



SUPPLEMENTARY REPORT

TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD

Findings and Recommendations of the Independent Authority *The Ombudsman for Children* on the Implementation of Children's Rights in Croatia and on the Croatia 3rd and 4th Periodic Reports

January 2014

FOREWORD BY THE OMBUDSMAN FOR CHILDREN

The institution of Ombudsman for Children of the Republic of Croatia (hereinafter referred to as “the Ombudsman”) was established in 2003 by the Act on the Ombudsman for Children, as a parliamentary institution, with the aim of monitoring, protecting and promoting the rights and interests of children. The Ombudsman is mandated to address all human rights concerning children by performing the functions on all territory of Croatia. The office carries out its duties on four locations, with its head office in Zagreb and in three regional offices in other major cities (Osijek, Rijeka and Split). The regional offices were founded in 2007 after an initiative by the Ombudsman, who set up the program and established all requirements for their operation, referring to the Recommendation No. 14 contained within the Conclusions of the CRC (2004); this was supported financially by the Government of the Republic of Croatia.

There are 797 855 children in Croatia (19% of the total population). The Ombudsman has brought together a multidisciplinary team of experts – comprised of lawyers, psychologists, pedagogues, social pedagogues, social workers and special education teachers – whose duty is to monitor if children’s rights are respected and fully implemented.

Over the past 10 years we have processed 8685 individual complaints related to violation of children’s rights; undertaken 9364 general initiatives; submitted 160 opinions and proposals concerning the procedure for drafting legislative proposals; made 245 general recommendations; organized 63 expert meetings, public discussions, conferences and round tables; gave 370 presentations concerned with different areas of child’s rights protection; visited 357 places and institutions where children live or stay (playgrounds, kindergartens, primary and secondary schools, penal institutions, hospitals, children’s homes, etc.); published 9 collections of papers, 7 editions of the Convention on the Rights of the Child (including a child-friendly version, a Braille edition, an audio version and the edition in two Romani languages).

A significant portion of our work consists in meeting, interviewing and collaborating with children. The meetings take place in our offices, places and institutions where children live or spend most of their time and at various thematic events.

The Ombudsman is assisted by the Network of Young Advisors (NYA), consisting of 25 members - children aged 12-18, who act as advisors to the Ombudsman and promoters of children’s rights among peers and adults. They actively participate in our discussions on daily basis, addressing a number of different topics related to our work and children’s rights in different areas – either through an online forum or in theme-based meetings.

This is the first report issued by the Ombudsman to the UN Committee on the Rights of the Child assessing the implementation of children’s rights in Croatia. The report is based on observations made by the Ombudsman, complaints received from children and adults, children’s opinions, consultations with experts, practitioners and civil society organizations.

We believe this report will allow the Committee on the Rights of the Child to gain a comprehensive and objective insight into the situation of children’s rights in the Republic of Croatia, in terms of their respect and implementation.

We agree with most of the claims contained in the State report. However, we felt prompted to comment on those parts of the state reports that are inconsistent with the records held by the Ombudsman. This parallel report closely follows the structure of the State report so we hereby comment it in relation to the paragraphs of the State report.

I. GENERAL MEASURES OF IMPLEMENTATION

A. Provisions in national legislation and strategic documents that guide the exercise of the rights of the child (State report § 3-72)

The legislative drafting process in Croatia has been greatly accelerated and dynamic; legislative process facilitates speedy passage of legislation; the laws keep getting passed without any debate or the public discussion; in some cases the drafts are published for public consultation which usually takes place online and at short notice. Laws tend to change very often; they are either amended or the new laws applicable to the same area are passed; such legislative hyperactivity makes it difficult to find one's way around. The Ombudsman has legal authority to take part in the procedure of preparing draft proposals of the regulations relating to children's rights. However, the institution is often unable to exercise this authority when the draft of the legislation is not made available for her consideration and review or is denied the opportunity to express her opinion or submit proposals before the draft enters legislative process. Unfortunately, not all ministries include in an equivalent way the Ombudsman in the legislative drafting process. The inability to timely reaction during the early stages of the legislative drafting process decreases the possibility of interventions in the late stages of the process.

Over the past ten years the Ombudsman has submitted 160 opinions and proposals for adoption and amendments to the laws and by-laws; among these, 616 individual proposals were laid out. The average percentage of the Ombudsman's proposals that were accepted was 26% (ranging from 14 to 44%). These rates are far too low and remain way below what we have hoped or expected, even more so since every proposal was well-argued and based on principles guiding the protection of children's rights and wellbeing as laid out in the Convention of the Rights of the Child. In addition, each of the proposals issued was based on information collected through monitoring individual violations of children's rights and practical difficulties in the systems that came up through our contacts with children and experts and each strives to resolve them.

Overview of legislative regulations

The State's overview of legislative regulations, with specific reference to certain laws and regulations that were enacted and in force during the reporting period, is in some parts not consistent with the data found in our records and does not reflect our attitudes. Some laws are not fully implemented in practice, such as the **Act on Primary and Secondary School Education** (State report § 15) - although it provides for a worker certification system, such a system however has not been implemented to the present date; or the **Act on Electronic Media** (State report § 34) - its provisions are not consistently implemented. The implementation of some regulations have proven ineffective, such as the **Act on Free Legal Aid** (State report § 31), which is too complicated to implement and sets a series of administrative obstacles in realization of the right to access to justice. Lack of implementing regulations in some areas makes certain laws difficult to implement, such as the **Act on Audiovisual Activities** (State report § 35) and the **Act on Road Safety** (State report § 28), but also facilitates beer advertising and encourages children to drink it (the **Act on Food**).

Some regulations, due to certain shortcomings do not sufficiently protect children's rights, such as the **Act on Children's Allowance** (State report § 6), the **Act on Maternity and Parental Benefits** (State report § 9), the **Act on Vocational Education** (State report § 17), **Penal Code** (State report § 18), the **Act on the Protection against Family Violence** (State report § 23), the **Act on Police Affairs and Authorities** (State report § 25), the **Act on Foreigners Health Protection** and the **Media Act** (State report § 33).

The provisions of the **Family Act** (State report § 5; 203; 219) have improved material justice and process justice provisions on children maintenance, but the same act in some parts deviates from previously established standards of children's rights protection.

Despite the Ombudsman's request, no law has been adopted to lay down a set of requirements for setting up and maintaining indoor and outdoor play areas for children (playrooms and playgrounds) nor has the issue of supervision of these facilities been addressed.

There are no laws regulating "alternative" ("unconventional") medicine in Croatia, which allows unverified practitioners to practice medicine and child exploitation.

The most frequently observed problem is the implementation of the laws in practice. Even though the Convention on the Rights of the Child is superior to national laws, it is rarely directly implemented in practice.

The Ombudsman's recommendations:

1. The Ombudsman should be more included, informed and taken into consideration as a partner in creating regulations relating to children's rights or addressing important issues for children. Drafts of legislation that affect children's rights should be submitted to the Ombudsman for review and consultation before they enter the legislative process.
2. The state-funded child care maintenance system needs to be reformed and adjusted to child's best interest to make sure that all children whose parents do not meet their child support obligations receive the financial support necessary for their growth and development. Adoption requirements should be amended or modified so as to motivate adoptive parents to adopt "older" children (State report § 5).
3. In the system of recognizing the right to receive children's allowance, all children under the age of 18 should be made equal regardless of their educational status and the residency status of their parents (State report § 6).
4. Foster parents should be granted the same rights as birth parents in realization of the rights to financial benefits.
5. The law should be adopted to regulate the program, process and manner to obtain, issue and renew the licenses for teachers, school professionals, principals and others persons working in the education system (State report § 15).
6. A more accurate legislation is required to regulate employment rights, safety and protection at workplace for children in job training and apprenticeship programs, as well as to prescribe penalties for employers who violate legal provisions and to regulate a supervision of employers (State report § 17).
7. The law should clearly state that there is no statute of limitations on sex crimes against children. Criminal liability for failing to report crimes committed against children regardless of the severity of the crime should be extended to all citizens without exception (State report § 18).
8. Hindering children's contact with other parent and violence in teen dating relationships should be treated as forms of abuse and family violence (State report § 23).
9. The law should impose strict restrictions on police questioning of children without a parent or a caregiver present (State report § 25).
10. The law should state that all foreign children with temporary stay in the Republic of Croatia have a right to receive free health protection.

11. The free legal aid system should be simplified and made more accessible to all people with lower socioeconomic status. Lawyers should be motivated to provide high-quality services to their clients (State report § 31).
12. A supervisory body should be appointed in charge of monitoring the implementation of the Media Act (State report § 33).
13. The Government should adopt rules on classification of audiovisual works, design and conduct training on its implementation in practice, regulate the sale of computer games for children and introduce the video game rating system (age ratings), restrict access by minors to specific computer/video games, introduce age-group rating system to protect children from inappropriate or potentially harmful contents, encourage production of games that stimulate child's development and introduce the quality rating system that would make the choice easier for parents (State report § 35).
14. In order to strengthen the road safety of children, a bicycle education program for children should be adopted (State report § 28; 113).
15. The Government should adopt implementing regulations on beer advertising.
16. The Government should adopt the law on requirements for children's playrooms and play areas.
17. The law regulating "alternative" ("unconventional") medicine should be adopted to prevent the practice of unverified practitioners and exploitation of children.

Overview of strategic and other documents

The *National Plan of Activities for the Rights and Interests of Children from the Year 2006 until the Year 2012* (State report § 40; 41; 42) has not, unfortunately, achieved its purpose, despite being comprehensive, having included all the CRC recommendations from 2004 and having well targeted goals. Numerous measures have not been carried out (for example: National Program for Child Injury Prevention, National Strategy for Protection of Children from Abuse and Neglect, National Plan for Prevention of Sexual Exploitation of Children, etc.) or were carried out partially, beyond given deadlines and were not evaluated.

The Ombudsman's recommendation:

1. Carry out all measures defined by the National Plan of Activities for the Rights and Interests of Children from the Year 2006 until the Year 2012.

B. Mechanisms at the national or local levels for policy coordination in relation to children (CRC Recommendation Nos. 11, 12, 13 and 14), D. Independent human rights institutions and E. Making the principles and provisions of the Convention known to children and adults

(State report § 74; 75) The Council for Children has since 2004 failed to perform its function as a coordinating body responsible for monitoring the activities towards children; it has not come out in the public nor has it spoken up to made itself heard on issues relevant to children. However, some members of the Council have stepped out publicly as independent experts on such issues (8 of them, for example, publicly disapproved of the Council's position that the institution of the specialized Ombudsman for Children should be dissolved and merged with the People's Ombudsman).

(State report § 80; 81) The law defines the Ombudsman for Children as an independent supervisory body and as such it was provided with the support by the state in its work and enlargement. But the Government has during the period covered by this report often pointed out the need to dissolve this

specialized institution and merge it with the People's Ombudsman; this was nearly done in 2011 by adopting a law dissolving this institution. A large number of independent experts, UNICEF, NGOs, and the Coordination of Associations for Children have vigorously opposed to this, so as a result, after the parliamentary elections and the decision of the Constitutional Court, this law was withdrawn. A new one was adopted in June 2012 - allowing the Ombudsman for Children and other specialized ombudspersons to regain their independent status. However, the position towards the Ombudsman for Children as a specialized and independent institution is not stable, but rather depends on political attitudes.

(State report § 87) The Human Rights Center **did not** in its scope of work include children's rights. Children's rights were not part of the agenda of this institution – it did not engage in protection and promotion of those rights and therefore we cannot consider it as an independent human rights institution for children. The Center was merged with the People's Ombudsman in 2011.

The Ombudsman's recommendations:

1. Ensure that the Council for Children becomes a Government's expert advisory body whose views would be respected and accepted and has the opportunity to actively participate in creating a "better environment" for children.
2. The Government should ensure to the Ombudsman for Children to perform its functions continuously and independently in consistence with the current model of specialized, independent institution.

F. Funds for children's programmes (the CRC Recommendation No. 15)

There are no data available on the funds allocated for children at national and local level; therefore it is not possible to know the amount that the State Treasury allocates for the implementation of children's rights. Ever since 2006 the Ombudsman has been consistently recommending to the Government of the Republic of Croatia to clearly state the required amount of funding for children which would be used solely for this purpose.

The Ombudsman's recommendation:

1. In the process of creating the state budget, including the local community budgets, the beneficiaries of the budget should separately allocate the data on amounts relating to the implementation of children's rights.

II. DEFINITION OF THE CHILD

(Art. 1 of the Convention and the CRC Recommendations Nos. 17 and 18)

Despite the recommendation made by the Committee on the Rights of the Child and the related recommendations made by the Ombudsman, there is still no uniformed data collecting on children; therefore there are no data available on persons under the age of 18 regarding their age, sex and ethnicity. From the data provided by the Croatian Bureau of Statistics it is not possible to identify appropriate and separate indicators relating to different areas of the implementation of the Convention and to all age groups of children in society and to assess the progress achieved or difficulties that obstruct the realization of children's rights.

Despite the Ombudsman's efforts, children under the age of 18 in some fields still do not remain treated on equal manner. For example, pursuant to the Act on Juvenile Courts, a child victim of a criminal offense who is older than 16 does not have automatically the same privileges in the

proceedings as younger victims have (privilege of being questioned without presence of judge and parties in the courtroom using audio-video equipment operated by a professional assistant to record the interview with the child and aided by a psychologist, pedagogue or other expert).

The Ombudsman's recommendations:

1. Standardize data collection system and set up the registries to record fundamental characteristics and indicators of the implementation of the Convention on the Rights of the Child.
2. In criminal legislation all children witnesses under the age of 18 should be granted equal status and protection.

III. GENERAL PRINCIPLES

A. Non-discrimination (State report § 99)

In the period not covered by this report (in 2012) there was a rise in the number of complaints received by the Ombudsman related to discrimination; most complaints are related to discrimination against children in the field of education concerning Roma ethnic minority.

The Ombudsman's recommendations:

1. Ensure that all Roma children have access to preschool programs and Croatian language courses; provide transportation to children to and from schools and other educational institutions situated far away from the Roma settlements; ensure adequate school settings and personnel that would enable Roma children to be included in mainstream educational system.
2. Design and carry out prevention programmes aimed at teaching children tolerance, non-discrimination and to embrace diversity.
3. Educate and inform parents, educational personnel and others working or otherwise helping in educational process on the principles of non-discrimination.

B. Best interests of the child (State report § 109)

The Ombudsman has observed that there is still room for improvements when it comes to the implementation of this principle by different bodies and institutions.

The Ombudsman's recommendation:

1. Provide training and education for experts involved in decision-making processes affecting children on implementation of the principle of the best interests of the child and offer additional training on the child's developmental needs.

C. The right to life, survival and development (State report § 111-113)

Prevention and protection of mental health of children (especially children with behavioral problems) is made even more difficult due to lack of professionals in the field of mental health, lack of adequate accommodation facilities, failure to take multidisciplinary approach and uneven access to mental health care services across the country.

The great concern is caused by a large number of children victims of traffic accidents as pedestrians, passengers, bicycle and motor riders, and when operating the agricultural machinery.

The Ombudsman's recommendations:

1. Ensure the sufficient number of mental health care professionals, their additional education and better availability of mental health care services for children and their parents, especially to those living outside urban areas.
2. Strengthen the multidisciplinary approach in protection of mental health of children in general, particularly of children and youth with behavioral problems.
3. Ensure the intensified supervision of implementation of regulations, improve the road infrastructure, and education of children and adults about participation in traffic safety.

D. Respect for the views of the child (State report § 118-125)

The principle of child participation is not being implemented to the full extent, adults only pay lip service to this principle and there are no systematic training programs for experts working with children on the implementation of this principle.

The Ombudsman's recommendation:

1. Organize continuous training for professionals working with children and for children in all different systems about the right of the child to participation.

IV. CIVIL RIGHTS AND FREEDOMS

A. Birth registration, name and nationality (Art. 7. of the Convention)

(State report § 128) With respect to child's right to know his/hers origin, currently the paternity of a child can be established differently, depending on the circumstances whether a child was born during marriage or outside of marriage. With respect to the presumption of paternity, the Family Act makes a difference between children born to married parents and those born out of wedlock. If a child is born during a marriage or within 300 days after the marriage was terminated, mother's husband's name will be automatically registered on the birth certificate, even in those situations when he is indisputably not the child's biological father; therefore this presumption can be disputed before the court. Until after the termination of court proceedings to establish paternity, the child's biological father cannot be his/her legal representative, cannot be involved in choosing the child's personal name and the child cannot bear his name.

The Ombudsman's recommendation:

1. The marital presumption of paternity should apply only in cases where paternity of a child cannot be established by mutual agreement of the parents.

C. Freedom of expression and the right to seek, receive and impart information (State report §137 – 140)

Involvement of children - members of student representative bodies in schools, children's homes and local community, as well as the elections of children's representative are often too formalized and not conducted in all communities and social environments. Children are not informed well enough about these activities.

The Ombudsman's recommendations:

1. It is necessary to educate children on the meaning and significance of children's representative bodies in schools, children's homes and local communities and educate teachers and educators to strengthen children's capacities to participate; schools should build these capacities and the local community and the State financially ensure them.
2. Encourage children to create and run children's magazines or school newspapers, as a part of children's media culture development.

D. Freedom of thought, conscience and religion (State report § 141-143)

The current educational system does not provide children with the opportunity to learn more about different religions and other philosophies of life such as atheism. Since the majority of children attend Catholic religious education classes, a problem occurs with lesson planning for children - in arranging co-curricular activities for children who do not attend these classes. There is not enough public information about schools and other educational programmes run by various religious communities.

The Ombudsman's recommendation:

1. Keep people better informed on religious educational programmes run by various denominations and introduce Religious culture (or similar) as an optional subject for children who do not attend religious classes. Develop sensitivity to all forms of discrimination and promote dialogue and tolerance among representatives of different philosophies of life at all levels of educational system.

E. Freedom of association and freedom of peaceful assembly (Art. 15 of the Convention) (State report § 144; 148)

Children are entitled to be members of an association but have no right to make decisions in its bodies and are not entitled to be founders of association. The agenda of associations and their work are not properly supervised, and unless they apply for grants from the State or local budget, their programmes are not verified nor are the services they provide to children inspected.

The Ombudsman's recommendations:

1. It is necessary to lay down the requirements which associations should meet particularly when they concern children as well as provide the supervision of their expert work.
2. It is necessary to encourage and prepare children to volunteer and include, within educational institutions, informing on the importance of community services.

F. Protection of privacy and protection of the image (Art. 16 of the Convention)

Children are often subjected to arbitrary or illegal interference with their private lives, especially by the media.

The Ombudsman's recommendations:

1. Continuously raise public awareness and provide education for experts on the importance of protection and preservation of children's privacy and dignity in all aspects of their life.
2. Appoint a supervisory body in charge of monitoring the implementation of the Media Act (such as the supervision of electronic media is entrusted to the Council for Electronic Media) and systematically impose sanctions on editors for violations of children's rights.
3. Provide continuous training for journalists and reporters on the importance of protection of children's rights and empower self-regulatory bodies in the field of the media that now lack sufficient authority.

G. Access to information from a diversity of sources and protection from material harmful to his or her well-being (State report §161-173)

(State report § 161-162) The Ombudsman has observed inadequately equipped libraries in smaller communities, small schools, in the areas of special state concern, on islands and dislocated places.

The Ombudsman's recommendation:

1. Continuously encourage publishing of high-quality literature for children and education materials on children's rights, as well as regularly restock children's sections of public and school libraries in all parts of Croatia.

(State report § 163-165) **Croatian Radiotelevision**, as part of the public service provision produces children's programmes, which are however, on a very small budget. Commercial television networks are not interested in developing and producing high quality programmes for children, but they mostly broadcast foreign programmes, including cartoons that often feature scenes of violence.

The Ombudsman's recommendations:

1. Promote production and broadcasting of high quality radio and television programmes for children.
2. Use television medium to promote media culture for children and their parents and on regular basis inform parents about the options for parental protection of children in watching TV programmes.

(State report § 166-172) Current regulations related to print media are not sufficient in protection of children from potentially harmful content. These issues are much better regulated by the *Act on Electronic Media (2009)*, particularly so since the new Rules on the Protection of Juveniles (2010) were adopted; but these regulations are not consistently implemented in practice, harmful contents are available through teletext service; there seems to be many inconsistencies in the ratings of content inappropriate for children (age rating symbols 12, 16 and 18); the Council for Electronic Media monitors the implementation of laws, but the sanctions it imposes for violation of laws regarding children's rights are often rare and too mild. The sale of children's computer games and their ratings are not regulated by the law.

Despite regulations that restrict alcohol advertising, beer is frequently and aggressively advertised on all television programs, which inevitably influences children. The state has for years failed to adopt an implementing regulation on beer advertising.

The Ombudsman's recommendations:

1. Define by the law more clearly the protection of children from harmful information in print media.
2. Regulate the sale of children's computer games and introduce their mandatory ratings, restrict access of children to certain games, introduce quality ratings to make the choice easier for parents.
3. Beer advertising should be restricted and beer ads should be banned from television until after 10 p.m.

(State report §173-175) Although efforts have been done since 2010 to raise the level of children's protection online, this has proved insufficient.

The Ombudsman's recommendations:

1. Provide education for children, parents and teachers on the possibilities of safe use of Internet, protection of privacy, but also on the necessity to monitor child's online activities.
2. Provide easily accessible counseling centers and hotlines.
3. Engage children to participate in activities that promote safe Internet use and strengthen children's participation in this field.

H. Prohibition of torture or other cruel, inhuman or degrading treatment, including corporal punishment and measures of recovery and social reintegration

(State report § 177) After the submission of the State report, changes made in criminal legislation represent a step back in the protection of children's rights. While the regulation previously in force regulated that the statute of limitations for all criminal offenses committed against children started to run after the victim turned 18, the current law in force applies it only to certain types of criminal offenses (sexual crimes, human trafficking, slavery, child neglect and abuse of children's rights/ etc.).

(State report § 179-182) Violence among children in educational institutions is still a very big problem. Currently available prevention programs are ineffective. A similar situation prevails in institutions for children with behavioral problems, where the fact that violence is often perceived as a normal consequence of growing up and social interactions among children, poses an additional problem.

The implementation of the Rules of Procedure in Case of Violence among Children and Youth (2004) is often superficial and incomplete; there is no multidisciplinary and multi-sectoral approach to problem solving and providing help to child victims and child perpetrators of violence.

The Ombudsman's recommendations:

1. Period prescribed by statute of limitations regarding the institution of criminal proceedings should tie to the age of majority of children for all criminal offenses committed against children.
2. Adopt national strategy for the protection of children from all forms of violence, with clearly defined goals, measures, indicators of the implementation and effectiveness evaluations.
3. The existing Rules of Procedure in Case of Violence among Children and Youth should be improved and training should be provided for all the subjects responsible for its implementation.

4. Improve conditions in all children's institutions, especially residential institutions for children with behavioral problems and provide sufficient number of experts and their continuous education, supervision and regular inspection.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Family environment and parental guidance that takes into account the evolving capacities of the child (Art. 5) and B. Parents' common responsibilities, assistance to parents and provisions of child-care services (Art. 18), (the CRC Recommendations Nos. 39 and 40), (State report § 187-195)

We have observed a lack of availability of agencies offering counseling services and support to children and parents with respect to issues related to parental care, family relationships and difficulties encountered by children and parents in the process of growing up. The concept of common parental responsibility is not promoted in satisfactory manner by professionals working in this field. There are some problems related to the child's visitations and spending time with the parent with whom the child does not live after the end of marriage or family union. A disconcerting number of children are exposed to various forms of manipulative parental behavior resulting in alienation of a child from a parent and development of emotional problems of children. Social welfare centers are not staffed with a sufficient number of experts, their competencies and skills need to be strengthened; there is a need for quality education and supervision.

Not all preschool-aged children have access to early childhood education, as it heavily depends on parents' financial situation and local community's sensitivity towards the needs of children and their parents.

The Ombudsman's recommendations:

1. Set up centers providing counseling and support services to children and their parents at the local level;
2. Provide continuous training and supervision to professionals employed at social welfare centers, as well as make sure that more effective mechanisms are in place to monitor employees' performance based on professionalism and quality of work;
3. Improve the implementation of the existing protective measures currently available under the Family Act and speed up court proceedings.
4. Ensure an adequate supply of quality preschool facilities.

C. Separation from Parents (Article 9)

Social welfare centers and courts sometimes procrastinate reaching and implementing a decision to remove children from their biological families, exposing children to further abuse and neglect. Children are not sufficiently involved in the processes dealing with their removal from their families. Numerous problems have been observed in relation to children maintaining contacts with their parents separated for different reasons.

The Ombudsman's recommendations:

1. Provide higher quality support and assistance to families at risk in order to prevent removal of a child from family.
2. Establish Family courts, speed up court proceedings dealing with the removal of a child from the family; encourage and enable participation and involvement of children in family proceedings.

3. Encourage and monitor the frequency and quality of contacts between children and their parents, and improve the spatial conditions where these contacts take place.
4. Reduce the length of child's stay in institutional care; increase efforts in finding suitable foster families.
5. Better and more systematic supervision of child care institutions' work and foster-care placements.
6. Amend existing laws to allow that the babies born shortly before their mothers should start executing juvenile re-education measure or prison sentence can stay with their mothers.
7. Provide support to children of parents in conflict with the law, to imprisoned parents and to those who take care of children while their parents are incarcerated.

E. Recovery of maintenance for the child (State report § 5, 203)

Several problems have been observed relating to child maintenance support: relevant provisions of the law are inconsistently implemented; court proceedings take too long, especially in cases where a parent who is obliged to pay child maintenance lives abroad and the relevant institutions rarely initiate proceedings ex officio. The way in which state-funded temporary maintenance are regulated does not serve the best interest of the child: it applies only after six months of nonpayment of child maintenance, it is provided for a short period of time (up to 3 years), it is the half of the amount of the minimum cash amount that the parent who does not live with the child is obliged to pay, and once the allotted timeframe to receive it has expired, children are left with no maintenance if the parent continues to avoid maintenance payment.

The Ombudsman's recommendations:

1. Amend the law to allow children to successfully exercise the right to temporary maintenance in accordance with children's needs.
2. Social welfare centers should be more active in ensuring temporary maintenance.
3. Court proceedings should be sped up.

F. Children deprived of their family environment/parental care (State report § 206-215)

Despite the deinstitutionalization plan, the number of children in institutional care is not decreasing; most children stay far too long in residential facilities. Not all institutions are equally well equipped; they do not have a sufficient number of competent and well-trained staff and their collaboration with social service centers is not satisfactory. Despite the foster care recruitment campaigns, there are not enough available foster families (especially in urban areas). There is not enough training and support available to foster carers and fostered children. Social welfare centers do not make enough efforts to prepare biological parents for the child's return to family.

Treatment programmes in residential facilities for children with behavioral problems are not sufficiently differentiated and individualized to meet their diverse needs, and some of the employees are not specifically trained to work with these children. No adequate, specialized treatment is offered to children with complex behavioral disorders, who tend to run away from open-type facilities. Treatment of children with combined behavioral disorders and mental health difficulties poses yet another problem; there is no adequate accommodation or treatment program available.

The Ombudsman’s recommendations:

1. Intensify the deinstitutionalization process and reduce the amount of time that children spend in out-of-home care.
2. Encourage children to get actively involved in the designing of programmes that focus on individual behavior and attitude change.
3. Provide continuous training and professional assistance and support to employees of various centers and institutions; ensure that more effective supervisory mechanisms are in place.
4. Promote foster care, strengthen collaboration between social welfare centers and foster carers and ensure that all foster parents receive relevant training and support.
5. Treatment programs provided to children with behavioral problems in residential facilities should be more differentiated and highly individualized; special departments offering intensive treatment to children with complex behavioral disorders occurring in combination with mental health problems need to be set up; such departments would operate under the shared authority of social and health care providers.

G. Periodic review of placement (State report § 216-218)

Professionals employed in social welfare centers do not make regular visits to children placed in institutional or foster care. They are not sufficiently involved in the process of preparing young person to be discharged from institutional care nor do they engage enough to help biological family to prepare for the child's return.

The Ombudsman’s recommendation:

1. Regularly check conditions of placement and work on creating conditions to ensure that the child leaves institutional care.

H. National and inter-country adoption (State report § 219-222)

Institution for children without adequate parental care also house children who meet all of the requirements for adoption; these are mostly “older” children or children with developmental difficulties. Current legal solutions discourage potential adopters from adopting “older” children. Court proceedings seeking deprivation of parental rights take too long.

The Ombudsman’s recommendations:

1. Reduce duration of court proceedings for deprivation of parental rights.
2. Intensify the work of social welfare centers in seeking adopters for “older” children and children with developmental difficulties.
3. Incorporate into the law a provision on the maximum age difference between the adoptive parents and adoptees.

I. Illicit transfer and non-return of children (State report § 223-224)

Several problems related to cases of illicit transfer and non-return of a child have been observed: lengthy proceedings and difficulties in the enforcement of court orders requiring the return of the child to the country from which it was illicitly transferred.

The Ombudsman's recommendation:

1. Enable more effective implementation of the Hague Convention on the Civil Aspects of International Child Abduction.

J. Abuse and neglect, including physical and psychological recovery and social integration (Art. 19 and 39 of the Convention), (State report § 225-244)

Despite laws in place and campaigns against corporal punishment, there are still no integrated child protection services provided by professionals in a timely manner offering children protection against abuse and neglect. Children are exposed to violence in their homes, schools, children's homes, sports clubs and on streets. Corporal punishment of children is still present in society as a disciplinary measure. We have observed that some professionals tend to hesitate in submitting a report, criminal proceedings last long, and there is a shortage of professionals that provide help to children and their parents, particularly in small communities. There is an overall lack of adequate resources for the delivery of psychosocial treatment to perpetrator of domestic violence.

There have been considerable improvements to legislation relating to protection of children against sexual violence, but there are still some loopholes in the law that allow that the sex offenders work in direct contacts with children (in various institutions, associations etc.), even after they were found guilty. Lack of resources to provide timely and quality support to a child who has experienced sexual violence and often inadequate treatment of children involved in judicial proceedings is another cause for concern.

The Ombudsman's recommendations:

1. Continue sensitization among professionals and the public on the importance of reporting all such forms of violence against children.
2. Improve the system for protecting and support child victims and witnesses as well as their parents and other family members.
3. Ensure sufficient number of professionals to work with children and their parents in all parts of the country.
4. Allocate funds for psychosocial treatments of perpetrators of family violence.

VI. DISABILITY, BASIC HEALTH AND SOCIAL WELFARE

A. Children with disabilities (State report § 245, 253 and 257)

A considerable number of health care and other institutions is still inaccessible to children with developmental difficulties; they have not developed a system of support for children who are deaf, blind or deaf-blind.

The system of supports for children with developmental difficulties is neither efficient nor comprehensive as far as it concerns their inclusion in regular educational programs (for example: the issue of funding teaching assistants).

The Ombudsman's recommendations:

1. Make modifications to existing health care and other facilities to make them accessible and improve the safety and quality of health care services provided to children with developmental difficulties.

2. Make sure that teaching assistants are available to support children with developmental difficulties in educational institutions.
3. Adopt a new implementing regulation governing education of children with developmental difficulties in primary and secondary schools.

C. Health and health services (State report § 270, 272, 278-280, 287, 297-298 and 303)

Even though laws and subordinate regulations currently in force allow parents to stay with their children while they are in hospital free of charge, there are no guarantees that parents will be able to do so as hospitals have limited accommodation facilities. Children are treated in cramped wards, making it impossible for children to preserve their dignity or protect their privacy. We have observed a shortage of health care professionals, especially mental health professionals – mental health specialists, clinical psychologists, social workers and nurses. Children's right to be consulted and involved in decision making about their treatment and care is not properly acknowledged.

Children and young people do not have access to comprehensive education on healthy lifestyle and responsible sexual behavior. Despite bans, young people find ways to purchase and use alcoholic beverages and tobacco products.

The Ombudsman's recommendations:

1. Make additional investments to increase the hospital bed capacity in children's wards and ensure that such facilities are adequately equipped.
2. Provide better access to mental health services for children in all communities.
3. Remove obstacles to uniform and comprehensive health and sexual education programme in schools.
4. Consistent impose of sanctions on retailers who sell alcohol and tobacco products to minors.

D. Social security and child-care services and facilities (Arts. 26 and 18), (State report § 327)

Working hours of kindergartens in practice are not adjusted to working hours of parents, and the organization of work (combination of groups, unknown educator, transfer of children in other remote facilities) during public holidays and vacation is not adjusted to children and parents.

The Ombudsman's recommendation:

1. Organize work in kindergartens in the best interest and with regard to developmental needs of children and families.

E. Standard of living (Art. 27 of the Convention), (State report § 331-339)

There are no transportation services available to elementary schools students (mandatory education) whose home is less than three kilometers (grades 1-4) and five kilometers (grades 5-8) away from school.

Since January 2010, high school students are no longer entitled to free school transport previously funded by the State. In addition, housing and food services in student dormitories are no longer free to secondary school students. All of these are reasons why an increasing number of children is dropping out of secondary school.

The Ombudsman's recommendations:

1. Provide free school transportation for all primary and secondary school students, regardless of the distance between a student's home and the school which student attends and the type of transportation.

2. Provide free food and housing for students living in student dormitories.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance and B. Aims of education with reference to quality of education (Art. 29 of the Convention)

(State report § 341-344) Not all children have equal access to early childhood care and education due to insufficient number of kindergartens, especially in small towns and on islands.

The Ombudsman's recommendation:

1. Provide sufficient number of kindergartens, especially in small communities and on islands.

(State report § 350-364) The programme of pre-school for children of the Roma minority is not co-financed in all institutions, but is a key to prevention of negative practice of ethnically segregated school system (early childhood and primary school education). Support to students belonging to Roma communities in a form of Roma assistants is not established systematically and Roma assistants are not available to all (available only in Međimurje County). There are no curriculum materials in Romani language for children in schools.

The Ombudsman's recommendations:

1. Ensure that ethnic minority students have equal access to student support services (teaching assistants of Roma background).
2. Provide students of Romani origin with materials in their native language. Ensure that all ethnic minority children have equal access to the programme of pre-school.

(State report § 367 and 368) Not all schools offer Civic education to their students. The researches conducted among children show, and the students themselves emphasize it too, that schools do not offer systematic programmes that allow students to acquire comprehensive knowledge about human rights.

The Ombudsman's recommendations:

1. Ensure that all children have equal access to human rights education programmes.
2. Civic education should be introduced as a mandatory subject in all schools.

C. Rest, play, leisure, recreation, cultural and artistic activities (State report § 378)

The Ombudsman has observed that many local communities lack of adequate play spaces and facilities available to children where children could spend their time playing with other children or take part in organized activities in their free time.

Such after-school activities are not provided free of charge so they are not affordable to all. Schools offer free after-school programmes as extracurricular activities for students, but the range of these activities is rather modest, especially in small towns and on islands.

Design, construction and operation requirements of playgrounds and playrooms are not regulated by the law and neither is supervision of playground and playroom activities.

There is no existing systematic monitoring of the health of children involved in sports and recreation, they often train in night time hours, the work of all coaches and sports staff is not licensed.

The Ombudsman's recommendations:

1. Set up child and youth centers on all local authorities' levels (municipalities and towns).
2. Enact comprehensive legislation laying down requirements for setting up and maintaining indoor and outdoor play areas and equipment (playrooms and playgrounds).
3. Improve conditions of existing playgrounds and make them accessible to all children.
4. Provide financial support for organized extracurricular activities on island and in small town schools.
5. Introduce efficient and systematic way of monitoring of the health of children involved in sports and recreation, adapt training hours to children and introduce licenses for all coaches and sports staff working with children.

VIII. SPECIAL PROTECTION MEASURES

A. Children in emergency situations

1) Unaccompanied children/refugees (Article 22)

Statistical data on unaccompanied children in the child protection system are not uniformed, complete and coherent; no network of specially educated guardians has been established; there are no specialized accommodation facilities for unaccompanied children – they are often placed in inadequate facilities. There is a lack of translators for certain languages. Even though the law guarantees minor asylum seekers the right to primary and secondary school education under the same conditions as children who are Croatian citizens, they face numerous obstacles when trying to exercise this right in practice.

The Ombudsman's recommendations:

1. Establish a national referral system for monitoring the phenomenon of unaccompanied children with a unique model for the consistent collection of statistical data on all children categories.
2. Set up a network of specifically trained guardians and qualified translators.
3. Provide accommodation in specialized facilities, healthcare and social services, as well as the right to education adjusted to meet individual needs of the child.
4. Develop long-term integration programs and improve the procedure for the return of children to their country of origin ensuring voluntary and safe return.
5. Financially support civil society organizations involved in facilitating the integration of asylum seekers and other persons under the protection.

2) Children in armed conflicts, including physical and psychological recovery and social integration (Article 38)

Mine suspected areas currently cover 726.5 square kilometres of territory – with 90 000 land mines and a large number of undetonated lethal devices located in 12 counties, 100 cities and municipalities. Many of the mine suspected areas are near schools.

The Ombudsman's recommendation:

1. Allocation of funds for demining activities to clear areas and create safe environment for children and continue to offer prevention education for children.

B. Children in conflict with the law, victims and witnesses

1) Administration of juvenile justice (Article 40)

Only a few courts where children are tried employ expert assistants whose presence should be mandatory at all proceedings where a child has been brought before the court. Juvenile courts judges disregard their legal obligation to regularly visit juveniles while executing re-education measures. Due to shortage of organizations available for execution of special obligations of humanitarian work or activities of relevance for the community or for the environment, juvenile offenders wait a long time for the execution of these obligations.

The situation is similar with a special obligation to undertake individual or group psycho-social treatment in youth counselling center, since there are not enough such centres where juvenile offenders may be referred to.

The Ombudsman's recommendations:

1. All courts and state attorney's offices should employ expert assistants.
2. The execution of institutional sanctions should be regularly supervised.
3. Increase capacities for execution of alternative sanctions.

2) Children deprived of their liberty (Article 37 b, c and d)

Pre-trial detention

Due to insufficient capacities in penal institutions for the execution of detention, juveniles often share cells with adult perpetrators; they do not continue their education and are not enabled to work. There are no professional treatment programmes available. The proceedings are not carried out speedily enough causing juveniles to remain in detention up to a year, or even longer.

The Ombudsman's recommendations:

1. The detained children should be separated from adult detainees.
2. Children should be enabled to continue their education and undergo a professional treatment programme and to work if they desire so.
3. Speed up the termination of criminal procedure when the child is in detention.

Juvenile imprisonment

Juvenile offenders sentenced to prison for committing a misdemeanour serve their sentences in prisons in conditions which are inadequate, the same as conditions of juvenile detention; there are no separate wards for juvenile offenders.

Juvenile imprisonment imposed for a criminal offence is executed in a special penal institution with non-stimulating conditions and insufficient number of experts provided.

The Ombudsman's recommendation:

1. Upgrade spatial conditions and employ staff to improve the quality of execution of juvenile imprisonment.

Reformatories

Housing conditions in reformatories, where juvenile offenders – for whom the court has ordered re-education measures – are sent to, do not comply with international standards. The male reformatory is located in a remote location; the facility has dilapidated premises and furniture and poorly

maintained sanitary facilities. All inmates aged 14 to 23 years are placed in a single housing unit and there is no differentiated treatment. Recidivism rate is high. Even though the Juvenile court judge is required by law to visit minors serving re-education measures once in 6 months, most of the judges fail to do so.

The Ombudsman's recommendation:

1. Improve execution of re-education measure of referral to reformatory for male population - move facilities to a less desolated area and by then improve spatial conditions, provide differentiated treatment, employ sufficient number of qualified professional staff; provide continuous education and supervision of employed experts; and have regular visits to inmates by judges and employees of social welfare centres.

3) Sentencing of children, in particular prohibition of capital punishment and life imprisonment, and alternative sanctions based on restorative approach (Article 37 a)

Due to insufficient resources needed for execution of alternative measures and sanctions, juvenile offenders have to wait a long time for the execution of these measures; the professionals out-of-social welfare system are not financially motivated for execution of such measures.

The Ombudsman's recommendation:

1. It is necessary to improve the quality of execution of alternative measures.

4) Physical and psychological recovery and social integration (children victims of criminal and misdemeanour offenses)

Inappropriate treatment of child victims or witnesses by police officers, state attorneys and judges during the interview process, subjecting a child to repeated interviews, lengthy trials, failure to provide quality help and support to child victims and witnesses are yet another cause for concern.

The law provides to have a child interviewed at his/her home, but this option is rarely used. Only a few courts provide support services to witnesses and victims, while no such services are available in misdemeanour courts. Court facilities are not child-friendly.

The Ombudsman's recommendations:

1. Children victims and witnesses should be treated under the standardized protocol.
2. Set up a national center for coordination of activities related to victims and witnesses assistance.
3. Set up support services for children victims and witness in every court.
4. Make courtrooms more child-friendly.

C. Children in situations of exploitation, including physical and psychological recovery and social reintegration (Article 39)

1) Economic exploitation, including child labour (Article 32)

Existing law does not lay out detailed rules on children's participation in cultural and arts activities, marketing campaigns and other activities when they are awarded compensation, while concerning children's participation in these activities without compensation, there are simply no provisions and no supervision over such activities.

The Ombudsman's recommendation:

1. Adopt regulations laying down detailed rules on children's participation in cultural, arts, advertising and other similar activities.

2) Sexual exploitation and abuse

Lengthy court proceedings, repeated interviews of a child who has been sexually abused, a child questioned repeatedly by different interviewers and in different settings, insufficiently organized system of support for child victims are only some of the problems encountered. There is an obvious lack of professional service providers and institutions that could provide treatment to sexually abused children. Only a limited number of children have access to prevention programs as their delivery is not systematically organized. Media coverage of child sexual abuse cases is often sensation-seeking and violates the child's right to preservation of privacy and dignity. Supervision and monitoring of sex offenders convicted of a sex offense against a child is not organized and there are no effective prevention programmes aimed at potential perpetrators of sexual crimes against children.

The Ombudsman's recommendations:

1. Develop a system of permanent education for judges, state attorneys and lawyers specializing in the field of sexual crimes against children.
2. Encourage trainings for lawyers to develop skills needed when working with children in order to specialize (and get certified) in family law and criminal child protection laws.
3. Speed up court proceedings and decision-making.
4. Establish regional institutions for forensic interviewing and treatment of sexually abused children.
5. Develop effective and adequate techniques for registration of information on sex offenders and methods for effective supervision of sex offenders.

3) Trafficking, sale and abduction (Article 35)

The tradition of arranged child marriages, as a form of sexual exploitation of children, is sadly still present, especially in Roma communities. Even though allowing a contract of an illicit marriage is classified as a criminal offense of human trafficking, such illegal acts are, unfortunately, rarely prosecuted.

The Ombudsman's recommendations:

1. Impose consistent sanctions for such illegal practices.
2. Provide trainings to parents on harmful consequences of underage marriages.

D. Children belonging to minority or indigenous groups (Article 30)

Children from the Roma community are still subjected to trafficking. In addition, they are also poorly integrated in the mainstream society. The Ombudsman has observed that the state has insufficiently invested in creation of affirmative environment of the ethnic majority population towards Roma communities.

The Ombudsman's recommendation:

1. Intensify measures to encourage the public to report suspected child trafficking for the purpose of marriage.
2. Make more efforts to ensure implementation of the right of children of Roma ethnic background to participation.
3. Conduct education and awareness campaigns to encourage child protection and achieve higher level of integration of children of Roma ethnic background.

E. Children in street situations

Some of the problems that social care system is faced with is a lack of adequate facilities to accommodate children caught begging and the fact that many children often run away from organized accommodation. There are insufficient facilities to accommodate mothers with their underage children who were caught begging. Due to judges being overwhelmed with too many cases, these court proceedings initiated to achieve the protection of children are considered as a low priority; as a result, trials are not conducted speedily as they should be. A conventional attitude that begging is a "type of lifestyle" for certain social groups and that any state intervention is futile and doomed to fail, contributes to this issue.

The issue of child begging is not being dealt with systematically from one case to another and there is no coordinated action.

The Ombudsman's recommendations:

1. Set up an operational body at the national level to improve coordination between different sectors concerned with protection of child beggars.
2. Develop rules of procedure in case of children caught begging and clearly define jurisdiction, activities and cooperation.
3. Provide adequate facilities to accommodate children and mothers with underage children caught begging.

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