



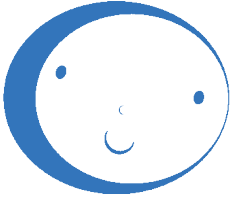
 Republic of Croatia
Ombudsman for children 





Save the Children

Children on the move

Collection of papers from thematic meeting of the Children's
Right Ombudsperson's Network in Southeast Europe



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Ombudsman for children of the Republic of Croatia
in cooperation with
Save the Children

February 2014.

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FOREWORD

Ombudsperson for Children of the Republic of Croatia

The thematic meeting of the Children's Right Ombudsperson's Network in Southeast Europe was held in Zagreb in November 2013, which is an exceptionally significant month for children's rights and during which, in the form of numerous events throughout the world, the adoption of the Convention on the Rights of the Child is celebrated.

With this assembly, the Office for the Ombudsperson for Children of the Republic of Croatia, initiated a number of activities for marking the 10 anniversary of its existence as an independent institution for the protection and promotion of children's rights. With the thematic meetings, which were organised in cooperation with Save the Children International and dedicated to "children on the move" or, respectively, to children in international migrations as a vulnerable group exposed to an increased risk of exploitation and abuse, we joined international activities within the framework of marking the World Day for the Prevention of Child Abuse on 19 November. Our intention was to, with this assembly, and particularly with its resulting conclusions and actions, jointly contribute to strengthening the mechanism for the protection of children against any form of abuse.

Our Office has addressed the problem of protection of children in migrations for a number of years, especially children that are foreign citizens and not accompanied by adults. These may be children that leave their homes because of curiosity, adventure, promised gain, but also children in search of a better and more secure life, those who run away from poverty, abuse, and the horrors of war. No matter what the reason for leaving the home is, they all have in common that they are alone, unprotected and exposed to numerous dangers on that journey.

For the country on the territory of which these children find themselves in, these children represent a source of problems, anger and additional costs, so that comments such as: "That's all we needed, as if we do not have enough problems" are not rare. The anger is even more pronounced when the children are quiet; when they do not seek help and run away from the accommodation they were provided. It was not only once that we witnessed a complete lack of empathy for this category of children, so that this meeting gave us the opportunity to remind ourselves of the traumatic perspective the child finds itself in, in a foreign state all by itself, in a strange environment, amongst people whose language they usually do not understand, that is probably traumatised by events during its journey, that is frightened and "filled" with stories that they must not trust officials. Therefore this meeting was an opportunity to remind that every unaccompanied child needs help – even when it does not seek help or even refuses it – and that this is not only our moral obligation, but also an internationally assumed obligation.

The Convention on the Rights of the Child commits states to ensure the same protection for such a child as for all other children who are, for any reason, temporarily or permanently deprived of their family environment. The same level of protection implies that we need to treat children that are foreign citizens the same way we treat children that are domestic citizens and that, in each individual case, we need to approach the resolution of their problems in the same way as we resolve, in each individual case, the problems of our children.

Unfortunately, the number of unaccompanied children grows and it is realistic to expect that, both

because of growing poverty and tragic wartime events, it will continue to grow. Let us mention the events in Syria because of which more than a million children had to abandon their homes and more than 3500 left Syria unaccompanied or were separated from their families. Because of our concern about their fate, we submitted a recommendation to the government of the Republic of Croatia to undertake action and necessary measures in order to include our state in their accommodation and care, since they need help urgently. The same was also done by other ombudspersons for children assembled in the European Network of Ombudsmen for Children (ENOC).

The thematic meeting of the Assembly of Ombudspersons for Children in Southeast Europe provided the opportunity to the assembled experts to openly speak out about problems and exchange experiences in order to jointly seek more efficient ways for solving them. The media also reported on some of the emphases of the meeting which additionally helped raising awareness about the problem of "children on the move" in Southeast Europe. Apart from ombudspersons for the children of Albania, Bosnia and Herzegovina, Bulgaria, Montenegro, Kosovo, Macedonia, Republika Srpska, Slovenia, Serbia, Vojvodina and Croatia, the representatives of Save the Children International and regional NGOs, the Ministry of Internal Affairs of the Republic of Croatia, the Ministry of Social Policy and Youth, the representative of the United Nations High Commissioner for Refugees in the Republic of Croatia as well as representatives of all ombudsperson institutions in Croatia, also participated in the work of the expert meeting.

On that occasion, they underlined the problems which are almost identical in all countries of the region: insufficient and inadequate accommodation capacities; insufficient number of experts; undeveloped network of guardians for special cases; difficulties related to language barriers, cultural and religious differences etc.

The purpose of this compilation of presentations which was created owing to the financial and expert support of Save the Children International, an organisation that has provided support with the work of the Children's Rights Ombudspersons Network in Southeast Europe for many years, is to make public the experiences, views and recommendations of the ombudspersons for children related to this important subject all in one place.

The first part of the compilation of presentations encompassed the report of the representatives of those NGOs that participated in the research on children on the move, which, in cooperation with Save the Children International, was carried out in Serbia, Bosnia and Herzegovina and Montenegro. The second part of the compilation of presentations encompassed the work of ombudsmen for children, members of the CRONSEE network that participated in the work of the thematic meeting in Zagreb as well as in the preparation of the conclusion, which is also included in the compilation of presentations. I believe that the conclusions that came out of this meeting will serve as guidelines for ombudspersons for children in their future work in the field of the protection of children on the move. We are aware that the solution of the problem of children in migrations is neither easy nor simple, that it requires time and significant financial resources, but also a clear goal, will and enthusiasm in order to achieve the goal. As ombudspersons for children, we have to particularly fight against the bureaucratic approach which wants to mould children into legal norms and "boxes" and often tends to delegate responsibility to others. We need to explicitly demand more understanding and engagement and implicitly more respect for children on the move – alongside a safe home, adequate clothes, medical services and satchels. Children migrants must not only be part of statistics, numbers without a face and name, but first of all children we need to help and protect. I am confident that, after this meeting, all participants of the thematic meeting in Zagreb, will have a clearer vision of mutual cooperation and personal responsibility for achieving this task, which was its goal. I hope this compilation of presentations will be helpful with this, too.

Mila Jelavić, Ombudsperson for Children of the Republic of Croatia

FOREWORD

Save the Children

This publication is made as a result of the CRONSEE network annual meeting entitled "Children on the move" held on 5th November 2013 in Zagreb, organized by the Office of the Ombudsperson for Children of the Republic of Croatia. Numerous experts gathered at the conference with the aim to open dialogue about children on the move in South East Europe.

Term "children on the move" refers to children affected by migrations who are exposed to specific risks during their migrations. Those are "children moving for a variety of reasons, voluntarily or involuntarily, within or between countries, with or without their parents or other primary caregivers, and whose movement might place them at risk (or at an increased risk) of inadequate care, economic or sexual exploitation, abuse, neglect and violence". Save the Children definition also identifies groups of children on the move: refugee children, internally displaced children, child asylum seekers, migrant children, irregular migrants, child victims of human trafficking, children working or living on the streets, children returning under the readmission process, child refugees and displaced persons, internal migrants.

Within its program activities, Save the Children provided inputs for the United Nations Child Rights Committee Day of General Discussion entitled "The rights of all children in the context of international migration", held on 28 September 2012 in Geneva. This event aimed at raising awareness about the rights of children in the context of international migrations. It was meant to give contribution to the improvement of policies and programs of member states, as well as to provide guidelines to other relevant actors in respecting, promotion and fulfilment of the rights of children which are in a situation of international migrations. Save the Children gave significant contribution to the dialogue through recommendations and findings, making it possible that voices of children with migration experience were heard at the event and enabling some issues that are specific for our region to be addressed, Europe and especially the region of South East Europe. We are very pleased that the Committee recognized and accepted in its final report almost all recommendations, including recommendations specific for this region with regard to children from the process of readmission. On this occasion, the key role of the institutions working on protection of human rights at a national level was especially emphasized.

Proactive advocacy for inclusion of children on the move into ongoing dialogues at the global level was also recognized by the European Network of Ombudspersons for Children (ENOC), which dedicated its 17th Assembly, held on 27 September 2013 in Brussels, to the topic "Children on the move – children first!". On this occasion ENOC called on countries and institutions to ensure that their policies, laws and practices are harmonised with relevant child protection instruments, in the first place with the UN Convention on the Rights of the Child. The need for giving special attention to protection of "children on the move" was stressed, having in mind their vulnerability, especially the vulnerability of children separated from their families and unaccompanied children.

With the idea to initiate local dialogues on this topic, Save the Children supported holding of a meeting of the CRONSEE network in order to address establishment of efficient national systems of data gathering and exchange of information about children on the move, creation of operational mechanisms for inter-sector cooperation, establishment of protection and support programs in a way that is not restrictive and which respects the principle of best interest of a child, strengthen cross-border cooperation and other possible solutions for protection of children on the move.

By this mean, we wish to express our gratitude to representatives of 34 institutions and organisations for protection of human rights from South East Europe who took part in this event and contributed through active discussion to defining of the CRONSEE network recommendations and guidelines. We hope that this document will serve as a framework for improvement of the situation and treatment of children on the move in South East Europe.

Andrea Žeravčić, Save the Children Director

ENOC¹ Position statement on “Children on the move”

“Children on the Move: Children First”

**Adopted at the 17th ENOC Annual General Assembly
held on 27 September 2013 in Brussels**

We, European Independent Children's Rights Institutions (ICRIs), members of ENOC, express our deep concern regarding the position of “children on the move” in our respective countries and the notable deficiencies in European, national and local policies in responding to their needs and interests.

“Children on the move” covers all children who migrate from their country of origin to and within the territory of a European country in search of survival, security, improved standards of living, education, economic opportunities, protection from exploitation and abuse, family reunification, or a combination of these factors. They may travel with their family, or independently, or with non-family members. They may be seeking asylum, victims of trafficking, or undocumented migrants. The status of children on the move may differ at various stages on their journey and they may encounter many differing situations of vulnerability¹.

We strongly stress the need for full compliance of existing laws, policies and practices across Europe with the United Nations Convention on the Rights of the Child (UNCRC) and its optional protocols, as well as with other relevant international instruments and standards, particularly in regard to “children on the move”. We recall the 2006 ENOC Statement on State Obligations for the Treatment of Unaccompanied Children, the UNCRC'S General Comment n°6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, as well as the report of the 2012 Day of General Discussion of the Committee on the Rights of the Child on “the rights of all children in the context of international migration”.

Recognising the significant challenges presented by the current economic crisis, ENOC recalls that pressures on public budgets should not prevent member states from complying with their international legal obligations in relation to children, especially “children on the move” who are particularly vulnerable.

ENOC understands that the circumstances in which “children on the move” find themselves and the challenges they face are diverse and complex, requiring multilateral, comprehensive and holistic approaches. In this context, the members of ENOC agree that the following measures and recommendations should be endorsed, implemented and supported at European, national and local levels:

1. “Children on the move” are children first. Accordingly, fundamental principles with regard to children's rights need to be mainstreamed into the development, implementation and monitoring of laws, policies, procedures and practices affecting “children on the move”.

The key principles in this regard as set out in the UNCRC are: children's right to non-discrimination; children's right to have their best interests treated as a primary consideration in all actions and decisions affecting them; children's right to life, survival and development; and children's right to express their views freely in all matters affecting them and to have their views taken into account in accordance with their age and maturity.

In particular, the right of “children on the move” to express their views freely should be ensured in all relevant procedures and decision-making processes, and where needed, he/she should be assisted by an independent interpreter. These views should be given due weight in accordance with the child's age and maturity.

2. Appropriate child-friendly reception conditions should be ensured for all “children on the move”, even in the case of intra-European migration. This is a necessary prerequisite for the realization and the protection of all the other rights of these children.

¹ *European Network of Ombudspersons for Children (ENOC)*

In particular, from their arrival, all children should be provided with specific and comprehensive information on their rights in language they can understand, as provided in international and national legislative provisions. They also should have access to education and health services on an equal basis to other children within the jurisdiction of the receiving State. Giving access to all of these rights is crucial for the integration of children in the receiving society.

Migration policies in relation to "children on the move" require a range of measures that go beyond border controls and action against irregular migration. States should find durable solutions which respect human rights and the rights of children, using holistic, personalised and flexible tools and respecting their best interests as determined through formal processes.

3. Personnel dealing with "children on the move" (law enforcement authorities, judicial authorities, interviewers, interpreters, social and youth workers, health professionals, guardians, legal representatives, police officers and border guards, amongst others) should be properly trained to respect children's rights, understanding these children's particular communication and cultural needs and able to respond appropriately to signs of fear or distress.

4. Age assessment should be made in the child's best interest, with the primary aim to ensure that the child is granted the rights and protection he/she is entitled to. Age assessment should primarily take place on the basis of documentary evidence. When documentary evidence is not sufficient, and in cases of serious doubt about the age of the child, further examination may be conducted as a measure of last resort. It should be carried out as quickly as possible, in the presence of a guardian and processed by independent medical as well as social care experts. Until the age assessment is completed, each person claiming to be a child should be considered and treated as a child.

Age assessment should include a combination of physical, social and psychological maturity assessments. The techniques used should respect the child's culture, dignity and physical integrity. The fact that some physical assessments may be particularly stressful, invasive or traumatic for children should be taken into consideration. ENOC expresses grave concerns about the use of X-ray in view of adverse effects on the child's health, negative judgements by medical authorities on appropriateness and effectiveness and questionable reliability and accuracy.

The child should be fully informed about the process of age assessment and its consequences. The child's views should be given due weight in accordance with his/her age and maturity and informed consent should be requested and obtained when medical/physical investigations are considered necessary.

Refusing to undergo an age assessment procedure should not lead to an immediate assumption of adulthood. Authorities should assess whether the refusal is motivated by reasons other than presumed adulthood.

In any case, age assessment should be open to legal remedy and there must be a reasonable period of time to ensure the individual can provide all necessary evidences for proving he/she has not reached adulthood. During the procedure, full protection should remain until a final decision is taken.

Given the variety of techniques related to age assessment, ENOC calls upon European authorities (EU/ Council of Europe) to develop and promote good practices. In any instance where practices lead to conflicting results, the benefit of the doubt and the most favourable determination should always prevail. As a further step, on the basis of identified good practices, the EU may consider the adoption of a rule on the mutual recognition of age assessment decisions between the EU member states.

Given the potential impact of age assessment decisions on the child's status - from full protection for children, to basic or no protection for adults - States should adopt appropriate measures to organise a smooth transition.

5. Immediately after the arrival of any unaccompanied/separated child, a skilled independent guardian should be appointed to support, advise and protect him/her until he/she is reunited with his/her family or receives an appropriate care placement. The guardian, who is appointed to serve the child's best interests, should ensure that responsible agencies safeguard the child's rights and meet the welfare and care needs of the child. The guardian should have the authority to represent the child in all decision-making processes, if the child gives his/her consent.²

For all administrative and judicial procedures every child should receive, free of charge, the support of

interpreters and independent legal advisers trained in working with children and young people.

6. Unaccompanied and separated children should never be refused entry to a country in accordance with the non-refoulement obligations deriving from international human rights, humanitarian and refugee law.

Any decision taken under the Dublin II and III regulations and concerning unaccompanied children seeking asylum should comply with the recent jurisprudence of the Court of Justice. The latter underlined that the child's best interests must be a primary consideration in all decisions adopted by the Member States on the basis of Dublin regulations. As a consequence, the Court states "where an unaccompanied minor with no member of his family legally present in the territory of a Member State has lodged asylum applications in more than one Member State, the Member State in which that minor is present after having lodged an asylum application there is to be designated the 'Member State responsible' " for examining the asylum application (European Court of Justice, 6 June 2013, C-648/11).

7. Right to protection from physical and mental violence, abuse and neglect, as well as from all forms of sexual and all other forms of exploitation, must be carefully taken into account when protecting "children on the move".

On arrival specific care should be ensured, in regard to the specific needs of "children on the move" in all educative, psychological and health aspects.

Child victims of trafficking are a particularly vulnerable group of "children on the move". The response of many States to the issue of child trafficking, however, remains focused on the immigration status of the child and on their asylum application - the need to protect child victims often comes secondary.

Return to countries of origin without offering adequate support and without consideration for their best interest often results in putting children at risk of re- trafficking.

Relevant instruments and standards (at Council of Europe and EU level) concerning trafficking in human beings, especially child victims of trafficking, should be ratified, transposed and fully implemented without delay.

8. As a principle, ENOC reaffirms its firm opposition to any form of detention of children, be they accompanied or not, and whatever procedure they are subject to (whether asylum or return to their home country or the first port of entry in Europe).

ENOC invites all relevant European and international stakeholders and jurisdictions to exchange information and good practice on alternatives to detention. The development and implementation of alternative measures should be a key priority for national and European decision-makers.

ENOC stresses its concern about policies aiming at criminalising migration and underlines that in this regard, "children on the move" should never be subject to criminal procedure for reasons solely related to their immigration status or where their involvement in criminal activity has been caused by exploitation.

ENOC calls on European States and Institutions to ensure their policies, laws and practices are compliant with the relevant instruments on the protection of children, with particular attention to the UN Convention on the Rights of the Child.

ENOC underlines that in this framework "children on the move" should benefit from specific attention and enhanced protection given their vulnerability, particularly those separated from their family and unaccompanied.

Within the framework of the European Union, ENOC invites all institutions, in their respective competences, to pay due attention to the rights and protection of the child.

In this context, ENOC underlines the key role played by the European Commission in its duty to monitor the implementation of EU rules by member states. ENOC urges the European Commission to launch infringement procedures whenever children's rights are violated.

² *The child should be given the right to refuse/change the assigned guardian. The child should freely express motivated objections for such a refusal.*

Ombudsman of Bosnia and Herzegovina

In line with the Law on the Human Rights Ombudsman of Bosnia and Herzegovina, in June 2009, Department for Protection of the Rights of a Child was put into operation. This department is a national mechanism that is to ensure harmonisation of approach in enforcement and protection of the rights of a child on the entire territory of B-H. In complaints presented to the Department, responsible bodies acting in breach of such rights are usually social welfare centres, courts, schools, and sometimes educational inspections and relevant ministries in the field of social and child protection, as well as education ministries. Acting in line with individual complaints and registered cases, the Department for Protection of the Rights of a Child has undertaken a series of activities and measures in order to promote rights of a child, namely research on children's rights, school educations, preparation of special reports, participation in expert meetings to discuss children's rights, providing of opinions and suggestions for drafting of laws, strategies, etc. Special report, analyses, prepared since the establishment of this Department until now are: special report on the issue of children involved in begging in BiH, on rights of children with special needs/children with developmental difficulties, on rights of children in institutions for children without parental care, for children of unacceptable behaviour, and children with disturbances in their development, special report on participation of children and adults in interests of children in schools, on rights of children in pre-school institutions, and subsequent analysis of healthcare services for children in B-H, issues concerning children and the media in B-H, juvenile legislation (Youth and children in conflict with the law), and on rights of children in conflicted divorces.

On a special meeting of the Network of Ombudsmen for Children of Southeast Europe held in Zagreb on 05.11.2013, as well as at the annual conference of Ombudsmen for Children of Europe the issue of children on the move was discussed.

"Children on the move" are immigrant children accompanying their parent or moving independently to foreign countries looking for job or better living conditions, children displaced due to war or natural disaster, children seeking asylum, and sometimes even victims of human trafficking. Due to the high level of risk these children are exposed to, it is necessary to recognise their needs and protect their rights, which requires appropriate cross-border cooperation, that is exchange of information and coordinated action of authorities and other bodies of different countries. That was the goal of the international conference held in Zagreb; the intention, among other things, was to draw attention of experts to this issue and contribute to rising awareness on the needs of this particular group of vulnerable children.

Perhaps it should be stressed that B-H still faces the issue of NPM (National Preventive Mechanism). In addition, apart from a couple of individual cases and reports and activities we had concerning the issue of begging, the Institution of Ombudsman does not have substantial indicators/data/information on illegal child immigrants and asylums seekers at its disposal. Ombudsmen are familiar with the fact that a research was conducted in B-H concerning children immigrants (I want to be like other children), and that it will be used by Ombudsmen to identify directions of their efforts in 2014.

The topic Children on the Move could be brought in connection with children involved in begging. Having in mind the need to protect children from abuse in form of begging, the Ombudsman of B-H conducted an analysis of this issue through the activities of the Project "Capacity Building of the Department for Protection of the Rights of a Child of the Institution of Ombudsman of B-H. Empirical research presented in this report is only a part of a comprehensive analysis of the situation on field in Sarajevo, Banjaluka, Tuzla and Mostar.

The research was organised for the purpose of collecting data from relevant system institutions (relevant ministries of all levels of government, social welfare centres, public safety centres) and NGOs active on the territory of these four municipalities. The results have been used as a basis for further activities of the Institution of Ombudsman.

Main goals of this research from 2009 were as follows:

- Determining of the nature and scope of the practice of keeping statistical records on the issue of begging

- Evaluation of the nature and scope of actual activities undertaken to fight and prevent children involvement in begging
- Recording of basic opinions of experts concerning the issue of children involved in begging
- Determining of main issues experts face in fighting and preventing children involvement in begging
- Collecting of suggestions for systematic action in order to protect children from living and working on the street
- Rising of awareness among experts and general population concerning the issue of children involved in begging.

Based on the realised research, the following main conclusions were drawn:

- Majority of institutions and NGOs does not have a database or statistical records on the children involved in begging. The lack of record keeping practice is due to the fact that there is no defined jurisdiction over the issue of exercising of rights for child beggars, but also due to the high volume of engagement and workload which does not leave sufficient room to keep records. Establishing and keeping of records involves certain human and material resources unavailable to the majority of institutions and NGOs, which shows that how neglected the need for keeping statistical records is in the field of fighting and preventing begging and protection of rights of children exposed to it.
- The majority of institutions and NGOs are not professionally directed towards the issue of protecting children from begging on daily basis. Activities they implement involve finding possibilities to enable children to exercise their right to education, so they engage in including the children involved in begging into the regular education system. In addition, special attention is paid to educating children and adults and increasing their awareness on the consequences of begging. Similarly, surveyed system institutions seem to apply warning and repressive measures as a mechanism of action in their daily work.
- Problems faced by institutions and NGOs engaged in fighting and preventing begging are various. These are usually lack of sensibility, lack of interest, ignoring and denying of the issue of child involvement in begging in B-H by the authorities, as well as limited technical and human resources in social welfare centres which should be more involved in provision of a specific form of assistance to these children. In addition, poor parental capacities and inadequate cooperation with institutions of the system, as well as the fact that majority of children involved in begging are not recorded in the Records of births are factors that usually make the work of experts quite difficult.
- Experts believe that widespread poverty in the country, poor social status of the families and financial struggling in households are main motives for children to become involved in begging. Another reason for begging can be seen in the fact that children are abused by adults, sometimes even their parents.
- Cooperation between the institutions of the system, as well as cooperation with NGOs, is not on a satisfactory level. It is necessary to deepen the cooperation by coordinated interconnected activities.
- Suggestions for future activities aimed at creating a situation in which the children will be protected from begging were different and referred to: establishing of an appropriate legal framework to deal with the issue of begging; continuous process of education of children at all levels of education system concerning the issue of begging and its consequences; implementation of measures to improve social and material position of families in B-H; establishing of cooperation of governmental and nongovernmental organisations; strengthening of the programme of psychosocial support to families; creating conditions for opening of new drop in centres for children exposed to begging; implementation of the strategy for elimination and prevention of children involvement in begging with long-term effects and proper coordination at all levels of government in B-H.

Author: Aleksandra Marin Diklić, Assistant Ombudsman

OMBUDSPERSON FOR CHILDREN OF THE REPUBLIKA SRPSKA

“Children on the move“ are also entitled to rights under the Convention

It is difficult to talk about the actual number of migrating children today. Regardless of the indicators that point to the existence of children in migration and the cause of migration, which can differ largely, it is indisputable that they are exposed to numerous risks on their way to new destinations. The most common reasons for leaving their countries are of economic and political nature – escaping from an environment that is unfavourable for their growing up and the search for better conditions for growing up, education and employment possibilities. The risks they are exposed to on their way are mostly different forms of violence, abuse and exploitation. The institution Ombudsmen for Children, based on the investigation of the sexual exploitation and the begging of children, pointed to the lack of systematic measures and activities, both in the area of prevention and in the area of psychosocial support, as well as the insufficient cooperation of competent authorities and institutions which result in an inadequate approach in the support of a child, due to the fact that a multidisciplinary approach in the protection of children is not ensured.

Children's migrations today are only part of the story of migrations in general. „Children on the move“ are not singled out as a particularly sensitive and vulnerable category of migrants, leading to them not being adequately acknowledged, either by legislative authorities or in practice.

Due to the risky conditions they grow up in, the children leave their countries in search for better conditions. If, on their way of searching for better conditions, their needs are not acknowledged and their rights are not protected, they are at risk to not only not attain better conditions but to also to get hurt. Therefore it is essential to acknowledge the needs of this category of children in all stages of their journey and to respond adequately to them with appropriate legal regulations.

At the 17th General Assembly held in Brussels on 27 September 2013, the European Network of Ombudsmen for Children (ENOC) expressed its concern because of the position of “children on the move” and stated: “Children on the move“ covers all children who migrate from their country of origin to and within the territory of a European country in search of survival, security, improved standards of living, education, economic opportunities, protection from exploitation and abuse, family reunification, or a combination of these factors. They may travel with their family, or independently, or with non-family members. They may be seeking asylum, victims of trafficking, or undocumented migrants. The status of children on the move may differ at various stages on their journey and they may encounter many differing situations of vulnerability.”

ENOC sees children on the move as children who left their country, accompanied or unaccompanied by their parents, for various reasons, and expect the achievement of their rights in another country which would not be possible in their country.

Regarding unaccompanied children and separated children, the UN Committee for the Rights of the Child¹, particularly emphasises the obligation of the State “that the provisions and principles of the Convention are fully and adequately transferred to relevant domestic laws and that they are given full legal effect“ and that “statutory duties under the Convention which are related to unaccompanied children and separated children, are binding to all forms of authorities - executing, legislative and judiciary.”

Pursuant to Article 2 of the Convention on the Rights of the Child „the contracting parties of this Convention shall comply with and ensure the rights under this Convention to every child within their jurisdiction“ which obligates the state to acknowledge that „children on the move“ are entitled to the same rights as children with permanent residence in that country“. The demand of the Convention that the best interest of the child has

¹ General comment no. 6: Treatment of unaccompanied or separated children outside of their country of origin

to be priority in all decision-making processes related to children, refer under the same conditions also to children on the move.

The children's right to express their views freely and to participate in all procedures affecting them (Article 12) „requires that children are given all relevant information on their rights, the services that are available to them, including means of communication on the procedure for being granted asylum, the search for their family members, and information on the current situation in their country of origin. In the case when a guardian was appointed, care and accommodation as well as legal representatives were provided, the views of the children have to also be taken into consideration. This information needs to be given in a way that is in accordance with the level of maturity and understanding of every child.“²

Therefore, „children on the move“ are only children who, at different stages of their journey, encounter numerous situations the system has to acknowledge and respond to with adequate legislative regulations, measures and services, such as adequate conditions of reception of the child, access to education and health services, appointment of a guardian for the child, provision of an interpreter and a legal advisor, participation of the child and their view in all procedures and decisions affecting them as well as many other issues. Whether and to which extent the rights granted by the Convention on the Rights of the Child are exercised, is already „tested“ at the border of the country that the child sees as its destination.

With the Strategic document, the Strategy within the field of migration and asylum and the action plan for the period from 2012 to 2015, singles out the principle of legality as the key principle of migration policies of Bosnia and Herzegovina - by which a state is obligated to establish a number of interrelated measures and activities for efficient management of migrations by increasing benefit, both for migrants and the state, decreasing at the same time illegal migration and human trafficking.³

Pursuant to the Law on the Movement and Stay of Foreigners and Asylum (Official Gazette of Bosnia and Herzegovina, no. 36/08 and 87/12), an unaccompanied minor is a foreigner who came to the territory of Bosnia and Herzegovina unaccompanied by a person above 18 years of age - a person of full age - that is responsible in accordance with the law or an authorisation, as well as a minor that is left unaccompanied after entering Bosnia and Herzegovina (Article 5)

Article 139, in the separate chapter Protection of the Right of Minors and other Foreigners regulates the protection of the rights of minors as follows:

- (1) Non provision of this law inhibits the exercising and protection of the rights of an foreigner in front of any competent authority in Bosnia and Herzegovina.
- (2) The competent authorities in Bosnia and Herzegovina are obliged to treat minor foreigners with special care and respect and treat them in accordance with the Convention on the Rights of the Child and regulations in Bosnia and Herzegovina related to the care of minors and their protection,
- (3) A minor foreigner that entered Bosnia and Herzegovina illegally and is not accompanied by parents or a legal representative or an authorised agent, or was left unaccompanied by these persons when entering Bosnia and Herzegovina and who the Authority can neither return to the country of origin immediately nor transfer to the representatives of the country whose citizen she/he is, shall be placed temporarily by the Authority in a department of an institution specialised in the accommodation of minors, of which it shall inform the competent Centre for Social Work which shall, in accordance with the law, immediately appoint a temporary guardian.
- (4) The minor foreigner under par. 3 of this Article must not be returned to the country of usual place of residence or to a country that is willing to accept her/him until the reception by a parent or legal representative or authorised agent or by a representative of a competent authority in the country of repatriation. The unaccompanied minor must not under any conditions be returned in a way that would violate the European Convention on Human Rights and Fundamental Freedoms and this Law.

The Law does not only establish that a minor shall be placed in a specialised department and that a temporary guardian shall be appointed for her/him, but also the prohibition that the minor is returned to the country of residence until the reception by the parents or competent institutions is ensured. What is especially

² General comment no. 6 (25)

³ The strategy in the area of migration and asylum as well as the action plan for the period from 2012 to 2015 were adopted at the 10th meeting of the Council of Ministers of Bosnia and Herzegovina on 12 June 2012

interesting is that the legislative authorities establish the prohibition of the return of a minor in a way so that “under no circumstances she/he may be returned in a way that would violate the European Convention on Human Rights“ and not the Convention on the Right of the Child, even though the same article of the Law provides that competent authorities are obliged to “treat them in accordance with the Convention on the Right of the Child”. Also, the Law does not establish any other rights of the minor –the right to education, the right to legal assistance, the right to an interpreter and the right to express their opinions.

Establishing that foreigners will be informed on their rights and obligations under this Law (Article 12, par. 1) at all stages of the procedure, and the obligation of the authority to conduct the procedure so that a translator or interpreter (Article 12, par. 2) shall be provided to the foreigner that does not understand the language in which the procedure is conducted, the legislative authorities do not distinguish between the exercising of this right when children are involved. However, given the legal obligation of competent authorities (Article 139, par. 2) to treat minors with special care and respect and in accordance with the Convention on the Right of the Child, it is undisputed that the temporary guardian that was appointed in each individual case has particular responsibility.

“Contracting states are committed to establish a relevant legal framework and appoint a guardian or advisor immediately after the identification of the unaccompanied child and the separated child and create conditions for maintaining this guardianship relation until the child attains full age or leaves the territory and/or the jurisdiction of the state permanently. The guardian shall be consulted and informed in matters of all actions that were carried out and are carried out in relation to the child.”⁴

The temporary guardian is appointed by the competent Centre for Social Work and this guardianship relation, according to applicable law, lasts for the period of accommodation of the child in an institution on the territory of the competent centre. With every new accommodation (relocation of the child), it is necessary to reappoint a guardian for the child.

Also, considering that the needs of a child may differ largely and that they, at the same time, include the exercise of its right to health protection, aid in kind, psychological support, legal advice, social services, the question is whether the guardian is able to also ensure the child's best interest in individual cases as well as when the child is allowed to have one guardian.

Particularly important is the issue of the participation of children in these procedures, whether and to which extent their opinions are taken into consideration regarding the appointment of a guardian, accommodation, education, and the issue of monitoring the work of services and institutions that are responsible for „children on the move“.

All this only confirms the complexity of the problem, that it requires a comprehensive multidisciplinary approach and defined procedures for action of all subjects of protection as well as the establishment of a number of interrelated measures and activities that will ensure the child's welfare.

Author: Nada Grahovac, Ombudsperson for children of the Republika Srpska

HI NEIGHBOUR

I want to be like other children

Report on position of the children on the move in Bosnia and Herzegovina

Report on the children on the move is a first step in attempting to consider the problem of the children on the move from the multi-sectoral and interdepartmental point of view. The report was made on the basis

⁴ General comment no. 6 (33)

of a research carried out by the local non-governmental organisation "Hi Neighbour" from Banja Luka. The members of the Advisory Committee are the representatives of relevant ministries and Save the Children, representatives of state institutions, social protection institutions, representatives of international and local non-governmental organisations who provided significant contribution to the research. A particular importance was given to the voice of children who participated in the research that provided the view into their experiences from the migration processes and insight into their experience in relation to the quantity and quality of services they receive. Their proposals for improvement of services for all children who will be in on the move within or through Bosnia and Herzegovina in future were valuable.

On the basis of all of this data, we may draw the following conclusions: Bosnia and Herzegovina ratified all conventions, protocols, guidelines, directives, action plans representing international standards for the children on the move and by this is committed to harmonization of national legislation with acknowledged standards of respect of human rights. Domestic legal framework is not fully harmonized with the international standards in the area of rights of the children on the move.

From perspective of the children on the move, which we analysed from the angles of four fundamental principles of the Convention on the Rights of a Child, the following may be concluded:

- Children notice discrimination they are exposed to in relation to other children and the feeling of isolation dominates over their experience in the migration process as well within services offered to them as a part of system of protection.
- For the majority of children on the move, the feeling that their life and survival was at risk was one of the main reasons for which their families decided to migrate.
- The children on the move did not have opportunity to make decisions about the migration nor did they have the opportunity to express their opinion and needs in the social protection systems.
- Regardless of being included in all legal solutions, the best interest of a child, considering the children on the move, was not consistently applied in practice as witnessed by the children we have spoken to.

The professionals who directly work with the children on the move and those who participate in the policy and decision making processes for this group of children as well as the representatives of the non-governmental sector differently define the children on the move. It is common for all groups of professionals to consider the children on the move from the perspective of their own institution, organisation or relevant ministry department. Professionals from the relevant ministries primarily care about application of current legal solutions while professionals from the non-governmental sector directly working with children through various programs of support reckon that that these solutions should be harmonized with international standards, to enable fulfilment of individual needs of each child on the move.

In Bosnia and Herzegovina there are no reliable and complete data about all groups of children on the move. Ministry of Security of B-H has the most complete data base on children-irregular immigrants, children-victims of trafficking in human beings, and asylum seekers. Based on available data and based on assessment of examinees, during the last three years there was an increase in number of children-irregular immigrants; this number increased from seven children in 2010 to forty three in 2012 (for accompanied and unaccompanied children). According to statements of all examinees, regardless of the fact that numerical data does not exist, an increase in number of children working and/or living on the streets and number of children/returnees based on the Readmission Agreement was observed. The number of children foreign-victims of trafficking in human beings decreased while the numbers of children-asylum seekers and children having status of international legal protection for years remains the same.

The causes leading to migration of children in B-H, for both external and internal migrations, depending on the group are vulnerability of children's lives in the countries affected by war, poverty, discrimination, lack of care and negligence by parents, social exclusion, dysfunctionality and domestic violence, educational neglecting, lack of information on the migration risks, parents' addiction diseases, feeling of helplessness and lack of perspective. During the journey, children went through the fear of unknown, fear of police; they lived with the feeling of uncertainty and distrust in institutions. Large number of children felt shame and guilt due to their current position.

On the basis of results of this research, we may make a conclusion about inexistence of appropriate

services and programs in B-H which are founded on rights and individual needs of the children on the move. Different groups of children in B-H have different programs of protection. Relevant ministries and local non-governmental organizations which signed protocols of cooperation with ministries take care about protection of accompanied and unaccompanied children-foreigners, of domestic children-human trafficking victims, and of children-returnees based on the Readmission Agreement (if they are placed in Readmission for Centre up to 30 days). Children working and/or living on the street and children returnees based on the Readmission Agreement living in local communities do not receive systematic help and support. In five cities in B-H, there are drop in centres for these children run by local non-governmental organisations within their project activities. For all existing services which children on the move may receive in B-H, there are set rules of conduct, strict procedures and developed quality standards for some services. The problem for more efficient support and assistance to children, especially in internal migrations is that these children are not included in the social protection system and by this they aren't included in the services that would be of help to them. Until this is resolved within the system, existing help to children living/working on the street will depend on donor's funds and enthusiasm of local non-governmental organizations.

The Children on the move in B-H, regardless of which group they belong to, have similar views regarding the quality of support they receive. According to them, it is not enough to have accommodation, food, clothes, school books, etc. They also need to socialize with their peers, play, perform sports and cultural activities. Children using services of non-governmental organisations (children living and/or working on the streets and children having the status of international legal protection) up to certain extent have better assessment of services offered to them, through support in learning, sports, cultural and recreational activities, etc.

Recommendations for improvement of situation

- I. Harmonize domestic legislation with international standards particularly in:
 - Changes and amendments of entity family laws by defining special skills and knowledge which special guardian must possess if assigned with guardianship over children on the move and limit the biggest number of protégés per one guardian;
 - Changes and amendments of the entities' and Brcko District criminal codes in accordance with the Protocol of Palermo, Council of Europe Convention on Action against trafficking in human beings and Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in relation to criminal offences of "trafficking in human beings" ,"human smuggling" and „engagement in slavery and transportation of persons in slavery“ in order to fulfil international obligations of B-H and provide equality of citizens before the Law;
 - Passing federal law on protection and conduct with children and minors in criminal proceedings;
 - Changes and amendments of entities' laws on health insurance with purpose to ensure unconditional and free health care for children on the move;
 - Equalize status and procedures for children of illegal immigrants and asylum seekers with children with acknowledged international protection in B-H pertaining to the extent of exercising their right to health care and, in this view, approach to amendments of the Law on Movement and Stay of Foreigners and Asylum, i.e. the bylaw Rules of Procedure on Standards of Functioning and other Issues Relevant for the Work of Immigration Centre And Rules of Procedure on International Protection (asylum);
 - The rights of a child to play, education and social activities in immigration centres should be defined as obligatory by the bylaw and must not be conditioned by the possibilities of a centre (as it is at present), considering the importance of this right for proper growth and development of a child, especially considering the fact that most of these children went through certain traumas and were exposed to inhuman behaviour. In relation to this, special, equipped place for children's social activities need to be provided in the premises of immigration centre, and budget funds need to be planned for this purpose.
 - A minor placed in immigration centre must be informed about his/her rights in language appropriate for a child using different informative materials according to age of children and in language that a child understands. For this reason, in this purpose, the amendments of the bylaw defining standards of functioning of an immigration centre are necessary, in the form of obligatory norm.

- In line with international standards, the Framework Law on education explicitly need to define the manner and extent of exercising rights to free primary education through purchase of school books and supplies, free meals and transportation for children in B-H and also appoint responsible institutions for implementation. Within the Law on Primary Education of RS, Brčko District and cantonal laws in FB-H, ensure free supplemental primary school examinations to children up to the age of 18, who are excluded from regular education system using shortened plan and program so they may catch up with the regular grade and continue education. Impose obligation to all educational institutions to organize instruction classes for children taking supplemental primary school examinations for certain grades. During the period of taking supplemental primary school examinations, it is necessary to enable to these children equal access to the right of primary education with students who are attending classes on regular basis (right to health insurance, free school books, transportation, etc.).
 - Approach to urgent reform of social protection in Federation of Bosnia and Herzegovina in order to equalize fundamental children's human rights of social protection by placing them under the competence of Federation of Bosnia and Herzegovina and making the children on the move visible. Within cantonal and federal laws, children who are victims of trafficking and violence, harmful labour and other forms of economic exploitation should be defined as special beneficiaries of the law in the area of social protection. The Laws on Social Protection in the RS identify children on the move through different categories of beneficiaries of social protection. Amendments to the Law need to be directed to harmonization of definition of a child-victim of trafficking in human beings with the definition from the Protocol of Palermo, Council of Europe Convention on Action against Trafficking in Human Beings. The Law on Protection of Children should identify the children on the move as beneficiaries of children's supplemental payment.
 - It is necessary to improve the Law on citizenship of BiH in order to be fully harmonized with the valid international norms and standards in the field of citizenship. A new provision should be made that would enable foreigners to more easily acquire Bosnian and Herzegovinian citizenship, especially to citizens of other former Yugoslav republics whose place of residence was in B-H on 1 January 1998. This provision should foresee more cases of easier naturalization, including, birth and stay on the territory of B-H.
 - Pass the Rules of Procedure on the Standards for Work and Services in the Social Protection Institutions in FB-H;
- 2.** Clearly formulate the protection policy for the children on the move, make relevant and efficient programmes appropriate for dimensions and particularity of this phenomenon, taking into account children's perspective through the following tasks:
- Clearly define mechanism of coordination of all stakeholders in the system of support of children and children on the move including the non-governmental organizations developing programs for support to children on the move;
 - Plan financial means at the state, entity and local level for implementation of programs for the children on the move;
 - Create specific programs of prevention of migration as well as programs to raise awareness about the risks of migrations for children;
 - Establish the information system about the protection measures ensured for all people who are in the process of migration;
 - Ensure that children placed in immigration centre material receive information material about their rights in a language they understand and appropriate for them;
 - Ensure that all centres (immigration, asylum, refugee and readmission centre) have equipped, and to children accessible, premises envisaged for social activities for children;
 - Simplify procedures of registration of children in Registers of births and ensure that all children are registered in the system;
 - Enforce social protection system in general and make it capable to respond to the needs of the children on the move;
 - Ensure bigger social allowance to improve the standard of the most vulnerable categories of children;
 - Improve education system by making it more inclusive for children on the move;

- Ensure respect and appreciation for cultural and language differences, especially for children on the move coming from the countries with different language, tradition and customs;
- Make protocols of procedure for returnees following the agreement on readmission at the level all municipalities,
- When admitted to the Immigration centre, beside the medical check-up, tests should be performed to drugs and hepatitis;
- Work on continual professional education and support, especially of staff working with children in state institutions, social protection institutions, police, families and non-governmental organizations providing direct services to this population, by developing and applying training programs based on the rights of a child.
- As soon as possible, put in function a newly built centre for admission and placement of asylum seekers – Asylum centre in Trnovo;
- Open admission stations and drop in centres in form of social protection services for children included in work or/and life on the streets or in risk to become so, in all local communities facing with the problem of begging and economic exploitation of children.
- Develop and improve minimum standards for rendering of services to different subgroups of children on the move within the formal social protection system as well as services offered by the non-governmental organisations, and establish the tool of supervision over the quality of services based on the principle of customers' satisfaction.
- Strengthen material, human and technical capacities of social welfare centres so they may adequately respond to the needs of the children on the move.
- Educate interpreters and other professionals involved in the procedure of assistance and support to children on the move for sensitive work approach.
- Make visible indicators for identification of children-potential victims of trafficking and make them visible and available for all professionals working with children in governmental and non-governmental sector and a part of education materials for officials employed in the Prosecutor's Office, judiciary, social, health and education institutions and non-governmental organizations.
- Fight against poverty, discrimination and crime as prerequisites for combating migration of children.
- Establish regional cooperation with the neighbouring countries, at the government level and at the level of professionals involved in the system of protection and support of children on the move;
- Involve media in the follow up of the phenomenon of the children on the move and, as a part of this, educate journalists so they may adequately follow and report about the situation and rights of these children;
- Implement public campaign about the phenomenon of children on the move and dangers they are exposed to.

Author: Nada Uletilović

OFFICE OF THE OMBUDSMAN OF THE REPUBLIC OF BULGARIA

„Children on the move“ 5.11.2013., Zagreb

Interactive discussion on proposed thematic activities of the CRONSEE members- Bulgaria

The Republic of Bulgaria is the gateway to the European Union for refugees fleeing Syria via Turkey, many crossing the border illegally to seek asylum.

The country is undertaking measures to accommodate all potential refugees that might arrive from Syria seeking shelters from the civil war conflict. The authorities have said the country may have to provide shelter for as many as 11 000 Syrian refugees by the end of the year. So far this year, Bulgaria has received about 7 000 asylum applications, mainly from the Middle East and Africa. This is three times the yearly average of the past decade. Over 2 000 refugees are accommodated in the three Sofia shelters – in the districts of Ovcha Kupel, Voenna Rampa and Vrazhdebna. The Local authorities announced in the media that the capital could no longer accept asylum seekers and would rather focus on improving the conditions in the shelters, which have been largely described as deplorable.

Since 2012 the Ombudsman of the Republic of Bulgaria has acquired a new role- to act as a National Preventive Mechanism under the Optional Protocol to the UN Convention against torture and other cruel, inhuman or degrading treatment or punishment. Due to the refugee crisis the Ombudsman changed the schedule of the visits to the National Preventive Mechanism teams for 2013. The teams inspected the conditions in the reception, registration and distribution centres in Bulgaria. Accommodated in these centers arrivals remain there until they obtain the status of refugee or humanitarian status. It was found that all the arrivals undergo initial medical examination. However, the conditions in the centres are very bad - the biggest problems are the extremely poor hygiene and the overcrowding. Attempts are made to accommodate women and children in buildings with better living conditions but overcrowding is a problem everywhere.

This is the first time the country faces such a problem. For this reason there is a chaos among the Bulgarian institutions and unpreparedness to deal with the large refugee and migration flows in recent months. Coordination between the various bodies of the central government is weak. There is no interaction between central and local authorities. Therefore the ombudsman has made a list of certain recommendations to the authorities such as to bring all the buildings in accordance with the regulatory requirements- to ensure their fire, sanitary-epidemiological, plumbing and electrical systems safety; to provide clean water and normal temperature; to provide sufficient staff and interpreters; to place prominently in the centres information in different languages concerning the rights and obligations of protection seekers, as well as telephone numbers for emergency; with priority to provide places with decent living conditions for families with little children; to provide immediately pediatric care in all of the shelters, and pediatric teams for all arriving children regardless of the fact of their registration as refugees. In addition the national ombudsman would like to receive exact information about the number of unaccompanied minors, what is their status, do they have any guardians or caregivers, what measures of protection are applied to them under the Law on protection of the child, how many of these children go to school.

The refugees suffer from exhaustion, dehydration, hypertensive crises, minor injuries. There is no information about infectious diseases, neither among the adults, nor among the children. Bulgaria's Health Ministry has announced that it vaccinates all refugee children on the country's territory. The children are vaccinated against pertussis, polio, tetanus, diphtheria, hemophilus influenza, morbilli, parotitis and rubella. The representatives of the ombudsman detected a problem with the immunization status of these children. There was no documentation showing what immunizations are previously done. On the other hand, since the beginning of the events in Syria, immunizations in accordance with the World Health Organization were not performed. There is a problem with the medical care of children in the age range between 0 and 2 years. GPs refuse to register children from 0 to 2 years. These children need specialized pediatric care. The Military Medical Academy planned to provide pediatric teams but at this point such teams are not available.

The Health Ministry has also announced that all regional health inspectorates in Bulgaria will receive disinfectants to distribute them among asylum centers. The Bulgarian Red Cross provided packages with food to each family. There's a lack of diapers and milk for those above 1 year of age. The total number of children of refugees that arrived to Bulgaria is yet to be defined. Those of the refugees who have money could buy some of the things they need through the social workers. They buy the goods for them as refugees cannot leave the camp. Nearly 70 unaccompanied children are housed in refugee camps in the country. About 40 foster families are ready to accept Syrian children - refugees living in refugee camps in the country, the others will be accommodated in homes for children deprived of parental care. Bulgaria's Education ministry intends trying to find teachers, including from among the Syrian refugees, to enable Syrian refugee children to continue their

studies. Officials were seeking to establish the number of children, age groups and needs. Attempts were being made to find facilities to use as classrooms. Children will learn Bulgarian for six months. After that they will continue their study according to the Bulgarian educational system. They will be integrated in Bulgarian schools. In the refugee- school in Vrazdebna Syrian children have the possibility to learn Arabic. The Ministry of education sent a book "The way of refugees", issued by the UN Association in Bulgaria, to all Bulgarian schools which is supposed to help the school communities to work for the establishment of a positive public image of refugees. It assists teachers in creating role-playing game in which students are divided into several refugee families. They have to experience the war, loss of home, all the difficulties that refugees face by leaving their homeland. So they can learn to be more compassionate to the destiny of refugee children.

The Bulgarian Agency for Refugees has prepared a brochure and some other materials aimed to assist in fighting hostility and prejudices against refugees.

Author: Elina Ivanova, Chief Expert, International Standards and Regulation Department, Office of the Ombudsman of the Republic of Bulgaria

CENTRE FOR CHILD RIGHTS IN MONTENEGRO

Child protection in the migration process

In cooperation with the non-formal coalition of non-governmental organisations, the Centre for Child Rights in Montenegro for the first time initiated the development of a Study on the Child Protection in the Migration Process. The Study aimed at contributing to a better understanding of the child on the move phenomenon, from the aspect of the current policy and practice at the level of Montenegro.

Apart from the analysis of international policies and standards, including the national normative and institutional framework for protection of children on the move, the Centre attempted through the field work to get a clearer picture of the migration phenomenon and child migration dimension, including the reasons for migration and specific risks these children face; thus, we got an insight into the manner in which children on the move assessed the level of fulfilment of the rights of the child in the context of migration; and an insight into the existing programmes, services and roles of professionals involved in the system for protection of children on the move.

According to the research, Montenegro has not been considerably exposed to migration and the legal asylum system has not been functioning properly yet. Montenegro is currently a transition country, rather than a destination country of the asylum seekers. The number of asylums seekers is expected to grow proportionally to the development of the process of European integration of Montenegro. This is supported by data indicating that, in the period 2010-2013, the number of asylum seekers in Montenegro drastically increased - 9 in 2010, 235 in 2011, 1531 in 2012 and 2154 in the first 8 months of 2013 (UNHCR data ; MN National institutions). It is worth noting that the country of Montenegro must take all available measures to secure harmonisation of legislation and practice with the EU *acquis communautaire* in this field.

The research proved that the motifs of children on the move generally included their wishes for a better financial or economic situation, or running away from the unfavourable circumstances of wars/conflicts. We have not encountered children who migrated in the pursuit of better education yet.

Street children

In the period 2010-2013, the Montenegrin Police filed 30 reports for minor offences against persons inducing others to go or organising begging while, during the same period of time, about 150 cases of begging

were recorded. Statistics about cases of begging is inadequate. It is difficult to discuss dimensions of this phenomenon with precision, because there are no single records, nor is there a system in place to enable exchange of information between the police, authorities addressing offences, public prosecutors and courts to monitor the course and outcomes of cases of organised child begging. Services responsible for cases of children involved in begging do not always treat these children as victims of abuse, exploitation or negligence. Instead, they treat them as children with behavioural disorders, which is the attitude shared by the legislator considering that sanctions are also foreseen for these children. "Street children" caught while begging in Podgorica are placed by police at the Reception Station of the Centre for Children and Youth "Ljubović". However, in practice, it is often the case that, not later than the following day and with approval of a Centre for Social Work, these children are taken over by their parents/guardians and, previously washed and nourished, they find themselves on the street again. This incidence is connected with the fact that, in most cases, these children are forced by adults to be involved in begging and the relevant authorities are often lacking mechanisms to protect children and to prove, prevent and punish these actions.

A conclusion may be drawn that Montenegro has not developed support programmes for either Roma children or their parents so as to enable them replace their traditional approach to begging considering it a good way to contribute to the family budget, with a mandatory education concept which would contribute to changing unacceptable behaviour, such as begging.

They crossed the border in a manner that M.Ž. hid himself under the compartment coach seat, while S.Š. was sleeping at his seat. Serbian Border Police did not pay attention to him, but the Montenegrin one did. Despite that fact that he did not have any identification papers with him, the Montenegrin Police was tolerant towards the minor and decided not to react at the minor's presence. Hidden M.Ž. remained unnoticed by both Serbian and Montenegrin police. They reached Podgorica and, via Bar, ended up in Budva. In Budva, they continued with begging, they slept on park benches in the vicinity of the Old Town.

- Roma children from Novi Sad: M.Ž.(12); S.Š.(13)

Displaced and internally displaced children

According to the records of the Ministry of Interior (hereinafter: MUP), there are about 6,000 persons in Montenegro who have a status of displaced persons from the former Yugoslav Republics, and about 500 of them are children.

Records on internally displaced persons from Kosovo who stay in Montenegro are maintained by the Administration for the Care of Refugees. According to them, there are currently 8333 persons in Montenegro who still have a status of internally displaced persons, that is, they have not been granted a status of foreigners pursuant to Article 105a of the Law on Foreigners. Of that number, 2975 persons are children (M/1564 and F/1411). Lacking of identification documents and problems with registration of children born outside health-care facilities lead to statelessness and are the main obstacles to their access to fundamental rights.

"We do experience discrimination, some people insult us, those stronger beat us, and others avoid us".

"We want to live in town houses and buildings. We are isolated here, only us...."

"Sometimes, I help with collecting tins. We sell them and earn money",

"Sometimes, I tied a cart to a bicycle and transport what mother collected (planks, old items, branches to be used as firewood)".

- A group interview with children (11-15 years old) - Nikšić

Children who are victims and potential victims of human trafficking

According to binding verdicts pronounced by the courts having jurisdiction on the territory of Montenegro, 3 cases of human trafficking in which minors were involved were registered during the period 2008-2012.¹

¹ Taken from the Register of the Office for Fight against Trafficking in Human Beings, maintained on the basis of data obtained from a tripartite commission which consists of representatives of the Police Administration, Supreme Court and Supreme State Prosecutor's Office.

One female minor victim originating from Kosovo was registered in 2008. Also, one female minor victim being an internally displaced person from Kosovo was registered in 2011 and one female minor victim, a citizen of Montenegro, was registered in 2012.

There have been no minor victims of human trafficking in Montenegro in 2013. Children-victims of human trafficking are placed in shelters for victims of human trafficking: "Crnogorski ženski lobi" /Montenegrin Female Lobby/, "Sigurna ženska kuća" / Female Safe House/, "Centar plus"/Centre Plus/. An Agreement on Mutual Cooperation has been signed between the institutions, services and organisations. The National Action Plan for children clearly identified specific objectives which constitute further guidelines for prevention and promotion of protection of children – victims of human trafficking. This population of children have not been covered by the research because, according to official statistics, at the time of the research there were no child- victims of human trafficking in Montenegro.

Children – asylum seekers

From 2008 to April 2013, there were 2.113 asylum seekers in Montenegro. Of the total number, there were 2.092 adults, 21 children and 4 families. The countries of origin: Algeria, Morocco, Afghanistan, Egypt, The Russian Federation, Serbia, Albania, Tunis, Syria, Libya, Sierra Leone, Pakistan, Bangladesh, India, Sudan, Iraq, Iran, Turkey, Italy, Macedonia, Kosovo, Kenya, Somalia, Nigeria, Palestine, Georgia, Kuwait, Bosnia and Herzegovina. According to applicable legislation, children-asylum seekers are entitled to social welfare, healthcare and education while in Montenegro. Problems: language barriers, determination of age and identity of children, slow communication with the countries of origin, frequently changed statements by the child, inadequate placement, no support programme for children-asylum seekers.

Children – returnees from the readmission process

Over the last two years (2011 and 2011), the Ministry of the Interior issued its approval for reception of 139 persons under 18, while the Directorate for Administrative Internal Affairs received nine announcements, as follows: the announcements for three minors from the Federal Republic of Germany and the announcements for six minors from the Kingdom of Sweden.

However, the research proved that adult citizens without families are those who predominantly return based on readmission. We also had a case where a family with two young children at the age of 2 and 4 returned at the time when the field work was conducted, therefore, in this part of the report, it was indeed not possible to obtain opinions of children about their experiences in the readmission procedure.

Findings of the research with the system institutions

Most representatives of the institutions do not consider child migration to be a problem in Montenegro. When discussing children on the move, most representatives of the institutions talked about Roma children and begging-related problems. They believe that inter-institutional cooperation is satisfactory. The main problem the institutions face is the absence of financial support and shortage of experts and space. It was also accentuated that cooperation with countries of origin of children on the move is not at the satisfactory level. Additional problem arises from an insufficiently accurate definition of institutional competence related to children on the move. Representatives of the institutions noted that it was necessary to work on further improvement of health-care, social welfare and education. In addition, it was also said that the legislative framework should be improved so as to provide more efficient protection of children on the move.

Conclusion

Belonging to a particularly vulnerable group, children from the migration process are evidently exposed to various risks, they are not treated equally, they often do not have access to services which could offer them protection, practitioners, experts and decision makers do not recognise them as belonging to a special group. We also notice that there is a lack of documented experiences and knowledge about this group of

children.

Recommendations

- Create a situation to make children on the move more visible;
- Treatment of children on the move must be systemically organised;
- Financial support must be secured;
- It is necessary to improve capacities of those employed with the institutions;
- Provide education and health-care;
- Promote communication with countries of origin of these children;
- Improve protection of Roma children involved in the begging activities;

Author: Rajka Perović - Manager, Centre for Children's Rights of Montenegro

OMBUDSPERSON FOR CHILDREN OF THE REPUBLIC OF CROATIA

Unaccompanied children in Croatia – problems and challenges

Croatia is not an exception in dynamics and reality of illegal migration of population, by this also in the migration of unaccompanied children which make 10% of total number of foreigners with illegal status in the Republic of Croatia. Until now, Croatia was primary a transit country, but this status is changing; by joining the EU it was inevitable that we also became a destination country. Equable statistical data on number of unaccompanied children does not exist. Each institution in charge deals solely with certain segment of a problem within its competence, therefore the data do not match. For instance for 2012, police data shows the number of 726 unaccompanied children, while the social welfare centres data shows only 330 children, which is a big difference. It is difficult to obtain data revealing the reason why the children choose to leave their country of origin, their family history, age and education, the way they entered the country, how long they stayed or even how they left Croatia. We consider that exactly this chaos in collation of data is the main cause why the relevant authorities, those which make decisions and implement domestic and international regulations and measures, are not fully aware of the extent and complexity of this problem. As a result, those children are made invisible; it is questionable whether they are provided adequate support and protection, and what we fear the most, is that they are at risk of becoming victims of organized crime. Croatian regulations are more or less harmonized with the international standards. However, unfortunately as already proven in majority of cases, the harmonization of regulations does not necessarily imply their quality implementation in practice.

The research carried out in 2010, within the scope of the Programme for Unaccompanied Children of the UNHCR office in the Republic of Croatia, has shown there are many problems and we will use this opportunity to point to some of them.

Identifying and recognizing an unaccompanied child is the key moment in its protection but exactly this is difficult because the children and persons often are not in possession of personal documents when illegally crossing. Without personal documents, it is very difficult to determine who are the persons accompanying the child and if they are their true parents as they claim or not, what is a true relationship with of a child with other group members, is child at risk and does it need protection? Most often, police officials are making the first contact with a child. Protecting the state from illegal entry of foreigners, they are often in

the intersection between their primary role of "border guardians" and the request to notice and recognize a child in need of support and protection. The data showing that in 2012 out of 726 unaccompanied children, 403 were deported just for illegal entry into country, depicts in how many cases the task of guarding of the border prevails. Of this number, 78 were deported in accordance with the Court's decision on minor offence even without having committed any other offence, while as result of short administrative procedure by police decision, 325 children were deported.

Providing adequate accomodation is the following problem and challenge. A child separated from parents must not be isolated and should be placed with other children but in practice this is very difficult to organize. Accomodation with children with behavioural problems is not in the best interest of an unaccompanied child. Due to the fact that a child is in a difficult life situation at present, it does not automatically make him/her a child with problems in behaviour, therefore such placement is not in his/her interest. On the other hand, an unaccompanied child is in most cases a traumatized child, and, in line with professional's statement, his/her helplessness due to the current situation is often expressed through aggressive, auto-aggressive and destructive behaviour so placing them with children without parental care may often be of risk for other children. An additional risk for other children may be the danger of infectious diseases which a child may have been exposed to during the journey.

When a child, separated from parents, is found in a group with adults, the matter of discussion is always whether it should be separated from the group he/she travelled with. Sometimes, it is very important for a child to stay in a group with people it is emotionally tied with, sharing the same destiny and in need of their protection even in case when they are not his/her family members. But, in this case the accomodation in isolation units for foreigners is not appropriate for a child. Conversely, leaving a child with a group may be fatal for a child if group interrelations are not investigated and possible risk factors for a child eliminated, such as the danger that a child may, in fact, be a victim of trafficking in human beings. In making of decision about accomodation, the assessment of the best interest of a child is of primary importance and it should not depend on available accomodation capacities. A child should not be accommodated by the principle of "available space". Therefore, it is very important to provide specialized placement capacities, appropriate for each individual child, taking into consideration all important circumstances of his/her situation.

Treatment and care about a child separated from parents is a special challenge, especially in situations when there is lack of specially trained professionals who are able to manage specific requirements of this, particularly vulnerable category of children. This particularly relates to professionals in institutions providing daily care to children separated from parents during they stay but not to interpreters who should apply especially sensitive approach in work with this category of children. Using appropriate approach to a child, they may establish a trusting relationship with a child and help to remove a language barrier, which is sometimes an insuperable obstacle in providing appropriate support and protection and frustrating both for child and for professionals trying to help the child. Due to cultural differences, in some cases it is difficult also to establish a nonverbal communication preventing a child to participate, express opinion, achieve rights, and obtain protection. Because of all this, a child often does not recognize a possibility of offered protection, so the escape of children from organized placement is a particular problem. The majority of children being stopped in Croatia are unaware of dangers they are exposed to and they only wish to continue journey to their destination; any kind of help they see as compulsion and threat and they use any opportunity to escape. Unfortunately, by escaping from an institution they lose institutional support and protection.

Guardians who should be key persons in providing protection for a child are often just formally appointed to be a guardian for a child. Such guardianship has proven ineffective, guardians have little or no contact with the child, and the quality of the support provided is questionable.

The situations of special concern are those when a guardian is appointed from among the members of a group of illegal migrants, despite the recommendations of the EU Commission Action Plan on Unaccompanied Minors. For example, in 2012, in more than 60 %, a person appointed as guardians were the persons accompanying the child – among them only 9 % were related to the child. All these problems indicated by this particular research, as well as those we have observed by following the actions of competent bodies towards children separated from parents, have indicated the necessity to:

- Establish national referral system for follow-up of unaccompanied children phenomenon
- Establish clear criteria for appointing of guardians; guardians need to be specially trained, their work followed and evaluated
- Develop an action flow
- Provide proceedings at the state border to enable a child to access international protection
- Provide appropriate placement capacities
- Provide health and social protection, education and
- Develop long-term programs of integration for children staying in Croatia

All of these are challenges ahead of us. For years, Ombudsman for children warns about problems and we seek for their solution. We have addressed recommendations to government in relation to training of special guardians, making of a list of guardians to be appointed from, setting out and adoption of procedural guidelines, we have organized training for professionals, published the brochure "Unaccompanied children" and distributed it to all social welfare centres, children's care homes, police departments and magistrate courts in Croatia for further use. We have proposed amendments to the law to improve the status of this group of children; we have participated in the task group formed to draft the Unaccompanied Minors Protocol, approved by the Government in July 2013. The Protocol clearly sets action of competent bodies, cooperation of police and social welfare centre with emphasis on a primary role of the social service centre in protecting a child, urgency of action, obligations of appointment of guardian to an unaccompanied child from a special list and defining his/her obligations and the system of follow up of its fulfilment. Among other obligations, the Protocol clearly sets out a guardian's duty to maintain regular contact with the child, to provide the child with information and to give due weight to child's views. In addition, it sets out how to exercise children's right to healthcare and education, track down children's families, perform regular checks of the child's living conditions and decide the child's future placement, always keeping in mind the best interest of the child. A document that also raises expectations is the Policy Plan on Migration in the Republic of Croatia 2013-2015, which includes the construction of new placement facilities for migrant children planned to be completed by the end of 2014, for what the funds have already been allocated. These two documents have only been adopted recently, and it is still too early to estimate their impact. We hope that their adoption will at least begin to alleviate the present problems, and help ensure better and fairer treatment of this particularly vulnerable group of children, thus reducing their risk of victimization.

With the adoption of these documents the work is by no means finished – it has only just begun, and it is our duty and obligation to carefully monitor their implementation because the children-immigrants require special treatment taking into consideration their specific situation. Our duty is to raise awareness about the fact that they are distrustful due to language barriers and that they are sometimes, in scope of their fight for survival, prone to unacceptable behaviour thus causing disapproval of society, but we must keep in mind that they are, in the first place, only children, children who were set on a journey due to troubles. Children who are extremely vulnerable and frightened and the care for them is our professional obligation.

Author: Gordana Filipović, Adviser of Ombudsman for Children of the Republic of Croatia

OMBUDSMEN INSTITUTION OF KOSOVO

Realisation of the rights and the protection of “children on the move”

I would like to greet all assembled and thank the organiser for the invitation since the participation in this kind of meeting is a useful experience for our institution. The Ombudsmen Institution of Kosovo did not participate in the research, however, the migrations of people were and still are a phenomenon of large proportions in Kosovo. Since there are no sufficient analyses or reports on this phenomenon, we neither have data on the exact number of citizens of Kosovo that live outside of Kosovo nor the number of people that entered a state illegally and that do not possess legal status.

This year, our institution received seven complaints of families that were repatriated in Kosovo and that complained about the inability of institutions to meet statutory obligations regarding the support they are entitled to.

Reasons for the migration of children

The reasons for the migration in Kosovo, especially the migration of children, are constantly changing, however, they can be classified as individual, family-related and social.

Individual reasons are related to the meeting of individual needs of children, such as health needs, needs for education, development, security, for better living conditions etc. Family-related and social reasons have an impact on the overall life of families and the society which also includes children.

Among the main reasons for the migration of children in Kosovo are unemployment, difficult living conditions and the need for a better life.

Due to the change of migration policies of European states, migrants have limited access to the employment market, which, in the several past years, led to a large number of migrants being returned to Kosovo against their will.

The responsibility for the reintegration of migrants in Kosovo was, until 2002, in the field of responsibility of UNMIK, UNHCR and IOM. Since 2008, the responsibility was transferred to the institutions of Kosovo, where the responsibility for returned persons was transferred to the Ministry of Internal Affairs, and the responsibility for their integration was divided among several ministries.

Until now, the government of Kosovo has signed the Readmission Agreement for the citizens of Kosovo with 21 states, so that, from 2009 until today, a total of 20787 (twenty thousand seven hundred and eighty seven) persons were repatriated.

The Ministry of Internal Affairs and the Department for Reintegration and Repatriation play the main role in the reintegration process at central level and the Municipal Office for Repatriated Persons and Returnees at local level. The overall support with reintegration is divided among relevant ministries.

Strategies that are in the process of adoption

The following are in the process of adoption: Strategy and Action Plan for Human Rights, 2013-2017, and the National Strategy for the Reintegration of Repatriated Persons in Kosovo.

Although there are sufficient mechanisms and legal instruments, there are still challenges for the improvement and the increase in efficiency for the implementation of laws that are in force.

With the aim to support returnees, the government of Kosovo developed a social and economic reintegration policy and allocated funds for the application of this policy.

Good practices for the reintegration of repatriated persons and integration programme

On this occasion, it is necessary to mention Regulation GRK no. 20-2013 for the Reintegration of Repatriated Persons and for Steering the Reintegration Programme which was adopted on 6 September 2013.

According to the Regulation, the reintegration of repatriated persons builds on benefits and support. Benefits consists of the immediate support at arrival, urgent benefits and measures that support a sustainable reintegration are ensured without discrimination, whereas, during the assessment of the special needs of a person, the best interest of the children have to always be taken into consideration.

Repatriated persons are, immediately upon arrival, welcomed in an organised way, they receive information and, where necessary, are offered medical aid. If returnees do not have means for transport, they are provided transport to their municipality, and if they do not have ensured accommodation, they are provided temporary accommodation in the Accommodation Centre for a period of 7 days. If, due to the difficult economic conditions, repatriated persons or families do not have accommodation or are not able to pay for it, payment of rent is ensured for a period of 12 months, and after the expiration of this period, municipalities are obligated to ensure a permanent accommodation solution for repatriated persons.

Repatriated persons are also provided an aid package containing food and necessary hygiene products, for a period of up to 12 months, whereas aid for heating is ensured during the winter season.

Persons that return are entitled to medical aid that is provided by public institutions. In special cases, repatriated person has the right to also ask for the covering of medical costs which is provided in public institutions.

If required, a one-time furniture package worth 2,000 euro per family is ensured.

Sustainable integration support measures

Reintegration support measures can be measures for the renovation or reconstruction of houses, education for children, language courses, professional training for vocational education and employment and self-employment support.

Renovation or reconstruction of houses is provided to persons that are able to prove that their house, in which they used to live before, is partially or completely destroyed.

All children are entitled to attend appropriate schools in Kosovo, and basic education is free. All repatriated persons that require professional training for the purpose of education for employment market have access to professional and language training, in accordance with laws that are in force.

All repatriated adults are entitled to employment in accordance with the laws in force, however, this constitutes a big challenge due to the large number of unemployed persons in Kosovo.

Repatriated persons of full age may also use aid for financing projects, whereas the value of financing of projects cannot exceed the amount of 2,000 euro.

Author: Kadrush Sylja, Legal Advisor

OMBUDSMEN INSTITUTION OF MACEDONIA

Children on the move

The Ombudsman in accordance with article 11-a of the Law on the Ombudsman, provides special protection for the children's rights on the basis of filed complaint or initiating a procedure on its own initiative. Moreover, for the purpose of following up the situations regarding respect and protection of the children's rights, research

and analyses are being conducted that refer to some guaranteed rights of the children. Later on, upon those analyses, the Ombudsman can submit recommendations, opinions and reviews to the bodies to which it is authorized to act.

The Department on protection of the children's rights within the work frame of the Ombudsman has reacted during the previous years with a recommendation for protection of the children in case of, so called, seasonal amigration within the country, more precisely a migration in the eastern part of Macedonia. In those cases, besides the adults from the family, minors were included in doing seasonal work, which lead to interruption in their education or doing a work that was not appropriate for their age.

Although the Ombudsman does not have a precise analyses on this matter: „Migration and the children“, please allow me to inform you that from legal aspect the matters regarding this subject are covered by few laws, such as the Law on Foreigners, Law on asylum and temporary protection, Law on Application of habitat and residence of the citizens etc. The statements are made in that context, that there is visible progression regarding migration and it is the reason why changes were made in the Law on Foreigners in regards to simplifying the procedure for foreigners employed by enterprises crucial for investments in the country for receiving temporary residence permit. Concerning the asylum, the Law on Asylum and temporary protection has also been amended for the purpose of harmonization with the European legislation for determining minimum standards for the conditions for reception of asylum seekers and for the procedures for granting and withdrawing refugee status. Also, the amendments of the Law on Free legal aid and the amendments of the Law on Health Insurance for asylum seekers entered into force which expands the scope of the law.

Taking into consideration the definition that includes the children or the groups of people on the move („Children on the move“), which includes refugees, internally displaced persons, or children, asylum seekers, irregular migration, victims of trafficking, children involved in work on the streets, returnees from the readmission process, it is clear that children's migration is present. The migration itself happens for various reasons, the children migrate alone or with their parents/guardians, voluntarily or involuntarily, and led by different motives. It may be searching for work or education, running away from inappropriate circumstances, such as the presence of a conflict. It is also clear and unambiguous that the situation of moving or migrating may expose or bring them to higher risk, especially if these minors travel without companion, to a different country. They could be target of various abuses, fraud, children's trafficking, exploiting their work force, victims of sexual exploitation etc.

In Macedonia, and I believe in the rest of the countries from the region, it is more frequent and current the migration of families in the Western Europe, in the search of better life and work. On the other hand, here is current the question on, so called, visa liberalization, as well as the measures that the country undertakes for prevention of this abuse that interferes with the right and freedom of movement of citizens.

I think that the issue about children's migration is a complex problem and the treatment of this phenomenon requires a comprehensive approach, intensive and developed cooperation, even at transnational level, as well as analyzing of the different aspects of the child protection.

Children on the move in our legislation are not recognized as a separate group, rather they are referred to as the children on the streets, children victims of sexual exploitation, children refugees etc, and in that context I would like to mention that the Ombudsman of the Republic of Macedonia as member of the network of children ombudsmen (CRONSEE), has participated in two researches regarding the situation of the children on the streets (children involved in begging) and children's sexual exploitation and their protection from pedophilia.

Also, I would like to inform you about a situation common and characteristic in the countries of the region. That is the situation of children/persons that are not registered in birth certificate i.e. children phantoms or invisible children that due to this situation they are not able to exercise their rights guaranteed by the domestic and international law.

The Ombudsman as National Preventive Mechanism this year visited the Immigration center in Macedonia and in terms of the minors situation in the Reception center for foreigners has noted the presence of 4 minor unaccompanied persons, for whom the procedure for appointing guardian is in process. The team was informed that the guardians visit the minors frequently and care of the exercising of their rights. In terms of establishing contact with their parents, special list of calls is introduced and all who wish to make contact with their loved

ones should turn to the office of the director of the immigration center. Persons deprived of this law are only the persons for whom there is limitation by the relevant departments from the Ministry of Internal Affairs. From the insight at the calls list it is stated that until the visit date (30.09.2013) are conducted 40 calls in different countries and that same list was given to the National Preventive Mechanism for further review.

It is also stated residence of four women, among which two were with Afghanistan heritage. During the conversation with the unaccompanied minors aged 14 and 13, who had some knowledge in English, clarified that they were born in the city of Ghazni in Afghanistan and reside in the center for 20 days already. Both of them have conducted phone call with their mother, who according to their allegations resides in Greece, but they do not want to go back there. They also stated they do not have the right to go for a walk every day and since they are in the center they were allowed twice to go out of it. Besides the police officer who brought them in the center, they have not been visited until the day of the visit.

From the insight at the minors record can be stated that they were accepted on September 10th 2013 and a request was filed for appointing guarding, for which a decision should be brought by the Center for social work. The Ombudsman have stated that the protection of the vulnerable groups in the Center, the unaccompanied minors, women, as well as persons without citizenship, is at very low level and is not in coordination with the international documents and standards, which leads to the conclusion that keeping these categories of persons in the closed Reception centers should be an exclusion and be reduced to the shortest period of time.

The unaccompanied minors in the Center do not contact and are not visited by a guardian, whether in their files they have decision for appointing guardians by the Center for social work or not. The procedure for appointing guardians according to the Law on Family is an urgent procedure and in the shortest period of time the guardian should be appointed for the purpose of complete and on time care for the children's rights. In this case coordination between the Reception center for foreigners and the Center for social work is missing, which requires the matter to be considered at higher level, the Ministry of Internal Affairs and the Ministry of Labor and Social Politics. The right to walk and recreation of the children is limited and the Center does not have developed separate programs for work with children in order to exercise the right to development and education of the children according to the Convention of the rights of the child.

Our tendency as Department for children's rights protection and persons with special needs is establishing comprehensive and practically functional system of protection of the children on the move, which will fully be based on the children's rights. A national system that will guarantee protection and right's approach, regardless of their migration status. Furthermore, it is necessary to develop and promote policies, laws, as well as programs and services, that will take the Convention on children's rights in consideration, primarily the principle of the child's best interest (article 3 from the Convention), the right to life, survival and development (article 6) and the right to hold opinions (article 12).

Also, we believe that it is out of importance to establish efficient system for data collecting and comprehensive statistics for the children who migrate at national level, and which will be based on unique criteria in accordance with the international standards and cooperation.

It is important to recognize and to act upon the real reasons for migration, including the between social exclusion, marginalization, poverty, violence and discrimination. The above-stated should aim towards providing real opportunities for exercising the right to education of these children, protection from violence, abuse or their exploitation within the communities where they come from.

Even though recent, this matter that includes the Children on the move should be more recognized by the national policies regarding children protection, child labor, migration, as well as measures for reducing poverty for the purpose of greater social inclusion.

Author: Vaska Bajramovska-Mustafa, Deputy Ombudsman, Republic of Macedonia

HUMAN RIGHTS OMBUDSMAN OF THE REPUBLIC OF SLOVENIA

Unaccompanied children in the Republic of Slovenia

The Human Rights Ombudsman of the Republic of Slovenia receives very few complaints claiming violations regarding unaccompanied minors. We are informed about such problems mainly through cooperation with non-governmental organisations. The most active in this field is the Slovene Philanthropy association, which has drawn up the Strategy for Treating Unaccompanied Children, a proposal for the project »Accommodation Centre for Unaccompanied Children« and the Mentoring Model for Unaccompanied Children.

All unaccompanied children are provided schooling in primary and secondary schools; however, there are difficulties with appropriate preparation programmes that would help these children to join the regular school programmes as quickly as possible. Language is generally the greatest obstacle here. All children are guaranteed emergency medical treatment. They are provided with accommodation in good conditions, though their movement is restricted and there is a lack of psychosocial support. The main problems encountered in dealing with the issue of unaccompanied children include the following:

- Lack of comprehensive statistics. The data from the Foreigners Centre (provides accommodation and care for foreigners, including minors, during the period necessary for their removal from the country), the Asylum Centre (provides accommodation for asylum seekers) and Slovene Philanthropy show that the number of unaccompanied children in Slovenia has been in decline;
- Inadequate psychosocial support to children, particularly with regard to help provided to traumatised children and preparation for the return to their country of origin;
- Professional staff are insufficiently qualified to work with this very vulnerable population;
- Difficulties in providing interpreting services for communication with the professional staff;
- No programmes have been developed for the return of unaccompanied children to their country of origin or transfer to a third country with reintegration support;
- Inadequate protection against the dangers of human trafficking;
- Complaints that the procedures for establishing entitlement to international protection are superficial and that the return of children to their country of origin is often questionable in terms of the child's best interests;
- The ministry responsible for the family (and children) does not actively participate in the solving of this issue, although special care for unaccompanied children is clearly expressed in the 2006–2016 Programme for Children and Youth.

As the National Preventive Mechanism under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Ombudsman regularly monitors the premises of the Foreigners Centre and the Asylum Centre, where unaccompanied children are also placed. There have been no significant inadequacies found with regard to the treatment of such children to date.

In the last year, we were alerted to the problem of two minors who had lost the opportunity to be placed in the Foreigners Centre. The children were kept practically in confinement for more than six months, which resulted in mental distress. They expressed intense suicidal thoughts, which a psychiatrist assessed as serious. In the search for other possible accommodation for the two minors, it became evident that the well-being of such children is not adequately ensured. Attempts to find accommodation for the two children in a crisis centre were unsuccessful, as the crisis centres allegedly were not prepared to accept them even though they were supposed to have (unofficially) spare capacity. The reason given for this was that a crisis centre only accepts children for whom it is clearly known where they will go after a period of 21 days, which is the upper limit of the duration of accommodation in a crisis centre. An attempt was also made to provide accommodation for the two children

in residential group care. Officially, there was no free places there, but unofficially the question of who would pay for the service was the real problem.

Both children expressed a clear wish to leave Slovenia and go to another EU Member State. In general, migrants do not see Slovenia as a target country. In this instance, both children were allowed unsupervised leave from the Foreigners Centre. They promptly disappeared and the Slovenian authorities lost all contact with them. They evidently left the country immediately.

We believe that the regulation of the status of unaccompanied minors who enter the territory of the Republic of Slovenia is inadequate. Minors are only exceptionally placed in accommodations outside the Foreigners Centre – i.e. when it is not possible to place them in the Foreigners Centre. We assess that such an arrangement is contrary to the third paragraph of Article 82 of the Foreigners Act, where placement in the Foreigners Centre is only provided for as an exception. Placement in the Foreigners Centre, which should only be an exception, is in practice the first and only solution.

Problems also arise because the systemic regulation of issues related to foreigners is the responsibility of the Ministry of Interior, even though, in our opinion, all other authorities should also be responsible for the well-being of children guaranteed under the UN Convention on the Rights of the Child. The ministry responsible for the family, which is also responsible for the network of institutions qualified to protect children and their best interests, should play a very important role in this regard.

Following our intervention, the ministry responsible for the family undertook to find different solutions within the networks already in place in Slovenia. Particular emphasis was put on the possibility of placing unaccompanied children in student halls of residence. These issues will be included in the annual report. Annual reports are discussed by the Government and the National Assembly, which define their positions on the Ombudsman's recommendations.

Author: Lan Vošnjak, Senior Advisor for Child Rights, Human Rights Ombudsman of the Republic of Slovenia

OMBUDSMEN INSTITUTION OF SERBIA

Children on the move – Serbia's experience

My report will only be related to children migrants seeking asylum in the Republic of Serbia or that are in transit in the Republic of Serbia, and will not include other vulnerable groups of children that fall under the definition „children on the move“ as defined by Save the Children Int. but closer to the definition by ENOC. This means, children from readmission, internally displaced children or street children will not be discussed here.

The first serious attempt of evaluation of the situation in the area of forced migrations to Serbia was only made in 2011, in the organisation of four NGOs (Group 484, Belgrade Centre for Human Rights, Initiative for Development and Cooperation and the Belgrade Centre for Security Policy). In 2012, the Belgrade Centre for Human Rights continued to work on the same issue, with the support of UNHCR, however, with the focus on providing legal and psychological support to asylum seekers and with the aim to promote legal regulations and practices of government bodies in the asylum procedure, bearing in mind the fact that it was only in 2008 that Serbia adopted the Asylum Act, as the last state in Europe. In Serbia, there is no functional asylum system in place since everything operates on the presumption that Serbia is only a transit country to EU countries.

There are two asylum centres in Serbia – in Banja Koviljača and in Bogovađa. The intolerance of the local population towards foreigners is evident, which was demonstrated in street protests which demanded that these centres are shut or, respectively, that the new planned centre that is necessary for the constant inflow

of migrants is not opened in their location. When in 2012 a black skinned foreigner allegedly attacked a girl (it was never proven this attack happened) in Banja Koviljača, street protests took place, parents threatened to boycott class, and I, as the competent deputy ombudsperson, gave a statement to the national news agency that was directed against this kind of pressure and manipulation with children, which was rebroadcasted in several media. Such homophobic behaviour requires continuous education and sensitization of the public in order to decrease the level of intolerance towards immigrants.

In the course of 2012, there was a total of 744 minor asylum seekers or children on the move as defined by the ENOC statement (607 boys and 137 girls), of which 501 (472 boys and 29 girls) were unaccompanied children. Most children are from Afghanistan (179 unaccompanied children), Somalia (74), Syria (68). In the period from 1 January to 30 May (data from the Belgrade Centre for Human Rights report), 1581 unaccompanied minors filed for asylum in the Republic of Serbia, the minority of which were again from Afghanistan (50) and Syria (25), and 13 were unaccompanied girls.

Members of the Ministry of Internal Affairs at border crossings acknowledge the intention of irregular migrants to seek asylum only if they say the word "asylum", but not if they say they fear being returned to their country of origin. The confirmation of the expressed intention of seeking asylum (issued at the border crossing and in all police administrations) is the basis for the placement in one of two asylum centres. Both asylum centres are financed from the budget of the Republic of Serbia. These are open centres in which accommodation conditions are satisfactory yet still inadequate, so that 30-195 immigrants remain without accommodation daily. Regarding accommodation, priority is given to families with children and to persons suffering health problems.

However, some police administrations refuse to issue this confirmation and without it foreigners are deprived of the right to accommodation which results in their stay on the territory of the Republic of Serbia being illegal and being at risk of deportation. Even though the Asylum Act provides special care for asylum seekers with special needs, among which there are accompanied or unaccompanied children (for example, interviews should be conducted by officers, and if possible, a translator who is especially qualified for working with children should also be present), but it does not provide giving priority and effective procedure of asylum application filed by the unaccompanied minor.

Translation services free of charge are only provided by two NGOs, whereas funds for these purposes are still not made available in the budget of the Republic.

The Asylum Act provides the generalised obligation that the Republic of Serbia, within the framework of its possibilities, ensures conditions for the integration of refugees in social, cultural and economic life as well as their naturalisation. However, budget funds are not made available for that.

Minor unaccompanied immigrants, from the moment of the realisation of first contact with authorities of the Republic of Serbia until the completion of the asylum procedure, change three guardians: the first temporary guardian is an employee of the locally competent CSW where first contact is realised (the CSW that is closest to the border crossing); the second temporary guardian is from the CSW in which there is the accommodation unit for unaccompanied minors (Niš, Novi Sad, Belgrade); and the third temporary guardian is from the CSW in one of two asylum centres in which the minor is placed. This practice is not the best solution because it is hardly possible a good relationship of trust can be established between a child and a temporary guardian that would ensure the protection of the child's best interests. If the fact is added that the guardians do not know a foreign language and that there is no translator, the communication with the child becomes very sparse and results in the guardian rarely visiting the child in the asylum centre.

The prohibition of returning to the country in which they were subjected to forced migration is fully applied to minors. On the other hand, not enough attention is given to the information received from children and neither are all necessary procedures for the protection of the child's best interests applied. There was a case where four boys, brothers aged 4 to 13, were sent by taxi to a city in which there was a man that, via telephone, introduced himself as their uncle, where the danger of child trafficking was not taken into consideration at all.

Regarding the right to education of children of irregular migrants, there are no legal or practical obstacles

¹ In that period, a total number of 1863 illegal migrants entered the Republic of Serbia.

to ensure them access to education. Nevertheless, it cannot be expected that parents enrol them in school, but this has to be the obligation of CSW, and, in the case of unaccompanied children, the obligation of the guardians.

The best treatment for children of forced migrants is provided in the Institution for the Education of Children and Young People "Vasa Stajić" in Belgrade, despite the fact that the Institution is an institution in which usually children that are citizens of the Republic of Serbia and upon whom disciplinary measures were imposed are accommodated, and in special units there are also children without (adequate) parental care. The special unit with 12 accommodation places is envisaged for minor unaccompanied irregular migrants. The Institution has, in the last three years, completely independently, provided accommodation for these children due to the fact that it did not receive any financial support from the government, and it was not before the second half of 2012 that the Ministry of Labour and Social Policy started to bear 50 % of the costs. The procedure of reception in the Institution is as follows: minor foreigners are brought to the Institution by police officers of the police administration accompanied by staff of the department for social work on the territory of which the first contact was established with the minor foreigner. Within the next 24 hours, the child is appointed a guardian from CSW on the territory of the municipality in which the Institution is located. In the Institution, brochures on the right to asylum and the asylum procedure are available in languages they understand (most of them are from Afghanistan, Syria, Eritrea and Somalia). In case they express the intention to seek asylum, the Institution informs the Asylum Office at the Commissariat for Refugees, and the minors, accompanied by their guardian, are taken to an asylum centre with vacant spaces. In the Institution itself, they spend 3 to 7 weeks, depending on how long they have to wait for a vacant space in the asylum centre.

Food in the Institution is organised in accordance with the religious customs and traditions of the minor foreigners and the facilities in which they stay and sleep are in a decent condition. They have the freedom to move within the vicinity of the Institution and they are allowed to leave the Institution only accompanied by their guardians. Since the Institution does not have a healthcare professional, health examinations are performed in medical centres, just as is the case with all other protégées of the Institution.

They spend their free time playing games on the sports ground, playing chess, watching satellite programmes on TV, PC games, and they have an hour and a half of internet access daily.

What in this kind of non-purpose institution for accommodation of minor migrants seems to be the best example of accommodation of minor migrants after all is the fact that a large number of professionals with experience in the work with children at risk work in the Institution.

Also, what is good in the approach of competent organs in the Republic of Serbia regarding minor forced migrants is that there are neither specific norms nor adopted protocols for confirming the age of asylum seekers but that the statement of the persons that assess her/his physical and psychological status is accepted. This is probably possible as long as their number is still small.

The Ombudsperson emphasised the need to apply good practice principles as defined by UNHCR, Unicef and Save the Children within the framework of the programme Separated Children in Europe, called Statement of Good Practice, in all actions in the area of protection of rights of minor illegal migrants. In the Republic of Serbia, the majority of these principles are applied, however, the lack of financial means is still a weak point, and thus it can be said that the system of their care is based on the enthusiasm of the employees. In August 2012, due to the appeal of the Belgrade Centre for Human Rights that performed regular weekly monitoring of the operation of the asylum centre in Bogovada, the Team of the National Preventive Mechanism of the Ombudsperson that comprised the representatives of the department for children's rights as well as the deputy ombudsperson for children's rights, performed an unannounced visit to the centre, primarily because of the quotations of the representatives of this NGO that a large number of immigrants, including families with children, are staying in an open space in the yard of the asylum centre in Bogovada. After our visit, talks with migrants, with the parents of children, and subsequently with the manager of the centre, omissions in its work were identified, and recommendations were given that absolute priority has to be given to families with children in all situations. On that occasion we were told that four unaccompanied children from Afghanistan and Somalia have some sort of classes in the Centre, three hours per week, so that we were able to establish communication in the Serbian language with them. On that same occasion, we

also assessed that the children occasionally engage in sports activities on the sports ground for football and basketball within the vicinity of the Centre.

After that, there were no more complaints by NGOs, although new capacities have not yet been determined.

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OMBUDSMAN OF AUTONOMOUS PROVINCE OF VOJVODINA

Children returnees according to the readmission agreement

According to the report of the Commissariat for Refugees and Migrations, the Republic of Serbia is a country with large population of displaced persons, being one of five countries in the world with a long-term refugee problem with more than 97,000 registered refugees, including 209,000 internally displaced persons from the territory of AP Kosovo and Metohija, where for many years, the country continually renders assistance to this economically and socially vulnerable category. Besides, during the past few years, Serbia is facing with the asylum seekers from the countries of Asia and Africa and illegal immigrants, but also with returnees as a result of the Readmission Agreement¹.

Among above mentioned migration groups, including the irregular migrants, victims of trafficking in human beings, children included in the life and/or work on the street, children make especially sensitive group exposed to special risks, first of all the risk of inadequate care, abuse, neglect, economic and social exploitation.

In 2013, the Provincial Ombudsman started activities for preparation of a major research about achieving the rights and position of the "Children on the move" on the territory of AP Vojvodina, with special focus on a group of children returnees according to the Readmission Agreement, including children refugees as well as children which belong to internally displaced persons from Kosovo and Metohija.

Data on returnees according to the Readmission Agreement is gathered by the Commissariat for Refugees and Migrations of the Republic of Serbia², i.e. local committees for refugees and migrations such as the Office for Readmission at the „Nikola Tesla" airport. After the review of the report of Office for readmission at the airport³, it was found that some local self-governments, more than others, have the tendency to become place of residence for returnees according to the Readmission Agreement. According to this data, among these 45 local self-governments on the territory of AP Vojvodina, in relation to the number of population on the territory of certain local self-governments, the biggest number of returnees was observed in Zrenjanin, Vršac, Žitište, Beočin, Žabalj, Novi Bečej. It is visible that, along with the City of Belgrade, AP Vojvodina leads in number of returnees.

Considering the mentioned data, the Province Ombudsman conducted a preliminary research in municipalities Vršac, Žitište and the City of Zrenjanin. The social welfare centres, police, local committees for refugees and migrations

¹ "Agreement between the European Community and the Republic of Serbia on the readmission of persons residing without authorisation" signed on 18 September 2007 and entered into force in January 2008.

² Commissariat for Refugees, as a separate organization within the public system, was established by the Law on Refugees ("RS Official Gazette", No. 18/92, Official newspaper of the Federal Republic of Yugoslavia, No. 42/02- SJS and "RS Official Gazette", No. 30 / 10) for professional and other tasks related to the care, return and integration of refugees under this Law and the related administrative tasks (<http://www.kirs.gov.rs/articles/onama.php?lang=SER>).

³ Downloaded from: http://www.kirs.gov.rs/docs/read/11zvestaj_2013.pdf.

requested information about children from the readmission process. Considering that the preliminary research is still ongoing, the data from the Committee for Refugees of the Municipality of Vršac will be presented in the text.

In 2013, municipality Vršac registered 33 families with children. Out of in total 94 registered children, 17 of them live in single-parent families. In this self-government unit, 38 registered children belong to category of returnees according to the Readmission Agreement, 24 are voluntary returnees and yet 32 are multiple returnees. Two thirds are the Roma children, then children of Ashkali (18), Egyptian (12) and two children of Serbian nationality. The relation of boys and girls is 60% to 40%. All children live with parents. Most of the children (48), together with their parents, are accommodated at their cousins and friends, 36 children live with parents in their own home, six children live with families which rent their accommodation and four children live with parents in a non-hygienic settlement.

Prior to going abroad, 26 children have the status of persons from Kosovo and Metohija, and 4 of them are displaced. Out of in total 94 registered children, 69 of them had a status of asylum seekers during their stay abroad, 18 stayed abroad illegally and three had a temporary residence permit.

Out of 33 registered families, 22 do not have any property in the home country. 27 families with children receive social financial aid (29%), and 6 families perform seasonal and periodical work, collection of secondary materials and similar. The average amount of income of the families is 100 Euros.

Considering the health condition of the children, according to the data of the Committee, six children suffer of serious chronic health problems and two children have difficulties in mental development. Four children do not possess health documentation, including some children without the immunisation card. However, most of them have health cards providing them full access to health institutions, thus encompassing them into regular activities and programs in the health protection segment.

32 children attend primary school, three the preparatory preschool program while 54 out of 94 children are not included in any kind of education, although they should have been.

The Committee of Municipality Vršac pointed to problems of, in the first place, temporary or permanent non-attendance to schools, especially because of the fact that the education institutions participate in active solving of problems that the returnees according to the Readmission Agreement face with. Schools organize additional and preparatory classes for children and organize and adjust the teaching materials. Since the certain number of parents is of low educational level, within the scope of the "second chance" project, classes are organized for parents as well. Among other problems we emphasize the lack of knowledge of the country language, distrust towards the ambience, but also the institutions and organizations supporting them. Difficulties in the process of socialization of children were observed, which is caused by the burden of traditional customs (early marriages, prohibition of mixing female children with peers and similar). The absence of working habits was observed in most of the families, and their relying on the material social assistance in solving of existential problems. The Social Welfare Centre is currently the only institution which is able to offer material assistance to these families. The Committee points to very good everyday cooperation with the Social Welfare Centre of the Municipality Vršac. The Committee and the Centre exchange data and jointly visit the families in the field.

A great number of families and their children repeatedly attempt to seek asylum in other countries. The monitoring of children from the group of returnees according to the Readmission Agreement is very aggravated due to distrust in institutions and noncooperation of parents. This is primarily about the families which have already been migrating for several times, without personal immovable property, prone to changing personal names and to disrespect checking out of the place of residence. Due to vicinity of the state border with Romania, some returnees arrive through this border crossing. Police directs these families to the local commissioner for refugees for registration, achievement of other rights and completing of documentation, and the Committee further contacts other institutions of the system.

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SAVE THE CHILDREN

Children on the move – The New Global Trends and Future Perspectives

Who are children on the move?

Millions of children in the world migrate under different circumstances – alone or with their parents and guardians, willingly or forcibly and with different motives – these can be for job search or education, fleeing from unfavourable circumstances such as conflicts, and the mere situation of moving can put them under a greater risk, especially if they travel alone. Statistics show that the number of children among migrants is significant and that this issue should particularly be addressed. On the other hand, migrations in some cases can help children a lot to reach new life opportunities. According to Save the Children definition, children on the move are those children who for different reasons, willingly or forcibly, within a country or between countries, with or without parents or guardians migrate and who are potentially exposed to risks of inadequate care, economic and sexual exploitation, abuse, neglect, lack of care and violence, due to movement.”¹

Children on the move belong to the population that migrates² and it is believed that their number is constantly increasing, following trends of adult migrations³. According to the United Nations (UN) data⁴, during 2010, there were 214 million migrants in the world, out of which the majority of those who migrate from developing countries to more developed countries, while at the same time there is an increase in number of those who migrate between developing countries. Of this number, 35 million of international migrants in the world are younger than 20 years of age (they make 16 % of the total population of migrants). Out of this number, 11 million are children aged 15 to 19 years. There is no available data on children younger than this target group. Of the total number, about 60% live in undeveloped or developing countries. Migrant children and adolescents make a considerable part of the population of migrants in Africa (28%), then in Asia (21%), Oceania (11%), Europe (11%) and America (10%). Also, children make almost one half of the total number of forcibly displaced persons in the world – more than 12 million boys and girls. One form of migrations that is increasing is a migration from rural to urban areas, as well as temporary migrations for season, temporary jobs. Although there are no comprehensive statistics, the mere description of the phenomena is especially significant for the population of children, because the assessments show that a number of children encompassed by the internal migrations is significantly greater than the number of children included in the international migration⁵.

According to Save the Children's experience, although migrations enable these children reach new opportunities, they are often exposed to risks (or increased risks) of economic and sexual exploitation, abuse, neglect and violence.

¹ Child Protection Initiative: Taking action against all forms of abuse, neglect, violence and exploitation, brochure Save the Children, 2010

² Migrations represent a movement of a person or a group of persons within one or more states, regardless of the time period or causes of such movement. Taken from: IOM key migration terms, www.iom.int/cms/en/sites/iom/home/about-migration/key-migration-terms-1.html#Migration

³ Daniela Reale, *Away from home - Protecting and supporting children on the move*, Save the Children, 2008, p. 5

⁴ UN Population facts, June 2012

⁵ Daniela Reale, *author's comment*, p. 5.

Children are exposed to risks while on the move and also at their destinations – they are often discriminated; they may become victims of human trafficking or labour exploitation, and they often become street children as well. The system of protection of these children is weak, if any. Due to their migration status, these children are often exposed to violence by national and local institutions. Therefore, Save the Children considers children on the move as one of the priority fields of its work which is based on a holistic approach to children on the move, rather than treating them as “children-victims of trafficking” or “migrant children” only. This holistic approach is aimed at supporting the development of the protection system which especially tackles the children on the move issue within the existing national child protection system.

Global and regional development trends

The first global conference about Children on the Move was held in Barcelona, Spain, in June 2010. On that occasion an Interagency Group on Children on the Move was established and it included the following organisations: International Organisation for Migration, International Labour Organisation, Plan International, Save the Children, Terre des Hommes, African Movement for Working Children and Youth, Environmental Development Action in the Third World, UNHCR, UNICEF, World Vision, Oak Foundation and individual experts. The activities of this Interagency Group are aimed at influencing the child protection debates in order to include all of children on the move (not only those who are victims of trafficking), as well as to properly address the child protection issue in the migration debates, so as to include children on the move while applying a holistic vision of their needs.

To this end, in October 2012, a Day of General Discussion of the United Nations Committee on the Rights of the Child was held to discuss “the rights of the child in the context of international migrations”. Through the Working Group for Children on the Move, Save the Children considerably influenced the adoption of 25 recommendations which focus on the following: legislation, policy and coordination; data collection and research; definition of the child and applicability of the Convention to all children under 18; non-discrimination; the best interests of the child; the right of the child to be heard; the right to identity, including the right to name and ethnicity; the right to freedom and alternative to incarceration; absence of any form of violence including, in the context of migration, the right to health; access to regular and safe migration channels and to regulated status, protection from economic exploitation; children in conflict.

The key conclusions of the Committee pertain to the following themes:

- The Committee on the Rights of the Child insists on importance of both monitoring of the status of children on the move and the role of the Committee on the Rights of the Child.
- It is vital for the states to improve collection of data on children on the move when preparing their reports to the Committee, in accordance with the Committee’s recommendations made on the Day of General Discussion.
- It is of key importance for Civil Society Organisations (CSOs), through national coalitions for the rights of the child, to provide information for alternative reports with a special focus on children on the move, in accordance with the Committee’s recommendations made on the Day of General Discussion.

In late 2013, the second High Level Dialogue on International Migrations and Development was held in order to identify “...concrete measures to strengthen coherence and cooperation at all levels, with a view to enhancing the benefits of international migration for migrants and countries alike and its important links to development, while reducing its negative implications”. On this occasion, Save the Children addressed the key problems related to children on the move and requested the stated to secure the following:

- Secure that the rights and needs of children on the move are given due priority during the preparation and development of the Post-2015 Development Framework
- Secure that the best interest of the child is of paramount importance in all actions involving children on the move
- International community should agree upon a common child protection agenda which should provide guidelines and proposals for normative, institutional and procedural solutions for cooperation between

the countries of origin, transit and destination, with a view to tackling the status of the child migrants.

- Encourage effective and efficient partnerships with a view to securing education, training and creation of job opportunities for children and the youth in their countries of origin, and also in the transit and final destination countries.

Proactive advocacy for CHILDREN to be entered on the agenda before and during the high level dialogue involved the organisation of three associated events (in New York and Geneva) with the panellists, including Navi Pillay, the United Nations High Commissioner for Human Rights; William Swing, Director General of IOM; Peter Sutherland, United Nations Special Representative of the Secretary-General for International Migration; Prof Crepeau, the UN Special Rapporteur on the human rights of migrants.

The outcomes of the participation in the high level dialogue are evident in the final report which makes a clear reference to children, children's rights and the best interests of the child; the focus is placed on the need for the establishment of the international cooperation mechanisms; USA and the Philippines took the initiative to develop a framework which is particularly focused on assistance and support to migrants in especially vulnerable situations; the need for inclusion of migrations in the post-2015 agenda is highlighted.

Key developments and priorities in the forthcoming period

1. Inclusion of children on the move in the post-2015 debate. Placing child protection and children on the move in the focus is priority in terms of securing that: a) child protection is the goal; b) specific objectives related to children on the move are focused on international cooperation mechanisms with a view to protecting migrants, including children; c) integration of migration indicators within the goals and results being defined.
2. The protection system in the "mixed migration flows" and migrants in transit have become a frequent subject of debates: children should be involved in these debates.
3. Increased focus on urbanisation and employment of the youth. It is necessary to address the issue of child migrants who are poorly visible, through both types of programmes
4. Influence on regional debates – the accession to EU

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NGO ATINA

Challenges of exercising the rights of children on the move in Serbia

-From the perspective of children-

During the course of the past several years in the area of the Western Balkans countries including Serbia, there has been a significant increase in the number of children on the move who are migrating in search for protection and better life opportunities. This especially relates to the number of children-asylum seekers, children from the readmission process, children-victims of human trafficking, as well as children included in the life and work on the streets who are migrating within the country borders. This trend is in line with migration tendencies at the global and at the European level, due to which the Balkan countries are becoming a transit, and less often the final destination of children coming from the war conflict areas of Asia and Africa. On the other hand, migration of children originating from the region countries is initiated by a slow process of

transition of society accompanied by poverty, marginalization of certain social groups and often by inefficient social protection system. For better understanding of the phenomenon of the children on the move, it is important to have in mind that most of these children are migrating because of impossibility to exercise some of their fundamental rights in their primary place of residence. On the other hand, the context of migration itself strikes these children in different ways and exposes them to multiple risks of rights violation.

Ensuring prerequisites for full achievement of the rights of children on the move, at least in Serbia, yet remains a challenge for the children protection system. One of the first programs in Serbia, aimed to contribute to comprehensive insight and contextualization of the phenomenon of children on the move, understanding of challenges in achieving rights of these children as well as improving the social protection system which is based on the children's rights, was initiated by the office of the Save the Children in the North West Balkans in cooperation with partners NGO Atina and Group 484.¹ The Program named "Social Protection Reform of the World Fit for Children" was implemented during 2012 and 2013. Inclusion of children's perspective in dialog about the phenomenon of children on the move, as well as the rights of children in the context of migrations, is one of important components of this program, which is based on the rights of children to participate in all issues of their concern and recognizing the value of their experiences and perspectives.

This publication will analyse the challenges in exercising the rights of children from the children's perspective through the prism of the foundation principles of the United Nations Convention on the Rights of a Child and consider the rights of the child in contexts of migrations in their interdependence and unity, and children's experiences in wider context.

The right to non-discrimination

Pursuant to the Convention on the Rights of the Child, the right to non-discrimination guarantees that all children will be able to enjoy their rights without discrimination on any ground. The non-discrimination principle is particularly important for children on the move because these often face various forms of discrimination - from de jure and de facto system discrimination to discriminations by their immediate environment, including racism and xenophobia. This is also substantiated by the findings of the research with the children.

Children who were staying in Serbia as migrants point at the fact that discrimination in terms of exercising their rights is often based on these children's status in the migration process. According to children's experiences, their possibilities to exercise their rights were directly conditioned by the manner in which the status has been regulated in certain country, and the measures foreseen by the system aimed at exercising the special protection of the rights of the children on the move. The children note that that there are considerable differences in the approach to the right and the quality of existing services. The countries in which these children stayed during their travel, basically provided accommodation and food for them, including the basic health protection, while the possibilities for exercising other rights were limited. The children noted that a special problem they faced in the countries of their temporary stay pertained to their impossibility to exercise their right to education.

Ensuring equal access to the rights, particularly social, economic and cultural, largely depends on the state politics and the economic standard as well. This fact is a significant trigger for migration of children and families from Serbia to the Western Europe countries. The children who participated in the research emphasised that, upon arrival in the destination country and acquiring the status of the asylum seekers, they were enabled to exercise the social-economic and cultural rights which meant a better life for them, compared to that they had in Serbia.

The research conducted with children travelling within Serbia indicate that the access to the rights of these children is often limited, which also refers to the most basic rights. This particularly affects the children without personal documents due to which they are legally "invisible" while, at the same time, there are no institutional mechanisms to secure them to exercise their rights and to be protected when their rights

¹ Program is supported by the European Commission, Open Society Fund and Save the Children Norway.

are violated. Children clearly point at the system failures with regard to the most vulnerable groups of children, particularly those involved in the street life and work and children from the most vulnerable Roma families. Children on the move most often need additional support to become covered by the social and health protection system services and to be included into the education system. This support may consist of provision of the required documents, assistance in the procedure for the access to a certain service, assistance in overcoming the language barriers which the migrant children and their parents often face. According to a large number of children who participated in the research, they began to exercise their rights only when non-governmental organisations in whose programmes they were involved supported them. One more problem children mentioned to be considerably affected with is the problem of discrimination they face in their immediate environments. Roma children in particular insist on this problem stating the examples which undoubtedly show that they are exposed to discrimination at the street and in the communities in which they live, at school....., by professionals they contact – police, healthcare workers and teachers, as well as their peers and adult fellow-townpeople. Many children note that they are also exposed to discrimination because of poverty and their living conditions, particularly by their peers at school, and they also talk about the problems with reintegration at school and with finding new friends upon their return to Serbia.

Principle of the child's best interest

Right to the child's best interest is one of the key principles of the Convention on the Rights of the Child which highlights the obligation of the State to ensure that all activities affecting children should be made in their best interest. i.e. that leads to the child welfare. Beside the unquestionable importance to act in accordance with this principle, there are plenty of factors which should be taken into account, particularly when it comes to the migrations. In order to define the best interest of the child, it is necessary to take into account the situation of any individual child – his/her vulnerability and resilience, the need for protection, developmental needs, including education and culture to which child belongs, wherein it is necessary to take into account the child's perspective.

Almost all children who participated in the research believe that their parents' decision to leave the country, that is, their place of residence was in their best interest. Several children stated that, although at certain points of their travel they thought that their parents' decision was not the best solution, now, when they look into their overall experience, they believe that a decision on migration was actually the only one their parents could have made to secure better conditions for their lives.

On the other hand, when they talk about the decisions which were not made by their respective families but by the representatives of authorities or professionals working in the child protection services, a large number of children state that those decisions did not take into account their best interest. This primarily refers to the decisions on deportation or return to a safe third country in cases where children crossed the borders during the migration process, and to the decisions on forceful displacement in case of children migrating within the borders of one country. The children believe that their best interest was not taken into account in the process of making such decisions and note that, in the decision-making process; they did not have an opportunity to express their view of the solution to be in their best interest. Children's experiences show that the decisions made caused the violation of other rights

The right to life, survival and development

Every child has a guarantee to the right to life, survival and development. This principle notes that the right to life, being the fundamental right implies not only physical survival, but the right to development until the child has reached their full capacity, in which process the child's reaching his/her full capacity depends on the holistic implementation of all articles of the Convention. In case of the children on the move, the right to life, survival and development is one of the most sensitive rights. All children who participated in the research stated that their parents and/or they themselves had decided to leave their place of residence so as to secure a "better life". In their minds, a better life most often means a safe environment, optimal living standards, inclusion in education, playing and activities with their peers, their own development and a feeling of their personal welfare.

Children from Afghanistan and Somalia state that the migration phase when they are half-way from their unknown final destination brings relief because they fled from the war circumstances in which their lives and lives of their family members were threatened. Children emphasise that was their “first step” towards a better life. They hope to find a country which “will accept them” and enable them to exercise their right to full development. However, the travelling itself imposes a range of life threats on these children. A large number of children, and particularly those who travel using illegal channels testify about unsafe ways of travelling, armed attacks on the groups of migrants, including children, hardships on their route, arrests of both parents and children, separation from family, about cases of various forms of exploitation, and about constant fear from smugglers and human traffickers. While travelling, children experience the lack of food and water, and they often do not have even a basic healthcare.

Children included in the readmission process that spent some time in the country of their dreams prior to being deported to Serbia, emphasise their feeling of “safety” while staying in the countries of the Western Europe. The children evaluate the quality of life they lived there as being “much better”, even “extraordinary and incomparable” to the quality of life they have in Serbia. However, perhaps it is even more noticeable that all of these children note that they felt to have a “perspective” and “much larger chances for progress” abroad. When talking about their experiences, many children refer to the importance of the adults’ role, teachers and social workers in particular, in providing support and assistance in monitoring their progress while being abroad. It clearly follows from the children’s experiences that the right to development is conditioned by the access to economic, social and cultural rights, as well as the rights to education, playing and free time, which the children especially referred to.

On the other hand, experiences of children who migrate with their families or alone within the borders of one country seeking a better life are far more pessimistic in terms of their belief that the migrations can secure a better life for them. Affected by severe poverty, children often move in pursuing for better opportunities for earning some income. However, according to these children, the moving in itself does not often result in a better quality of life. These children do not often have their civic-legal status regulated and they therefore do not have access to health and social protection and education: they live in illegal settlements and are involved in the street life and labour. From their early childhood they assume the adults’ role – they support their families or participate in earning income for their families or take care of their siblings. If they get separated from families, they support themselves. The children state that most of their time they spend on the street and without being adequately supervised by adults, which makes them exposed to various risks of violence and different forms of exploitation.

The right to participation

The right to participation, that is, the right of the child to be involved in exercising his/her rights, is one of the fundamental principles of the Convention on the Rights of the Child. This principle, points out to importance of that the child’s participation in decision making and in developing the services and programmes intended for children, thus recognizing children as holders of their rights and active participants in own lives and development. The right to participation is particularly important for children in the process of migration within which a range of decisions is being made to considerably affect the life of the child. This fact is highlighted by all children who participated in the research. Unfortunately, a large number of them note that they were not informed, asked or anyhow involved in the decision-making process.

Almost all of the children explain that they do not have a decisive role in making decisions on migrations. Although most of them state that their parents explained to them the reasons for leaving their place of residence and asked for their opinion, they believe that their opinion could certainly not change a decision opinion, they believe that their opinion could certainly not change a decision made by their parents. Only two of older children who travelled unaccompanied stated that they themselves had made a decision to migrate. On the other hand, children note that they themselves, but their parents also, do not often have information on what awaits them in the journey or upon arrival at some destination, which considerably make their decision making more difficult. Children who travelled unaccompanied also speak about the situations in which they were not informed about certain procedures and decisions made “in their case”.

All children who participated in the research believe that it is important to secure that their voice is "heard" in the decision making process pertaining to border controls, deportation, asylum seeking or forceful displacement, by which the decisions would be made in their best interest. However, their experiences are quite different. None of the children travelling with their parents was consulted in making the referenced decisions. Children who travelled unaccompanied, state that they were "asked" about their experiences, but not for their opinion.

The children recognise that they should be consulted about the services and programmes intended for them. According to them, this would make the service consistent with their needs and they would be more motivated to become involved. A certain number of children involved in the programmes of non-governmental organisations talk about their positive experiences in participating in the decision making process that affecting their protection and development.

All of the children consulted in this research undoubtedly noted the importance of the right to participation and the need for the children on the move to be provided with the opportunity to express their opinion and take part in decision making. Children highly regarded their participation in the research, considering it a possibility to talk about their experiences and views and to contribute to securing better conditions for the exercise of the rights of the children on the move.

Literature: Galonja, A., Morača, T, Avramović, M. (2012): Deca u pokretu – položaj i programi podrške i zaštite dece u pokretu u Republici Srbiji. Beograd: ATINA

Author: Maša Avramović

Ombudsperson for Children of the Republic of Croatia in cooperation with Save the Children organized:

Thematic meeting of the Children's Right Ombudsperson's Network in Southeast Europe

“Children on the move”

5TH November 2013

Participants of thematic meeting, representatives of ombudsman institutions from Albania, Bosnia and Herzegovina, Bulgaria, Montenegro, Croatia, Kosovo, FYR Macedonia, Republika Srpska, Slovenia, Serbia and Vojvodina, concluded that:

“Children on the move”, children in high-risk migration, are a particularly vulnerable group regardless of whether they are accompanied by their parents or travelling alone in search of better conditions, running from violence, abuse, poverty, war, natural disasters and other hardships that force them to leave their home.

Because they are especially vulnerable, it is necessary to strengthen and improve the system of care at a national level, and strengthen cross-border cooperation in the region.

We the Ombudsman for Children agree about the following measures and recommendations:

- each Member State must establish a comprehensive and effective system for the protection of children on the move that will, regardless of their migration status, guarantee the protection and full exercise of their rights guaranteed by the Convention on the Rights of the Child, in accordance with international standards for their protection and of the General Comment no. 6 (2005) UN Committee on the Rights of the Child, report of the 2012 Day of General Discussion of the Committee on the Rights of the Child on “the rights of all children in the context of international migration”, and the ENOC Position statement “Children on the Move: Children First” adopted at the 17th ENOC Annual General Assembly held on 27 September 2013 in Brussels
- each Member State should create operational mechanisms for intersectoral collaboration and develop and implement a standardized procedure for child friendly reception
- each Member State should establish an effective national system for collecting statistical data and sharing information about “children on the move”
- each Member State should provide continuous and comprehensive training to all professionals dealing with “children on the move”
- each Member State should establish criteria for the appointment of guardians and develop a network of special guardians who will perform the duties of guardianship in accordance with international standards
- each Member State should ensure that a guardian is appointed as soon as possible. The guardian should take care of all the needs of the child and establish and maintain regular contact with the child
- each Member State should ensure appropriate child-friendly reception conditions which have to be monitored by independent institutions for children's rights

- each Member State should establish specialized accommodation facilities in open institutions for children on the move in order to ensure optimal protection and adequate assistance in accordance with the specific needs of the children
- each Member State should ensure that age assessment is done without the use of aggressive methods which are harmful to health, such as x-ray, and give preference to other less harmful methods
- the Ombudsman for Children should work to raise the public awareness about the need for tolerance and protection of the children on the move in order to reduce the degree of intolerance towards immigrants, especially those who come from different religious and cultural backgrounds, and to overcome hatred and prejudice
- each Member State should ensure that all protection measures should be undertaken in consultation with children and include a child's perspective - their experiences, point of view and expectations taking into account the ethical principles and methodology of participation of children in all decisions
- each Member State should provide information to children about their rights and opportunities and make it available in child friendly language
- the protection and support must be provided in a manner that is not restrictive and respects the principle of the best interests of the child
- each Member State should take measures to eliminate the causes of migration of children by developing preventive mechanisms. The children should be informed about the risks and dangers of unsafe migration

