply of free sets of textbooks for the children whose parents are users of financial support to family. In the 2005/06 year it was necessary to allocate in an average amount of 35.68 euros per a child for such children, pupils in elementary schools, in the school year 2006/07 this amount was 60.51 euros, and for the next year it was € 55.85 per kit. For the same purpose in 2008-09 an amount of 1.306 million Euros is provided in the budget of the two line ministries, education and social care. From these data it can not be concluded whether this is related to the improvement of the quality of services of social services sector or, more likely, increasing the price of books as a new attack on the living standards of families with children in general, and not just those who are users of the financial support to family. These even more, if we know that the primary education, according to the constitutional guarantees, is compulsory and free of charge (Article 75. of the Constitution).

Families that have come to Montenegro as refugees or internally displaced persons, are faced with even bigger problems when it comes to living standards and material existence. The most vulnerable members of the family - children suffer these consequences in the biggest extent.

Children of refugees are not receiving financial protection in Centres for Social Work (CSW) on the basis of the Law on Social and Child Protection, since the payment of compensation on this basis, is linked to the nationality of Montenegro.

Recommendations

The State should:

- scope with social and child protection (primarily with cash benefits) as many families.
- change the strict rules related to nationality (which is a precondition for achieving financial security from the centres for social work) because they lead to clearly expressed discrimination of children from refugee families
- strengthen the cooperation of state and non-governmental sectors in order to improve the situation of vulnerable groups

VIII EDUCATION, GOALS OF EDUCATION, LEISURE AND CULTURAL ACTIVITIES

The right to education

(Article 28)

Education reform in Montenegro, has projected changes in many segments of the education system, starting from financial investments and equipping of schools, implementation of new programs and relevant textbooks, and ending with modern approaches to teaching and learning.

The amount of € 55,102,978 has been invested for this purpose in the period from 2003 to 2007 for this purpose. The funds have been provided by: USAID, CARITAS, EAR, MIPIM, the World Bank, the Union of local self-governments; Credit from Hungarian government, the Directorate of Public Works.

During the reporting period, the following objects have been built:

- Gym in the High School "S. Škerovic" in Podgorica;
- Commercial School "Mirko Vešovic" in Podgorica;
- six elementary schools;
- seven regional departments;

Reconstructions and upgrades to existing facilities for the purpose of expansion of a space capacity have been done at 13 primary schools and 5 high schools. In a period from 2003-2007, 56 primary and secondary schools have been reconstructed and adapted. Almost all schools in Montenegro have been equipped with furniture (existing or renovated). Heating has been done in three schools: Podgorica, Morakovo, Žabljak. All pupils that go to school under the new reform programs, have been enabled to acquire basic ICT skills through the class subject of "engineering and computer science", and their teachers were trained for the application of ICT in teaching. All schools included in the reform of the education system, according to the plan, have been equipped with modern computers for teaching purpose. During the school 2007-/08, by means of Spanish loans, the technical requirements in 5 schools were met through the installation of electronic networks in the classroom, LAN network throughout the school, provision of computers in the classroom and administration, printers, projectors and accessories. The value of the loan for these purposes was amounted to € 2,430,000. Alarm systems in the value of € 205,000 have been installed in 75 schools.

Notwithstanding the significant investments in building of new and adaptation of existing schools, we can claim that teaching is still done in two, and in some schools and in three shifts (morning, afternoon and middle), in the classrooms with a large number of students and this exceeded the allowed and projected standards in a great extent. If we add to this, the enrolment of children with disabilities into regular groups, we cannot speak about the quality education services provided in some cases.

Thus, we can freely say that, at all levels from preschool to the higher education we have noted the lack of spatial capacities.

The official gross rate of enrolment in elementary schools is about 98%, and the dropout rate is below 1%. Although the overall percentage of children who complete primary school is 98%, at the national level, the data on Roma children are still worrying. Most Roma have no education or have completed only a few years of primary school (55%), and it is estimated that only 10-20% of those children acquire basic education, although about 38% of Roma of primary school age have been enrolled in primary school. The phenomenon of leaving the school among the Roma population is the result of a number of factors, out of which, according to some studies, poverty is still dominant. The annual cost of education in the domicile non-Roma families is amounted to about 600 euros, while Roma households are able to allocate only 90 Euros per year for this purpose.

Although the Law defines the primary education in Montenegro as a free of charge, in practice it is linked to a series of investments, including expenses for books, notebooks, supplies, private lessons, transportation and the like. We will use the findings of *monitoring and evaluation of reform from the perspective of parents*²⁰, who, as it turns out, really "invest" in the education of their children. In fact, all parents who have participated in the study, 2300 of them from 47 Montenegrin schools have agreed on the issue of very expensive textbooks. They also have also pointed out that many textbooks and, in particular, reading materials are missing and need to be copied.

Private lessons are also a serious expenditure of families who educate their children. Although there are no extensive researches on this topic, the data of the Centre for education / partnership of parents and young people (CEPRIM)²¹ indicate that out of a total number of 2697 respondents from secondary and primary schools in

²⁰ Association of parents of Montenegro

²¹ Centre for education and partnership of parents and youth

Montenegro, 26,5% of high school students and 28% of primary school students take private lessons. The price of private teaching hours is, on average, and depending on the subject, from 7 to 15 Euros.

When it comes to extracurricular activities, workshops, excursions, lessons of basketball, football, dance, etc., parents have also largely agreed that the prices of these activities are very high, given that they are organized by someone out of the school.

Data obtained through the research *Corruption in education*, performed in the organization of the NGO CEPR, with support of the Ministry of Education and Science and within the Anti-corruption initiatives, were defeating, and this lead to the conclusion that corruption is present in education at all levels, and not in the negligible percentage.

Non-governmental organizations have taken the initiative and piloted the service of support to children through the project "Assistants in the education" for children with disabilities which are educated in the regular system, according to an inclusive model. This kind of support included 25 children. (the NGO "New Chance in Novi" from Herceg Novi, Union of Associations of Parents of Children with Developmental Disabilities "Our initiative" from Podgorica and NGO's "Ray of Hope" from Pljevlja).

Children with disabilities	Preschool education	Primary education	Secondary education	Special Schools
in total	185	1591	196	443

Report *Monitoring and evaluation of reform from the perspective of parents* gives a similar assessment of inclusiveness, whereas parents of the children with special needs have made remarks on the number of students in classes, no compatibility of classrooms to the needs of their children, starting from the inability of entry and movement through the school because of architectural barriers, to the school toilets, which according to their grades do not meet the needs of these children. At the focus groups they have expressed the opinion that refers to the fact that there is no coordinated work on the IEP's (Individual Educational Plans for each child), but that everything is leaved to disposal of a teachers who often "wander" in finding ways to work with such children.

The Strategy of inclusive education, among the shortcomings of the previous application of inclusive education (up to 2008), has pointed out that a great number of faculties for education of teachers and technical staff have no the subject *"Methods of inclusive education."*

Goals of Education

(Article 29)

Reform of the education system is designed with the goal that all children have access to basic education, that they can develop their abilities and interests to the fullest extent, to gain knowledge and skills that will enable them to join the society and contemporary mainstream of life.

According to the plan of the nine-year primary school children have received the following novelties: the subject of civil education, nature and technology, biology with ecology, techniques with IT, foreign language as from the first grade as an optional subject.

They also got optional subjects, which they can choose according to their own interests (sports, dance, chess, healthy lifestyle, interesting mathematics, computer processing and design of the text.).

The introduction of such great number of programs given to the choice of children has further encumbered the children, and performance of teaching in shifts, because in some schools there is almost no enough time for ventilation and cleaning of classrooms between the two / three shifts.

We also believe that reform programs are not unburdened in sufficient level; that the new textbooks are written in a modern high style and in sophisticated language that is not enough understandable/ appropriate for children. We are still speaking about the schools of "memory" and not about the school of "Thoughts" to which we should strive, according to the planned reform

It is undoubtedly that the reform the education system has been very well designed, but there is also a fact that we do not have enough space, or professional capacities, that we are not open enough to accept the novelties (there is a faint resistance, especially among teachers who have worked in the classical method of education for a long time); budget allocations for smooth reform are insufficient; the quality of the inclusion itself is questionable (we primarily think about the individual plans and individual work with children included in the program of inclusive education and their achievements)

Parents, through their participation in the parents' councils, have been given an opportunity to, through suggestions, observations and complaints, affect the quality of life and school work, attitude towards children, the quality of the educational process and the like.

What remains as a difficulty is the monitoring of implementation, especially when it comes to the application of modern methods of work and learning, assessment as a continuous process of observing and recording children's achievements and commitments, the realization of supplementary and additional training, work of various sections ..

The right of children to leisure, recreation and cultural activities

(Article 31)

The right of children to leisure, recreation and cultural activities is planned annually in all schools. Similar with the situation with the aims of education, we here have the problem of objective evaluation and indicators of regular, continuous work.

In all schools, formally there are various sections, the extra-curricular activities have been performed, there are sports clubs. From the survey conducted among students we can conclude that such activities are not present in all schools in a way that ensure their more qualitative implementation. In order to eliminate the possible dilemma of existence and quality of these activities it is necessary to make a proper analysis based on applied experience and attitudes of students. It is necessary that the state in this process has a much more active role and encourages such researches, instead it gets satisfied with the formal reports that (regardless of their validity) have usually been sent by the school administration, and on which basis the indicators of success and work of the school institution have been recorded. For the purpose of creating an objective picture, the external indicators such as participation and won prizes in competitions at home and abroad, media reports, observations of the civil sector and similar should be taken into account. .

Recommendations

The State should:

- Provide further material investments and modernization of schools, teaching and learning;
- provide architectural adaptation and adjustment of working conditions to the needs of children with development difficulties;
- provide an interactive work in the classroom based on children's thinking and logical reasoning;
- ensure that the textbooks are understandable for children;
- provide further construction of new school buildings for the purpose of a relief of school with a large number of students;
- work on continuous training of teachers in relation to some aspects of modern teaching (assessment, active methods, ..);
- facilitate and strengthen research work in education;
- more involved students and parents' councils in the school life;
- provide for the work of expert teams to work with children with risk behaviours;
- provide a transparent database

IX SPECIAL PROTECTION MEASURES

Children belonging to refugee population

(Article 22)

Refugee children²² in Montenegro have the same status as their parents and thus everything that relates to the displaced population in general also applies to children with the same status.

In Montenegro, there are no precise data on the relevant structure of the displaced population in relation to the nationality of the country of origin. It is assumed that the majority of them have the nationality of the Republic of Serbia. Thus the regional cooperation and exchange of relevant data is more than necessary in order to find a lasting solution of the problem of displaced persons in Montenegro.

²² All person that come to Montenegro as refugees or internally displaced persons from Croatia, B&H and Kosovo, have the temporary status of "displaced persons" till the revision of their status.

According to the data from the Government Office for the care of refugees from May 2009²³ in Montenegro, 8474 displaced persons from Bosnia and Herzegovina and Croatia and 16,129 persons from Kosovo have residence in Montenegro. According to the international standards, all these persons should have the status of refugees, because they sought protection in Montenegro due to a conflict that occurred at the territory of the former Yugoslavia.

Countries of origin of these persons are internationally or bilaterally recognized states. Until the revision, persons from Bosnia and Herzegovina, Croatia and Kosovo have a temporary status of "displaced persons". In recent years the number of those who opt for voluntary return is significantly decreased. During 2007, 2 persons (1 family) have been returned to Bosnia, and 7 persons (3 families) in Croatia, while in 2008 year only 5 persons have been returned to Bosnia-Herzegovina (UNHCR data).

Undefined legal status of displaced persons is a major obstacle to their successful local integration. The Government of Montenegro, in 2005, adopted a *National Strategy for permanent solution of the problem of refugees and internally displaced people*. However, the Strategy has failed to attract expected funding and support from the international community, so the time provided for the implementation of the Strategy Action Plan has expired with no visible results (March, 2008.).

However, the Government of Montenegro has taken some positive steps to solutions / clarification of the legal status of persons from Croatia, Bosnia and Kosovo, first through the Law on Montenegrin Nationality, Law on Foreigners, and also through the beginning of the revision process, in accordance with the Article 75 of the Law on Asylum.

Currently in Montenegro there is only one person with recognized refugee status under the Law on Asylum.

According to European Union standards, each state must have a reception centre for asylum seekers. Centre for the accommodation of asylum seekers in Spuz has started as a complex of three pavilions on a total area of 5000m². At this moment, the part of the land has been transferred for the construction of the Centre for the accommodation of foreigners, which will be a separate entity, and the update of the project documentation is in progress now, with the main aim that the facility for the reception of asylum seekers should be finished as soon as possible, with acceptable financial resources, and also with fulfilling all required standards.

Recommendations

The State should:

- cover with its social, child and health care all the children of displaced persons born at the territory of Montenegro until the resolution of their status, draft by-laws, especially those related to the laws on asylum and nationality;
- strengthen cooperation of government and nongovernmental sector in order to improve the situation of vulnerable groups;

Children in armed conflicts

(Article 38)

Although the following observations are related to the regulation adopted outside the reporting period, due to their importance, we have to point out that the Law on the Army of Montenegro ("Official Gazette of Montenegro" br.88/09) in its Article 33, foresees the requirements for entry into military service, which is of professional nature in Montenegro. This provision has not established threshold for entry into service, and it can be concluded that it implies a general limit of the capacity or the age of 15 years of age. Bearing in mind that Montenegro has ratified the Optional Protocol to the Convention on the Rights of the Child in Armed Conflict, we thought that this Law has failed to more closely regulate the conditions of entry into military service, both in terms of age, and in terms of prescribing the express consent of a parent at the conclusion of the contract enters into the service of persons under 18 years of age. Also, the law had to determine the precise norm which excludes this category of direct participation in hostilities.

Children in conflict with the law

(Article 40)

Juvenile delinquency is a problem typical in many countries, whereas Montenegro is no exception. What is particularly worrying is the increasing level of violent behaviour with elements of recklessness and arrogance, and

²³ Source: www.zzzi.co.me/index_files/Statistika.htm

increasing juvenile delinquency in relation to total crime in the country.²⁴ Minor offenders represent 6.5% of the total number of registered persons for crimes committed. Earlier stereotypes of patriarchal family based on traditional national values of the time have been challenged. During 2007 the police registered 580 crimes committed by minors 475. By the age structure, the most numerous are the older juveniles (16-18 years) - 51.1%, then the younger juveniles (14 to 16 years of age) - 41.4% and at the end, children up to the fourteen years of age - 7.3 %.

Statistics show that juveniles are perpetrators of mostly property crimes in 62.7% of cases. Thus, juveniles committed 256 criminal acts of the severe theft and 81 criminal offences of theft. Apart from these, 48 juveniles have committed offences of light and serious bodily injury, 15 criminal acts related to drug trafficking, 14 criminal acts against the safety of public transport, 13 criminal acts of destruction or damage of someone else's stuff, 10 crimes of confiscation of motor vehicles.

The report of the Supreme State Prosecutor's Office points out that during **2007**, 638 minors have been reported, whereas it can be noted that, apart from the capital Podgorica (261 persons), juvenile crime is especially pronounced in the cities of the northern region (Bijelo Polje 58 minors, Pljevlja 47), and South region (40 minors Bar and 43 in Kotor. The report concludes that criminal charges filed by the Police Department meet its quality and the criminal charges submitted by a damaged person or a number of legal entities do not meet this quality standard.

By acting upon the criminal charges filed, state prosecutors brought decisions on rejection toward 80 juvenile perpetrators, they demanded initiation of the preparatory process in 333 cases, while they have submitted proposals for the imposition of educational measures and suggestions for punishment for 513 perpetrators. During the reporting year, 10 minors have been punished, 18 minors have been sanctioned with institutional measure and for 360 juveniles, out-of-institution educational measures have been imposed.

According to the prosecutor's office, juvenile perpetrators have usually committed criminal acts against property, against public order and peace, against life and body, the security of public transport, as well as crimes against public health and payment system.

In the **2008** the Police Department reported 418 crimes committed by 372 minors. In 2009 a smaller number of acts (388) was recorded, but there was significantly more perpetrators - minors (480).

Supreme State Prosecutor's Office report for 2008 stated that there was a reduced number of reported minors (568), with evident reduction in the area of the capital - Podgorica (151 persons) and with more or less the same parameters of the movement of juvenile crime in other specified areas. Rate of the juvenile crime in relation to the overall crime was almost the same as it was in previous years. Prosecution points out to the reduction in the number of juvenile perpetrators of criminal acts to 9.98% and irresponsible juvenile perpetrators of criminal offences to 43.47%. In the reporting year, 11 juveniles were convicted, 14 juveniles were sentenced to institutional and 361 minor to out-of-institution educational measures. A particular problem presents a lack of facilities for the execution of criminal sanctions where the problem is often a lack of space and, analogous to that, inadequate treatment of convicted persons in the juvenile age. Program for Transformation of the Centre for Youth "Ljubović" has not yet rendered a decision of this problem, both in institutional, and in terms of personnel (in terms of specialized trainings).

Majority of criminal acts committed by juveniles was related to the acts against property, against life and body, against public order and peace, against the security of public transport, against payment transactions and corporate affairs, against public health. In terms of crimes against public order and safety, there were 58 minor perpetrators reported to the State prosecutor. Minors have usually carried out criminal acts of violent behaviour - in 52 cases, so, with outstanding cases from previous periods, for this criminal act there were 66 charges against juvenile offenders in procedure before the courts.

The assessment of criminal prosecution policy states that only a thorough analysis of the structure of crime and offenders can serve as the basis for the assessment of whether the criminal policy of the courts is mild or not. This is probably the most accurate indicator of the lack of fundamental analysis in the field of juvenile justice, because not even in the data on the work of the courts there is no thorough approach based on an analysis of court decisions in Juvenile cases. As causes for the violation of laws and commission of criminal offences, the state report cites the following: poverty, lack of possibilities for education and employment, peer pressure, lack of parental guidance, and this, in principle, may be true, but it does not have a foundation in the relevant sociological research and above all, judicial analysis.

In addition to that, in the prosecution report there are no data on the application of diversion measures, which is an institute foreseen by the criminal law. Therefore the purpose of training a number of mediators trained and specialized for mediation between victims and juvenile-offender crime become questionable.

²⁴ Data from the Police Directorate Report for 2007.

During 2008 the basic courts in Montenegro have processed 385 juvenile offenders' cases, whereas the report does not contain data about the structure of crimes by type and age of the perpetrators.

For the assessment of juvenile crime trends, we should take into account also a number of misdemeanour acts, because in this field, often mistakenly called the zone of petty crime, the first forms of deviant behaviour of minors are born. According to the Police Department, participation of minors in the total number of misdemeanour acts in the field of public order and peace is 5.1%, i.e. 171 minors appear as perpetrators of these offences.

It is obvious that the presented data are inconsistent with the State report (regardless the specified sources of data), which speaks for itself about the need for a better coordination between different government bodies for the purpose of a proper assessment of the situation in juvenile justice. Also, for the proper approach in taking preventive and repressive measures against juveniles in conflict with the law, it seems that is necessary to adopt the specific legal text, which, among other things, should include the obligation to collect statistical data and records on juveniles in conflict with the law. Another method would be establishment of the appropriate statistical methodology for monitoring the phenomenon within the Judicial and Prosecutorial Councils. Finally, the only high-quality statistics and analysis of juvenile offenders cases can be a reliable indicator for taking appropriate measures toward and in benefit of minors in conflict with the law.

In the domain of the work of courts a contentious issue is also the implementation of the standards of the Convention on the Rights of the Child in the process of making all decisions concerning the care of the child's best interests and other rights in the proceedings. The same question is related with the development of the new law on juvenile justice that would have to take into account all the standards of the Convention and the UN Rules on the Treatment of Juveniles²⁵

The current organization of the judiciary does not foresee a specialization of holders of judicial function in terms of working with minors. The similar situation is with misdemeanour authorities, as well as with the organization of a state prosecution. We think that specialization and training of holders of judicial function judiciary in the field of juvenile justice have to be continuous and sustained, focused on specificities of working with juveniles in conflict with the law and the adoption of specific knowledge that would enable a proper treatment of this category. In such way, the judicial authorities would acquire necessary sensitivity in relation to juveniles, selection of the types of procedures that would in the best manner achieve the purpose of treatment of children in conflict with the law and the final decision for the type of sanctions which should be applied in any particular case in order to achieve the purpose of punishment .

Particular attention in the future work of judicial authorities should be paid on the guardianship authorities, because for the several times it was stated that their role is just formal in the court proceedings. The regularity of work of the guardianship authorities would have to be based on continuous monitoring of behaviour of juveniles in conflict with the law, including his/her family status. Such conclusion has been derived also from the nature of the crimes committed by minors, because the police prosecution reports state that a large number of offences has related to serious property offences (aggravated theft, robbery, etc.)..

Recommendations

The State should:

- urgently adopt the Law on juvenile justice with emphasis on restorative justice and alternative forms of treatment
- ensure the presence of professional staff (social workers) in the prosecution and the court
- predict the obligation of judges to monitor the implementation of imposed measures through the control sessions, reports of social work centres and residential institutions

Child labour

(Article 32)

Although there is no reliable data on the prevalence of a child labour, and their exploitation at work, partly because of closeness of family communities when this issue is at stake, and even more due to the lack of empirical researches, the fact is that some children perform tasks which are not appropriate to their age or psycho-physical abilities. Also, it should be noted that in Montenegro there is no awareness about the so-called informal work which also reflects the working engagement of children (e.g. child taking care for younger brothers and sisters).

²⁵ Beijing Rules on Minimum standards for juvenile justice ,Riyadh Guidelines for prevention of juvenile justice; Rules on protection of juveniles deprived of liberty; Tokyo Minimum rules for the alternative measures to the institutional treatment

When it comes to students of secondary vocational schools, in the area called the practical work, they are tied with other employees, so there is a question of how much they have been provided with protection at work and in which level it is really insisted on the consistent respect for this right. In this situation, the authorities of inspection of work safety should have a very important role, and they have to improve the control over the application of relevant legislation and to sanction any irregularities related to child labour. This particularly applies to the craft services sector, in which the determined inspection activity has not been observed.

One of the most present phenomenal forms of abuse of children is begging. The general public often faces with the most common way of abuse of Roma children for the purpose of begging, through which they acquire means of subsistence. There are no official figures indicating the extent and prevalence of this phenomenon, but based on information provided by nongovernmental organizations dealing with these children, as well as representatives of centres for social work and police, who carry out sporadic activities, it can be concluded that this phenomenon is more pronounced during the tourist season in the coastal municipalities, and that Roma children who beg are not citizens of Montenegro, but they have come from the neighbouring countries.

The phenomenon of Children's begging on the streets is usually related to the causes of poverty. Children accepted to work, because in this way they help the family to survive and meet their family's expectations. There is no law that deals with street children; the state has failed to protect children belonging to the most vulnerable groups of population. These children are victims of social inequality, and inadequate parental care, neglect, maltreatment and abuse of children.

What is particularly disturbing, and what it can be concluded from the attention of the average viewer, is organization of the begging by persons who control such working activities of children. According to available data, there are no examples of prosecutions of persons who most likely drive the children in such work. The way in which this is done is brutal and it is not rare that children of younger ages are used for begging, who do not only beg, but also are exposed to the additional risk, as they beg at the busy roads and intersections with high traffic frequency.

Sexual exploitation, abduction and child trafficking

(Article 34 and 35)

Phenomenon of human trafficking is a regional phenomenon, and in this regard Montenegro has also taken actions to suppress it, which in itself speaks about its presence. There is no unique methodology register that could give the answers to the question of the origin of this phenomenon, perpetrators and victims. In Montenegro, the Working Group for the implementation of the National Strategy for Fight against Human Trafficking and the Office of the National Coordinator are responsible for the monitoring of this phenomenon. Activities are conducted in accordance with annual action plans.

According to available data, in the period from 2006-2008 the Police has filed six criminal charges against 24 persons, out of which number, one was against a person for the criminal offence of the sale of children for adoption, and against four persons for mediation in prostitution, while others have been subsumed under the criminal act of trafficking in human beings.

In 2006 the competent prosecutors have filled indictments against 6 persons for a criminal offence under the Article 445 of the Criminal Code (trafficking of children for the adoption), and the indictment against one person for a criminal offence of trafficking in human beings. During 2007 three persons have been accused and in 2008 - 9 persons.

During the period from 2004 to December 01st, 2009, 44 persons were treated as affected in the criminal proceedings initiated by indictments – out of that number 42 persons were foreign nationals. According to the final decisions passed in the period from 2004 to December 01st, 2009, there were four persons victims of human trafficking. According to the convictions passed in this period there were 40 persons - victims of this criminal offence, out of which there was only one child (infant).

According to the data from the Police Department in 2007, they have submitted 25 criminal charges to the prosecution offices in connection with criminal acts against sexual freedom, which included 27 persons, out of which 7 were recidivists. There were 31 victims of these criminal acts, of whom 27 were women. Among them 23 minors were recorded, out of which 10 elderly and 7 young juveniles, and six children.

According to the *NGO Women's Safe House - Podgorica (SOK)*, for the period of 10 years of the existence of women's Safe House, 18 cases of incest were reported: 4 boys and 14 girls. Out of this number only 4 cases have been processed. Currently there is a court trial process for the two cases in which the SWH is involved as a party in the procedure.

Experiences of the SWH talk about inadequate penal policy in cases where they were directly involved in assisting victims of crime. According to these experiences, only in one case, the perpetrator has been punished

by a prison sentence in duration of 10 years, which has been reduced in an appeal procedure. In general, the punishments for incest are in range up to three years in prison. It is an interesting case where the Centre for Social Welfare has made possible for the father - the perpetrator of incest, to see his daughters freely after he got out of a jail.

According to the SWH opinion, court proceedings where a child is a victim last for a very long period of time. Such processes would have to last more shortly, and of course, not at the burden of qualitative investigations and adjudication, but this would certainly give impetus to victims of incest to report such cases to the police and public prosecutor in higher percentage.

According to the data received from the NGO Montenegrin Women Lobby, during the period from March 2004 to December 2009, the Shelter for victims of human trafficking has provided the accommodation of 48 juveniles, as follows:

- in 2004 - 2 minors (one 17 years old girl, from Serbia and baby-girl with her mother which was 17 years old)
- in 2005 - 11 minors (8 girls aged from 13 – 16 from Serbia, Republika Srpska, Montenegro, Romania and 3 boys between the ages of 3 – 4 from Romania)
- in 2006 - 1 minor (a 17 years old girl from Montenegro)
- in 2007 - 7 minors (1 girl aged of 16 from Albania and 6 boys from 8-17 from Albania)
- in 2008 – 22 minors (17 boys – 11 from Kosovo, 3 from Montenegro, 1 from Ukraine, 2 from Albania; and 5 girls – 4 from Montenegro and 1 from Ukraine)
- In 2009 – 5 minors (4 boys – 2 from Turkey, 2 from Kenya, and 1 girl from Montenegro)

According to the report of the Office for monitoring and combating trafficking in persons (State Department, USA) from 4th June, 2008, Montenegro has not provided evidences that it fully complies with minimum standards for the elimination of trafficking, regardless of the invested considerable efforts in this regard. In the opinion of civil society and international observers, the official statistics do not report adequately on the degree of prevalence of human trafficking, and the government should focus more attention on that problem.

Recommendations

The State should:

- provide efficient and effective investigation in cases of doubt for the existence of criminal offences related to sexual exploitation, abduction and trafficking in persons;
- standardize and tighten the penal policy;
- develop and improve the international and especially regional cooperation;
- provide a database with aim to monitor this phenomenon and to take measures for prevention and suppression.

Drugs abuse

(Article 33)

Although there is a trend recorded in the field of active policy of combating the illicit use of psychotropic substances (PAS), it is evident that in many areas the enough attention is not paid to this phenomenon, nor even the laws that regulate certain questions in this field are consistently implemented. The appraisals and comments related to trafficking and abuse of narcotic drugs, usually define Montenegro as a transit country through which the countries where drugs are produced transport the drugs to the final destinations in Western Europe. During 2007, the Police Authority has recorded increase in the number of registered criminal offences to narcotics, whereas a higher presence of more serious drugs has been recorded in comparison to the previous year.

According to data from the Institute for Public Health (IPH), in Montenegro in 2006 there were 744 registered addicts treated by psychoactive substances (PAS) in all public health institutions. Of that number 5% of people were aged between 15 and 19 years. The main problem is that users appear in the late stages or under the pressure from family, and there is evident the low level of awareness of parents about the problems of drugs, who often react only at an advanced stage.

Substitutive methadone treatment program has been carried since the end of 2004 in the Health Centre in Podgorica and by the end of 2007, 164 users has passed through this program.

There is still no register of PAS users.

Prevention programs exist at the level of preschool and elementary education; while in high school these prevention activities are not systematic and not initiated by the school, but the most often these are programs that non-governmental organizations offer to schools.²⁶

The newly opened Centre for treatment of addicts on Kakaricka Gora (Podgorica) does not have department for treatment of children or girls / women drug addicts, which is considered as a large failure and discrimination.

What we can claim for sure is:

- The lower age limit for the beginning of abuse psychoactive substances has been progressively lowered until the youngest aged of 14 and 15 years;
- Abuse is most prominent in the age of adolescence;
- It is possible to receive legal drugs without control and selection;
- Drug addiction is not a characteristic only of the urban environment and the narrow city centre, but is passed to the suburbs and less developed areas;
- The use of different drugs with similar properties in combination with alcohol, which is especially characteristic for school youth;
- Children and youth are getting more and more informed about the types of drugs and their offer on the market, but their knowledge is burdened with many misconceptions about the dangers of drugs, the creation of dependence, possibilities for success in the treatments, and so on;
- Parents and custodian are not informed enough to recognize the problem; deal with it and seek for appropriate assistance.

Majority of 16 years old juveniles, 64% of them had never tried to smoke cigarettes. But, on the other side, 46% of them have smoked cigarettes at least once in life and out of that number 60% have smoked cigarettes in the past month. Most of the pupils tried cigarettes for the first time when they were 15 and girls were in majority. Although the sale of tobacco and tobacco products to persons younger than 18 years is prohibited in Montenegro, 61% of students believe that if they wished they could easily buy cigarettes. The boys and girls in a large number have said that they do not know whether there are the risks of smoking cigarettes. More than 90% of children said that they are daily exposed to tobacco smoke at home or in public places.²⁷

The problem of alcohol consumption by people younger than 18 is also notable, and the minor in the polls referred to this as the "normal" thing, especially when it comes to the entertainment for young people. Catering facilities are located in the regime of prohibition of alcohol refills to the persons younger than 18 (?)²⁸, though it often does not prevent the owners of restaurants to fail to meet their legal obligation.

Recommendations

The State should:

- ensure the implementation of the planned prevention programs;
- Sanction and control the sale of alcohol and cigarettes to persons younger than 18years;
- Develop mechanisms for support to rehabilitation and resettlement of treated users of psychotropic substances.

The child belonging to minority groups

(Article 30)

Montenegro is a very ethnically heterogeneous country in which a large number of members of different ethnic and religious groups live. The complexity of ethnic relations has been largely dependent on resolving the regional problems that have been transferred by "force of opportunities" in Montenegrin society.

The law is based on three fundamental institutes: the National Strategy on minority policy, minority councils as bodies representing the interests of certain ethnic groups and the Fund for minorities, as the financial instrument.

National strategy on minority policy was adopted in 2008 and it is a representative example of a well designed instrument, without proper implementation. In the previous course of its implementation, despite the prescribed deadlines and methods, there was no a transparent process of monitoring or reports on their results. The

²⁶ Source : National Strategic response to drugs in Montenegro 2008 – 2012

²⁷ ESPAD European Research about the use of cigarettes, alcohol and drugs among children, 2008

²⁸ Article 22 of the Law on Public Order unclearly defines this age limit, and not as 18 years of life, which should be subject of the modification of this Law

Strategy of Improving the Situation of the Roma, adopted a bit earlier, has been included as an integral part of this Strategy.

The status of minorities is additionally burdened by some empirical researches indicating the increased ethnic distance toward some communities, especially toward Albanians and Roma. If we can say for this first group that the attitude toward this community is largely a consequence of developments in the region (a large number of members of the Serbian community in Montenegro, thus reflects its position with regard to Kosovo's independence), then we can say that the attitude towards the Roma is based mainly on prejudices.

The position of the Roma population (Roma, Ashkali, Egyptians - RAE) still remains a serious problem in Montenegro. According to latest information from MONSTAT²⁹, number of members of RAE population is 11,001.

- According to current data, approximately 10% of domicile RAE population is not enrolled at birth registers and they represent the "people without identity."
- Assessment of civil society suggests that the number of RAE children with developmental disabilities varies between 350 and 400. Due to the stereotypes and prejudices of the RAE families, the higher percentage of these children is "invisible" and discriminated in three ways, as RAE members of the population, as people with disabilities and people living in conditions of extreme poverty.
- It is expressed exploitation of RAE children by adults using them for the organized forms of begging.
- Poverty and extremely poor housing conditions are important factors that affect the early dropouts from the school. In addition to that, there is an impact of customary law, when it comes to girls, to whom the parents, due to early marriage, do not allow the continuation of education.
- In many cases, due to lack of documentation, the right to severance pay and maternity leave for mothers can not be exercised.

Recommendations

The State should:

- facilitate the integration of existing and development of new programs intended to education; against prejudices, fostering the tolerance and openness to diversity
- ensure inclusion in the educational process of children, members of minority groups, who have been out of it until now;
- build a system of health education in communities of RAE population;
- include members of RAE population in the activities that define their rights in the field of protection and improvement;
- ensure conditions in order to reduce the value of mortality and morbidity of children RAE population

X CHILDREN'S VIEWS ON THE IMPLEMENTATION OF THE CONVENTION

Protection from discrimination

- The name of my school (Department for education and vocational rehabilitation of disabled children and young people) represents a form of discrimination for the students of our school, and therefore it should be changed to some more beautiful name which will be more acceptable to us.
- I do not know why only those who have the greatest marks can be presidents of classes and represent the school everywhere.
- I have great relations with Mark, but my parents do not allow me to hang out with him because his father is alcoholic
- We, the Roma children are discriminated. In school, we usually seat in the back benches and the teachers respect us less than other children.³⁰

The right to life, survival and development

- In some villages in the north of Montenegro sometimes the delivery of the baby is happened without proper medical care due to the lack of hospitals and physicians themselves, which threatens the life of both baby and the mother:³¹

²⁹ MONSTAT (Annual Statistics for 2008)

³⁰ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

The best interests of the child

- I am just wondering till when my mom, dad, grandmother, teachers and professors will decide what is in my best interest
- Although we are children, we have the right to our opinion and needs about which our parents do not think
- Parents physically punish children because they think that this is in their best interest, but I know, for sure, that there are other ways
- In the Home we are not allowed to ride a bike (although there are two bicycles at left), roller and skirolls, because they are afraid not to hurt. Does this mean that parents in families by allowing their children to ride a bike do not think about their best interests³²

The right to respect for the opinion

- We want our class teacher to allow us to choose our class administration by ourselves!
- Our opinions should be respected, because if we choose a workshop, we should not be imposed on any other subject (because there are not enough students interested for or not qualified teachers to work). Why do you offer such things to us?
- We believe that each person's decisions are equally important. It is OK that elders advice us, but not to choose friends for us.
- Parents do not listen to our needs even when it comes to choices that we want to do. I want to practice basketball and my mother enrolled me in folklore dancing group
- "Household" no one has asked to agree to about the time to go bed in the evening (we can then watch a movie, talking to friends and friends, or play cards / dominoes). None in the Home care what we think about it. Usually we go to bed at ten o'clock at latest, by order – a child placed in the Home for Children "Mladost" in Bijela :³³

The right to name and nationality

- I am born here, live here all my life, I'll be 18 soon, but I can not get Montenegrin nationality. The competent authorities blame my parents for not enrolling me in the relevant book of birth certificates when needed.
- In addition to the reason of poverty, Roma children do not go to school because they lack the necessary documentation
- I couldn't go on an excursion, because I am a refugee, it has been a problem to obtain all the necessary documents and to get the passport. It's not fair!³⁴

Freedom of expression and access to appropriate information

- We want more extra - curricular activities! Activities offering new knowledge
- Library for the blind is almost inaccessible to us and it should be supplemented with the recent literature
- I love the "Facebook". Computers are great.
- I do not watch television at all. All the information I have mainly got through the Internet.
- We need more information about the enrolment in a secondary school. I hate magazines that are offered to us in the school, it is for small children!
- I miss the radio and TV programs for children of different ages.
- In the newspapers there is also a lack of children's contents. And there are no magazines for younger children³⁵

³¹ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

³² Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

³³ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

³⁴ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

³⁵ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

Freedom of thought, conscience and religion

- Discrimination of members of different faith is getting more frequent, but really everyone has the right to belong to religion that he/she choose. Faith is imposed on children by their parents.
- Right to use our native language (Roma) is possible only in our neighbourhood and the same is with our customs and culture³⁶

Right to privacy

- I think my mom sometimes reads my telephone messages, although I have never caught her in doing so.
- Dad does not have objections to my company, and Mom thinks that it is not good to socialize with some of my friends.
- Mom and dad upset me with the constant need to evaluate my company.
- Parents in general do not respect this right. They control everything, from cell phone, lexicon, rooms, drawers, school bags..
- Teachers have no right to take away our phones
- The right to privacy is almost impossible in the Home, when we are punished teachers scroll through the messages in our phones, read notes and diaries, and there are children who are "on duty spies" to teachers and provide them all information - A child from the Home "Mladost"
- I hate when a teacher catches a note that I've written to my sympathy and read it in front of others.
- I think that you should fix the dressing rooms for girls immediately because boys often go inside, and if you can lock the dressing rooms.
- A systematic review is a typical violation of this right! It is performed in front of everybody! :³⁷

The right of the child to protection from torture and unpawful or arbitrary deprivation of liberty

- I have beaten one friend of mine; someone has reported that and the police have come. They told me that I had to go with them to the police station and then they have not explained anything more to me. When we arrived at the station they began to interrogate me. The inspector and the state attorney were present at the examination, they did not call my parents and they told me that it is enough that attorney whom they are allotted to me should be present. After the examination and signing statements they detained me. I was there from 20.00pm to 10.00am the next morning. I have got water and food and they have not touched me anymore. At my trial I was accompanied by my lawyer, my mother and social worker. A judge has examined me and strictly said that it should not be repeated over and that I'm free .. After 6 months I received the letter from the Centre for Social Work in which was stated that I should go to the Centre "Ljubović". The judge did not tell me anything about the measure that he pronounced ...
- I think that if I was a judge, I would immediately said to the accused person that he/she has been punished and by which sentence, and I would not told him/her "don't repeat this anymore, you're free," and after that: "you have to go to "Ljubovic"; or perhaps I would conditionally sentenced him/her for 2 years within which he/she can not do anything wrong. Of course I am not satisfied with the imposed sentence; it should be more favourable for such an offence.
- My opinion is that you can be beaten in the police even when you are not guilty I was once picked from the street even though I did not do anything wrong. I wasn't guilty, but I have been "known" to the police. I was interrogated without the presence of social workers; they have not called anyone from my family. The inspector asked and answered and forced me to confess. He was yelling and waving with his hands. They kept me in the custody for 24 hours. I have confessed all because I was forced to it by inspector. When I came to court I told the judge that I have all admitted because they have beaten me and the inspector forced me to it; I have said that in front of the police officers who were at the judge's office. I wasn't guilty at that time; I am guilty now, so I am here because of that. ³⁸

³⁶ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

³⁷ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

³⁸ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

A child deprived of family environment, and periodic checks of accommodation

- I feel very nice in a family consisted of my grandmother and grandfather. I am missing my parents, of course. I hear and saw my mother from time to time, but not very often.
- I live with my aunt. We are boarders and my aunt is struggling to provide everything we need. I have frequent contact with my mother and sisters from the second marriage of my mum. My aunt is my first and the real mother³⁹

In an interview with children who are placed in the Home for Children "Mladost" - Bijela, we had the opportunity to hear different opinions, Children responded that they are generally good, that the behaviour of teachers can be better, that there were some teachers that they would change of they could (one girl said that the behaviour of teachers toward them, often depends on themselves)

When we asked how often they have contact with their social worker the majority said that these contacts are rare or there is no at all. "maybe social workers speak with the management of the House, but they are not much interested for us" They said that teachers punish them by reading messages in their phones, their notes and diaries, that there were some children who are "on duty spies" to teachers and that they pass all information to them.

The pocket money is 11 Euros. It is immediately spent. I buy Pepsi Cola for all the money (10 bottles) and all I drink it until I have it. I buy deodorant, some more beautiful soap, and some other things. I go to the betting and sometimes get three Euros, and sometimes more and this mean a lot to me. It happens sometimes to lose, but I did not lose much because I have no so much money. Sometimes it happened that we spent all money in one day and then we are waiting for the next month ⁴⁰

Protection from abuse and neglect :⁴¹

- In some of the mentioned areas physical punishment is still a major educational measure in the family. This measure is most often carried through slapping the child, but we are familiar also with the more serious cases of physical punishment. Very often parents and teachers indicate to children very incorrect and editable names. They don't care about the time or a place to send a threat, and the worst is when they do this in front of others, our peers and some adults to whom we especially care about.
- My parents have been divorced after a great number of horrendous problems, quarrels, fights, stalking, interceptions and threats, but violence has not stopped. "We rarely see our father, because we are afraid of him".
- "When our father was angry at our mother, he would beat me and my brother". When he was asked what they were doing then, the boy replied that one of them, who could, has called the police. "Now he is not disturbing us, because he is in prison - I guess this will make him wiser"
- My father has found another woman and when our mother has found out, the problems, quarrels, fights, insults arrived. Now they are divorced, there is a less violence, but the threats and quarrels still exist, and there is less fights, at least they are not on daily basis.
- Teachers constantly insulting us, for example: bighead, fool, idiot, little turkey, Bastard ..., they humiliate us (as it is not enough to just throw us out from the class).
- Roma children have never had conflict with other children, because they all avoid them
- The mother will kill me if I get 1 (the worst appraisal in the school) "the intimidation itself and threats are very stressful!" :⁴²

Health care of children

- We can not know in advance when we will get sick.
- We know that being a doctor is a difficult job, but we also know that being kind at the same time means a being good doctor
- We are not born in our city, but in the neighbouring municipalities, because in our small town there is no maternity hospitals

³⁹ Focus group with children placed in kinship foster family

⁴⁰ Focus group with children placed in the Home for Children „Mladost" Bijela

⁴¹ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

⁴² Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

- There is a lack of counselling for children and parents that would certainly help the prevention and suppress many diseases and problems.
- Systematic reviews are conducted in school classrooms, and they are very superficial and violate the privacy of the child.
- Bearing in mind that Montenegro has no conditions for many surgery procedures and medical services the state should be more efficient in compensation of costs of treatments done abroad.
- Roma children don't have conditions even for regular examinations because they often do not have a health card, not to speak about an expensive surgery. But they also get seek as all of us.
- The state should provide an effective and adequate treatment to everyone regardless the costs.⁴³

Children with disabilities

- We help each other, we know exactly who and when wants something, and we understand each other very well because we have the same or similar problems
- We are happy to associate with other children and here we associate here with children from the environment. It happens that children in the beginning have some a backlash from us, but when they give us a chance we explain them and later we do not have any problems with them
- In our families one of our parents (mother) usually doesn't work, due to a huge responsibilities and duties to care about me, and all others and everything else is the additional work that must wait ⁴⁴

The standard of living

- I would like to have more money, so that I can buy and travel a lot.
- Rooms at the boarding school, where children with disabilities are placed, are mostly with three beds, we have a working desk, chair and closet for our clothes. Everything is old and broken. The roof is in a very poor condition, and the boarding school should be totally reconstructed and renovated
- There are some children with development disabilities who live with their families as tenants, and this is another aggravating circumstance.
- We need much bigger resources for our treatments, various therapies, supplies, additional engagements of psychiatrists, speech therapists and the like, so our parents do everything they can do to provide this for us - a child with development disabilities
- We, Roma are deprived of basic life conditions, so that none of us has the proper bathroom, and only a small number has water and electricity. As regards the financial situation, the majority of our population has no income. Roma people are denied the right to work, among other things, so they deal with heavy physical work in inhumane conditions.
- Give us a children's supplement in larger amount, this means a lot to us :⁴⁵

The right to education

- When someone mentions a school, I am going crazy. School at 7 o'clock in the morning, private lessons afternoon, at the evening I learn for tomorrow. What is this? Education? Does anyone ask me anything except for the assessment? I DO NOT LIKE SCHOOL!
- To me it is not difficult to learn, but I often wonder why so much and do I need all this to learn. I think that the school is too much demanding
- We are happy to associate with other children and here we associate with children from the environment. At the beginning they were somehow afraid of us, but later they were getting used to and everything is fine – a child with development disabilities
- I think that in urban schools, the children are reckless, fast Here we somehow understand each other and know how to watch each other – a child with development disabilities
- We help each other, we know exactly who and when wants something, and we understand each other very well because we have the same or similar problems. The question is how much the other children could look after us – a child with development disabilities

⁴³ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

⁴⁴ Focus group with children from the Institute for Education and Rehabilitation of handicap children and youth for the purposes of this project

⁴⁵ Children opinions received through mail boxes set in schools, three-day thematic meeting and working groups

- We know about the inclusion but we also know that the individual work program has to be developed for each of us and this is a demanding job for the organization of the education and teachers themselves, so the question is how much society really wants the inclusion. And we would prefer it – a child with development disabilities
- Our lecturers at the Institute are great, understand us and help us with everything - a child with development disabilities
- Professors do not look at students individually. None has the same abilities or interests. They should respect every person, I am not "incompetent" if I am not good with physics; I have great results from some other subject which is more interesting to me.
- We do not like to go to school, because all pupils call us "Domci" - A child from the home for Children, "Mladost"

Goals of Education

- Regarding the **school**, as the second important place in our lives, the things are like this ... Schools have become small for us, we were all over, books are less understandable, and there are plenty of them., Bags are usually beautiful, but very weighty. Everyone speaks about the reform, but we are not sure in which level it brought us the long awaited relief, because the teaching curriculum is a comprehensive, and textbooks are too extensive. Reform is quite demanding, because for almost all subjects we need additional private lessons. We have new, beautiful and expensive textbooks, and still the majority of our teachers teach lessons, in a way they have done before the reform and seek to retell them for the appraisal.
- Some schools even have no physical ability to receive inventory required for the work of reformed lower grades, so small pupils are sitting on big chairs and benches arranged in regular rows and their education is organized at the time that is not appropriate to their age. Believe us that we still have schools that classes are held in four shifts. Our free time is filled by private lessons and courses.
- "Dear School, I am writing you this letter because I wanted to point you to your faults in order to correct them, and to your advantages, in order to retain them. There is more and more materials and the less time. Our liabilities are increasing, and teachers became more and more severe. Dear school, please, change something because we do not have enough time for ourselves and recreation. I would like to have more excursions and to be educated more in the nature than in the stifling classrooms. Dear School, be the school so we would like you, not a school in which our parents push us.
- All books should be translated into Braille - a blind child

The right of children to leisure, recreation and cultural activities

- Some parents have too high expectations, so very often we are forced to go on some courses, with which content we are not enthusiastic at all. Often, their influence is decisive in the choice of secondary school. To some our classmates and friends free time and choice of friends are planned by their parents and they are required to report the place of assembly, i.e. our gatherings. You should assess by yourself if there are violations of our rights. I know that everything is in our best interest, but also in the need of our parents to keep everything under control.
- We, Roma children, spend our free time in seeking better conditions for life but despite all these concerns, we also find a time to play.
- I do not have enough free time; I'm going to work, helping my parents, cleaning houses and other premises in the town⁴⁶

Children in conflict with the law

- "I think the police do not know how to act with children, and also that there is a difference between ignorance and not applying the prescribed procedures". "I think that those who abuse children / minors in detention, interrogation and trial should be punished very seriously. Harassment can be physical or psychological and the law should clearly define what is meant by harassment"

⁴⁶ Child report on the state of rights presented at the occasion of the 10th anniversary of the UN Convention, at the Child Session held in the Parliament of Montenegro

- "I am almost sure that these procedures usually are not respected. Links usually broke in relation police officer versus a minor, where a police officer verbally and physically abuses a minor; another link which is not obeyed is the obligation to call parents or a guardian, immediately after detention".⁴⁷

The right to protection of children from the illicit use of narcotics and psychotropic substances

- "Although the law prohibits sales of cigarettes or alcohol to minors, we know that any of us, primary school pupils, can freely buy any of these products in stores, without asking why and for whom we should need this. What it makes us very afraid is the fact that various types of drugs are very extended at our streets and it is very easy to obtain them. There are a number of subjects in our schools in which we learn about the harmful effects of drugs, the school office for the prevention of drugs abuse is actively working. However, we believe that this is a problem that deserves a lot more attention, especially in the media. "
- "I used to be an excellent student till the 8th grade (the oldest ward now has 20 years, he is a returnee in the Centre "Ljubović"). "I left the school because I was caught in bad company, I started to take drugs and drink alcohol. Bad environment make the worst things to a man. I had various experiences with the police, courts, social workers, prison. I have done everything just to find money to buy drugs".⁴⁸

A child belonging to minority groups

- If I would not help my parents they would be in lack of food
- I can not fulfil my wishes even closely
- I like to go to school, but if I would have a transportation it would be much more easier
- I do a very little sport, because I do not have enough time. I work with my father to earn some money
- If I may say, I have just heard about the Convention on the Rights of the Child
- Roma children are abused and neglected because they are begging and wandering
- We have health insurance, because our father is registered in the Employment Bureau register⁴⁹

⁴⁷ Focus group with children placed at the Centre for Children and Youth „Ljubovic“, for the purpose of the project Juvenile Justice Reform

⁴⁸ Child report on the state of rights presented at the occasion of the 10th anniversary of the UN Convention, at the Child Session held in the Parliament of Montenegro

⁴⁹ Focus group with Roma children held in Berane for the purpose of this report

XI HOW THE COALITION OF NGOs WAS FORMED

For the purposes of the development of the Alternative report on implementation of Convention on the Rights of the Child, and on the initiative of the Centre for Children's Rights of Montenegro, in March 2009, we started with the establishment of a coalition of civil society organizations. We have gathered organizations, which in whole or in part, deal with the issues of improving, promoting and protecting human rights and child rights. An informative meeting have been held with aim to agree about the process of development of the Report, the methodology and dynamics of the work. After that, the Centre for Children's Rights of Montenegro have organized the three-day seminar at which the Coalition of NGOs was officially formed and memorandum of cooperation has been signed. 19 NGOs from Montenegro have joined the coalition. At this seminar, members of the coalition have received detailed instructions and guidelines. Members of the coalition have made a contribution through organized working meetings, written materials, reports and recommendations.

The process of drafting Alternative report on implementation of the Convention on the Rights of the Child by NGOs and children, has been supported by: Save the Children Norway, Save the Children Italy and Save the Children Sweden.

The report was finalized with the assistance of UNICEF. The contents of this report are the sole responsibility of the NGO Coalition and can in no way be taken to reflect the views of UNICEF.

XII PARTICIPATION OF CHILDREN IN THE REPORTING PROCESS

Centre for Children's Rights of Montenegro performs continuous monitoring of respect for child rights in Montenegro for the past six years. Our main partners in this process of monitoring were children. We have tried to develop a model of children's participation, so we facilitated creation of pupils' parliaments in primary schools in different cities of Montenegro (central, northern and southern regions).

As a logical sequence of future activities, it seemed important to include children in the process of development of the Alternative report, so their views would help to complement the picture of the real situation of rights of the child in Montenegro. Children have been involved in a way that was possible in accordance with the project.

For the purpose of this report we have intense the work with children, members of pupils' parliaments from 11 primary schools and with the Volunteer club high school students which is functioning within the Centre for Children's Rights of Montenegro.

The text of this report included segments from the reports that children have prepared and presented at the Children's session of the Parliament of Montenegro on November 20th, 2009 on the occasion of the 20th anniversary of the Convention on the Rights of the Child.

Children's contribution to the Alternative report is consisted in expression of the opinions on the topic of respect for the rights guaranteed by individual articles of the UN Convention, which are given in the heading with the title: **Children's opinions about the implementation of the Convention on the Rights of the Child in Montenegro.** In order to systematize children's opinions, we have organized three-day thematic meeting. The meeting was attended by 50 children – members of pupils' parliaments and volunteers. During that meeting the children had the opportunity to present their views and opinions on the situation of children in Montenegro in relation to the standards prescribed by the Convention on the Rights of the Child. We have also organized 6 focus groups in order to complete the picture with the opinions of children belonging to the vulnerable groups (children with disabilities, children victims of violence, children without parental care placed in the Home for Children "Mladost" - Bijela, Children in foster families, children belonging to refugee groups; Roma children);

The involvement of children in the reporting process for the purpose of this project has been supported by Save the Children Norway, Regional Office for South-East Europe - Sarajevo Bosnia and Herzegovina; Save the Children Italy, Save the Children Sweden;

The views of children relating to juvenile justice were collected through focus groups done with children to which was imposed measure of intensified supervision by the guardianship authorities, children to whom the institutional measure of placement in the Centre for Children and Youth "Ljubović" was imposed. These focus groups have been organized and held for the purpose of juvenile justice reform project that was on this occasion supported by the UNICEF Office in Podgorica.

Opinions of the children, which were included in the text of this report have not been subject to interpretation and analysis, but are subjective or objective, but always their authentic vision of social reality in family environments, institutions and the wider community, depending on what these views are related to.

ANNEX I - BASIC INFORMATION ABOUT THE COALITION MEMBERS

1. Centre for Children's Rights of Montenegro

Centre for Children's Rights of Montenegro is non-governmental, non-political non-profit organization registered in Podgorica in April 2000.

The mission of the Centre for Children's Rights of Montenegro is to improve the quality of life of children and youth in Montenegro through promotion and programs of protection of child rights. The tendency of the Centre for Children's Rights of Montenegro is to contribute to children's rights in our country to be respected as consistently as possible, to be the basis for the work of professionals, guiding thought for parents and guardians and the content of awareness of each child.

Active participation of children in the program activities of the Centre represents the affirmation of their rights to freedom assembly and association, right to information, right to the participation and opinion.

Centre for Children's Rights of Montenegro has been shown as evident need of the local environment and the state of Montenegro for a stable and recognizable NGO in the field of child rights, which has been confirmed by the large number of already realized projects

2. Centre for Human and Minority Rights

Centre for Human and Minority Rights (CEZAM) was established in 2006 as a substitute to the former Centre for Human Rights of the University of Montenegro, which ceased to exist as an independent unit of the University of Montenegro. Founders of CEZAM are professors and academic staff whose work is marked by activities at the promotion of and education about human rights, both in terms of training and development, and in terms of development of studies and analysis on human rights and their effective protection. The initiators and founders of the CEZAM are PhD Nebojsa Vucinic, the current judge of the European Court of Human Rights in Strasbourg and Sinisa Bjekovic, member of the European Commission against Racism and Intolerance of the Council of Europe (ECRI).

CEZAM has independently done several studies and publications intended for general and professional public, which was focused on human rights standards, analysis of the existing legal framework in Montenegro and the international obligations of the state regarding the implementation of human rights and freedoms. Representatives of the CEZAM have been invited and participated, as lecturers, in a number of seminars and workshops on human rights. In addition, they were members of working teams on drafting laws and other texts related to the system of human rights and freedoms in Montenegro.

The focus of CEZAM is mostly put on young people and activists of the civil society, as well as on civil servants whose work and responsibilities are oriented towards the promotion and protection of human rights and freedoms.

3. Children First

NGO "Children First" from Podgorica is an association of professional workers of different profiles with the knowledge and experience in the field of social and child protection, which was established in 2003, as a non-profit and non-political organization.

The mission of the organization is improvement of the quality of life of children in Montenegro through the promotion, advocacy and protection of their rights.

The vision of the organization: Montenegro - the state that provides for stimulating living conditions of children, which allow them to, through various social services, focused on their development, support and protection, achieve their needs and, as active citizens, participate in the life of the community and creation of their own future

Completed projects were related to: the support for children without parental care that are placed in foster families, support for children in conflict with the law (group work with children, parents), support for children who are neglected and abused (Confidential phone for children) and support for children from families with different problems

4. Centre for Development of Communities

Activities of the NGO "Centre for Development of Communities" (CRZ) are aimed at providing psychosocial support to the most vulnerable families of internally displaced persons and refugees from Bosnia and Herzegovina, Croatia and Kosovo. During a number of years of working with this population, special attention

has been given to children and young people belonging to this population. Through the field work and continuous monitoring, they have detected a series of problems that young people face in this population, and which can be considered as constant and whose resolution would systematically improve the status of these children.

5. Centre for the Protection of the Rights of Woman and the Child

Centre for the Protection of Woman and the Child was established in 1999. The aim of the association is continuous upgrading and improvement of the rights of women and children in the legal system of Montenegro and the consistent implementation of solutions that will ensure full equality of women and the full protection of the rights of children in the Montenegrin legislature. The Centre performs the following activities: an analysis of existing legal regulations on the rights of women and children in Montenegro, as well as comparative analysis of solutions, especially in developed countries, the analysis of the protection of the rights of women and children, realized before the courts and other authorities in Montenegro, organization of seminars, round tables and other forms of information, education on the rights of women and children, cooperation with related organizations dealing with the position and rights of women and children and a like. In carrying out its activities the association has implemented numerous projects independently or in cooperation with other nongovernmental organizations, and in its work it has achieved significant cooperation with the institutions of the system, primarily with relevant Ministries and centres for social work.

6. Our Initiative

Union of Associations of parents of children and youth with disabilities "Our initiative" was founded in 2002, with the support of the British NGO Save the Children. Union is consisted of 15 local associations in Montenegro: Podgorica (3 Associations), Niksic, Bijelo Polje, Ulcinj, Bar, Kotor, Igalo, Sutomore, Cetinje, Pljevlja, Berane (2 associations) and Rozaje.

Union is consisted of the Associations of parents of children and youth with disabilities, which, through their work, encourage and make initiatives, and who wish to actively participate in creating and improving policies and practices with main aim to improve the quality of life of children and youth with disabilities.

7. Women's Safe House

After three years of the work of the SOS hotline telephone for women and children victims of domestic violence and the collection and processing of statistical data obtained at the basis of 2000 SOS calls, in August 1999, the first shelter in Montenegro was established under the name " Women's Safe House". By Obeying, promoting and respecting the international principles on women's and children's rights and gender equality, Women's Safe House, has worked on improving the position of women and children in all social processes in Montenegro, through the implementation of the program of public advocacy and education, providing the shelter to victims of domestic violence and trafficking, as well a free legal, psychological and medical assistance, support in contact with the institutions, training in skills that will allow them financial independence and temporary employment.

8. Legal Centre

NGO Law Centre was founded in March 2007, as implementing partner of UNHCR for the project of provision of the free legal aid to displaced persons from Croatia, Bosnia and Herzegovina and Kosovo, asylum seekers and stateless persons, with particular attention to victims of SGBV and population of Roma, Ashkali and Egyptian communities as the most vulnerable part of the population of displaced persons

9. Association of parents of children and youth with special needs of Montenegro

Association of parents of children and youth with special needs of Montenegro was formed in October 1997, and as an NGO it was registered in 2000. The Association is a voluntary, independent, non-profit, social-humanitarian, non-governmental organization whose main goal is to achieve the highest possible level of independence, education and social integration of children and youth with disabilities in the psychophysical development. It was founded for the purpose to, among other things, improve the quality of life for children and youth with special needs and thus for their families, through the elimination of the prejudices about these children, stressing the importance of play in stimulating the psychophysical development of children, socialization and integration of children with other children. Great attention has been paid to the education of parents, who are the main factor and main partner in the development of such a child.

10. Association of Citizens "The Cat"

Association of Citizen "The Cat", based in Niksic, was founded in 2008. The aim of this association is the protection and promotion of natural and social environment in Zupa Niksicka. NGO is active in the following areas: education, ecology, agriculture, health and social welfare, culture, religion, sport, tradition and ethnology.

11. Humanitarian

The NGO "Humanitarian" was formed in 1998. In his work, it has particularly focused on the rights of children deprived of parental care and children of RAE population. Humanitarian work s in cooperation with state authorities and local and international non-governmental organizations and till now it has about 60 successfully implemented projects

Humanitarian has been involved in the development of: a national strategy for reduction of poverty in Montenegro, the promotion of the National Action Plan for Decade of Roma Inclusion 2005-2015 ", in Montenegro; report on the implementation of the Strategy for the improvement of the position of RAE population in Montenegro

12. The New Chance in Novi

Non-governmental organization "The New Chance in Novi " was founded in 2008, and it is based in Herceg Novi. It is organized on a voluntary basis, as a non-profit and non-political organization that provides all kinds of assistance to persons with disabilities.

The mission of the NGO "The New Chance in Novi " is to show to the society ,which has wrongfully neglected the potential of people with disabilities, that they can and want more i.e. want to respect their rights equally to all, regardless of differences that characterize them.

The vision of the NGO "The New Chance in Novi" is to make the education, social and child protection services to be more accessible to the children and youth with disabilities, in order to enable them to achieve their maximum and become useful members of the community.

13. Forum MNE

Forum of youth and informal education (Forum MNE) works in Montenegro since 2002, and in 2007 by the decision of the founding Assembly of the Forum MNE and the board of Forum Syd from Sweden, it has grown up from an international project to a local organization.

As the goal of the organization and the existence of the organization itself, the Forum MNE see a just and peaceful society to which development active young citizens are contributing. Forum MNE is an organization that achieves its vision by supporting the development of young people in a conscious, responsible and active individuals and citizens able to recognize, seek and exercise their rights and contribute to the development of a peaceful and just society.

Within the scope of its work this NGO develops and implements: non-formal education programs, with special emphasis on youth work in the community, encourage creativity and activism among young people, promote children's and human rights, and support the development and implementation of youth policies in cooperation with all relevant stakeholders in the society.

14. Pedagogical Centre of Montenegro

Pedagogical Centre of Montenegro is a non-profit professional organization, founded in 2000, with the aim to improve education of children in Montenegro. Pedagogical Centre works in cooperation with state authorities and local and international non-governmental organizations. The objectives of the work of the Pedagogical Centre of Montenegro are as follows: reform and improvement of all levels of education in Montenegro, raising awareness about the importance of improvement of education by organizing conferences, debates, round tables and the like; promotion of the educational approach in which focus is the child, and implementation of programs based on the same, promotion of the children's and human rights in general, to serve as a network for exchange of information for all educational institutions in Montenegro, at all levels, from preschool to university, to serve as a network for exchange of information for educational institutions and organizations in the Balkans; provision of logistical support to various target groups: parents, teachers, educators and others at the local and national level.

15. Montenegrin Women's Lobby

The mission of the NGO Women's Lobby is contained in the fact that the violence against women and children is the part of the world's political process, which does not treat them as human beings but brings to the state of obedience. Through the linking the political context of the background of the male violence against women and the personal experience with the social process of subjugation of women, it can be perceived the essence of the maintenance of patriarchy that produces, supports and covers violence against women.

The main goals to which the NGO Women's Lobby strives are: promotion of women's and children's rights, the provision of free medical examination and psycho-social support to all victims of violence, adoption of the anti-discrimination law, gender equality in all segments of society; campaigns against male violence and all forms of discrimination against women and children that will be financed from the state budget and that will be maintained permanently with women's NGOs dealing with gender equality, changes in the legislation in favour of protecting women's and children's rights and their implementation in practice;

Women's Lobby respects the ethics of diversity and works with women and children of all nationalities, political beliefs, religion, sexual orientation, disability or other differences.

16. Association of parents of Montenegro

Association of Parents of Montenegro is an network organization of parents' councils in primary and secondary schools and preschool institutions in Montenegro. It is founded in April 2002, as a result of strengthening the parental idea that through the joint work and efforts they can contribute to the development and improvement of the quality of education and that their connection can become an important partner in effective problem solving, implementation of education reform and other issues of public importance.

Popularization of parental activism is being implemented through a capacity building of parents' councils in schools, in workshops and panel discussions for parents, by developing projects and raising funds for the needs of schools, initiation of a variety of actions, mobilization of local communities to cooperate with schools and the like.

17. Beginning

The mission of NGO "Beginning" is integration of the Roma population in Montenegrin society, without assimilation. Continuous work of the organization, through realization of numerous projects, has been carried out in order to: improve the framework for the development and work of the Roma NGO sector in Montenegro, define the relations with the Government of the Republic of Montenegro, local governments, Parliament of Montenegro and commercial entities; improve the programmatic and financial transparency in the work of Roma NGOs, make decisions that are of general interest to the Roma population in Montenegro.

Key values to which the NGO "Beginning" seeks are: equality of individuals and organizations, respect for diversity, culture, civilized dialogue on all issues, transparency of work, regular and timely information to each other, tolerance and democratic decision-making, a lot of respect within ethnic (RAE) and gender differences; full partisan neutrality;

18. Enfants

One of the few NGO organizations involved in improving the quality of life of the RAE population is the NGO "Djeca - Enfants", which was formed in 2001, and which operates in the north-eastern region of Montenegro in the territory of the municipalities of Rozaje, Berane, Bijelo Polje, Pljevlja. The organization's activities are focused on education of the Roma population (with an emphasis on children)

The vision of the organization: "RAE / Roma, Ashkali and Egyptian / communities in equitable and tolerant society in Montenegro"

The mission of the organization: "Improving the quality of life of the RAE population in Montenegro through the promotion and protection of overall human rights with the particular emphasis on children's rights".

19. Association of Youth with Disabilities of Montenegro

Association of Youth with Disabilities of Montenegro (AYDM) was registered on October, 2001, as a non-governmental, non-profit organization dedicated to providing support, opportunities and programs to strengthen the personal, educational and professional development of young people with disabilities. It gathers youth and students with all kinds of physical, sensory and motor disability (cross-disability approach) as well as other young

non-disabled people willing to participate who are willing to participate and fights with us for the creation of a re inclusive society.

It deals with the provision of psycho-social support, creating conditions for inclusive education, encouraging young people with disabilities to acquire higher education; legislative initiatives for appropriate solutions, raising awareness of the society...

The vision of the NGO "AYDM" is: For youth with disabilities, with no barriers!

The mission of the NGO "AYDM" is: AYDM promotes equal status of youth with physical and sensory disabilities in the society through the initiatives for establishing legal, educational, cultural and social framework which provides this.