



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Concluding observations on the combined second and third periodic reports of Serbia\*

#### I. Introduction

1. The Committee considered the combined second and third periodic reports of Serbia (CRC/C/SRB/2-3) at its 2176th and 2177th meetings (see CRC/C/SR.2176 and 2177), held on 24 January 2017, and adopted the present concluding observations at its 2193rd meeting, held on 3 February 2017.

2. The Committee welcomes the submission of the combined second and third periodic reports of the State party and the written replies to the list of issues (CRC/C/SRB/Q/2-3/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

#### II. Follow-up measures taken and progress achieved by the State party

3. The Committee welcomes the progress made by the State party in various areas since its previous review, including the adoption of the national strategy for the prevention of and protection against discrimination (2013-2018) and other institutional and policy measures related to children's rights.

#### III. Factors and difficulties impeding the implementation of the Convention

4. The Committee recalls its previous concluding observations (see CRC/C/SRB/CO/1, para. 6) and notes that the State party continues to declare that it is unable to monitor the application of the Convention in Kosovo<sup>1</sup> owing to the fact that, pursuant to Security Council resolution 1244 (1999), civil authority there is exercised by the United Nations Interim Administration Mission in Kosovo. The Committee considers that the Convention applies in Kosovo and therefore encourages the Mission to provide the Committee, in cooperation with the institutions of Kosovo and without prejudice to the final legal status of Kosovo, with information on the implementation of the Convention in Kosovo.

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\* Adopted by the Committee at its seventy-fourth session (16 January-3 February 2017).

<sup>1</sup> All references to Kosovo in the present document should be understood to be in full compliance with Security Council resolution 1244 (1999).



## **IV. Main areas of concern and recommendations**

### **A. General measures of implementation (arts. 4, 42 and 44 (6))**

5. **The Committee recommends that the State party take all measures necessary to address the recommendations contained in its concluding observations of 2008 (CRC/C/SRB/CO/1) that have not been implemented or that have not been implemented in full.**

#### **Legislation**

6. While the Committee welcomes the efforts made by the State party to reform legislation related to the rights of the child, it remains concerned at the inadequate harmonization of legislation and the absence of a comprehensive children's act noting that the reluctance to enact such an act poses a significant challenge to advancing children's rights in the State party. It is further concerned that the Law on the means of determining the maximum number of public sector employees has a negative impact on the provision of child services in the State party.

7. **The Committee recalls its previous concluding observations (see CRC/C/SRB/CO/1, para. 8) and encourages the State party to continue to harmonize its legislation with the principles and provisions of the Convention. In particular, the Committee recommends that the State party:**

(a) **Enact a comprehensive children's act and introduce a child rights impact assessment procedure for all new legislation adopted at the national level;**

(b) **Amend the Law on the means of determining the maximum number of public sector employees to ensure that its austerity provisions do not have negative impacts on the quality and efficiency of services provided to children.**

#### **Comprehensive policy and strategy**

8. The Committee welcomes the adoption, in 2004, of a national plan of action for children that covered the period between 2004 and 2015. However, it is concerned that while there are indications that a similar policy framework may be developed, to date no action has been taken in that regard. The Committee is further concerned that the expired plan of action for 2004-2015 was not evaluated adequately to assess its impact.

9. **The Committee recommends that the State party:**

(a) **Adopt a consistent policy framework that will replace the national plan of action for children and serve as a basis for effective budgeting for and monitoring of respective policies;**

(b) **Ensure that consultations are held with all relevant stakeholders, including children, to assess the impact of the previous plan and identify any potential shortcomings requiring improvement;**

(c) **Ensure that any new plan is supported with the appropriate elements for its application, including sufficient human, technical and financial resources, and that the effectiveness of the plan's implementation is regularly assessed.**

#### **Coordination**

10. The Committee is concerned that the Council for Child Rights, as the coordinating body in relation to children's rights, continues to have only an advisory role. The Committee is also concerned at reports suggesting that since 2010 the Council has been inconsistent and lacking in focus when performing its duties, and that since its re-establishment in 2014 it has held only two sessions. The Committee is further concerned that the oversight function of the committee on child rights of the National Assembly has been limited in relation to mainstreaming children's rights in national legislation.

**11. The Committee recommends that the State party:**

(a) **Strengthen the role of the Council for Child Rights as the principal institutional coordinating mechanism at the interministerial level and provide it with a clear mandate and sufficient authority to coordinate all activities related to the implementation of the Convention at cross-sectoral, national and local levels;**

(b) **Ensure that the Council is provided with the necessary human, technical and financial resources for it to operate effectively;**

(c) **Encourage the committee on child rights of the National Assembly to systematically scrutinize the adoption and implementation of policies and recommendations in relation to legislation relevant to children.**

**Allocation of resources**

12. The Committee remains concerned that in its budgeting process the State party does not stipulate budget allocations for children in the relevant sectors and agencies or provide for indicators and tracking systems at all levels, nor does it target budget allocations for children in marginalized and vulnerable situations, such as Roma children, children with disabilities, and migrant, refugee and asylum-seeking children.

**13. In the light of general comment No. 19 (2016) on public budgeting for the realization of children's rights, the Committee recommends that the State party:**

(a) **Establish a budgeting process that includes a child rights perspective and specifies clear allocations to children in the relevant sectors and agencies, with specific indicators and a tracking system;**

(b) **Establish mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the implementation of the Convention;**

(c) **Ensure transparent and participatory budgeting through public dialogue, especially with children, and for proper accountability of the authorities, including at the local level;**

(d) **Conduct a comprehensive assessment of the budget needs for children and allocate adequate budgetary resources, increase the budget allocated to social sectors, in particular in the areas of education and social assistance, and address disparities on the basis of indicators related to children's rights.**

**Data collection**

14. While noting the progress that has been made in terms of gathering data through the revision of administrative data-collection processes and the introduction of new surveys, as well as the development, in 2015, of a database for monitoring Roma inclusion, the Committee remains concerned that the absence of a unified centralized database has resulted in a shortage of disaggregated data on children.

**15. In the light of general comment No. 5 (2003) on general measures of implementation of the Convention, the Committee recommends that the State party:**

(a) **Expediently strengthen information management and data-collection systems at central and local government levels to cover all areas of the Convention. Data should be disaggregated by, among others, age, sex, disability, geographic location, ethnic and national origin and socioeconomic background, in order to facilitate analysis of the situation of all children, particularly those in situations of vulnerability;**

(b) **Ensure that data and indicators are shared among relevant ministries and used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention;**

(c) **Take into account the conceptual and methodological framework set out in the Office of the United Nations High Commissioner for Human Rights (OHCHR)**

publication *Human Rights Indicators: A Guide to Measurement and Implementation* when defining, collecting and disseminating statistical information.

#### **Independent monitoring**

16. While the Committee welcomes the appointment of a deputy ombudsman for children, it is concerned at reports suggesting that the role of the deputy ombudsman in addressing children's rights is somewhat limited, due to inadequate resources and the fact that the office's visibility and authority at the local and national levels are insufficient to effectively monitor children's rights. It is further concerned that the draft law on the ombudsman for the rights of the child does not envisage a complaints procedure and therefore does not fully comply with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

**17. In the light of general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child, the Committee recommends that the State party:**

(a) **Expedite the adoption of the law on the ombudsman for the rights of the child in order to deal specifically with children's rights, ensure that such a body has a mandate to receive, investigate and address complaints from children in a child-sensitive manner, and allocate sufficient human, financial and technical resources to support the work of the office;**

(b) **Ensure the privacy and protection of child victims, particularly when monitoring and follow-up visits to institutions are undertaken within the ombudsman's role as the national preventive mechanism;**

(c) **Ensure continuous capacity-building and training for staff of the ombudsman's office on issues related to children's rights.**

#### **Dissemination, awareness-raising and training**

18. The Committee notes as positive the development of awareness-raising programmes and training pertaining to the Convention, as well as thematic media campaigns. However, it is concerned that Roma children and children with disabilities do not always have access to such materials and are often unaware of their rights as enshrined in the Convention.

**19. The Committee reiterates its previous recommendation (see CRC/C/SRB/CO/1, para. 22) and encourages the State party to:**

(a) **Strengthen its efforts to provide adequate and systematic training on awareness-raising about children's rights to professional groups working with and for children, such as parliamentarians, judges, lawyers, health personnel, teachers, school administrators, academics, social workers, media professionals and others, as required;**

(b) **Pay particular attention to the systematic inclusion of teaching of the Convention's principles and provisions at all levels of the school curricula;**

(c) **Pay special attention to the participation of children in the dissemination of information on their rights;**

(d) **Encourage the media to ensure sensitivity to children's rights and the inclusion of children in the development of programmes;**

(e) **Continue and strengthen its efforts to increase the awareness of the Convention throughout the country, in close cooperation with non-governmental organizations and other stakeholders, paying particular attention to remote and rural areas and children from minority groups.**

## B. Definition of the child (art. 1)

20. The Committee is concerned about the absence of a statutory definition of the term “child” in line with article 1 of the Convention. The Committee is also concerned that the Family Law includes exceptions that allow marriage from the age of 16 years.

21. **The Committee recommends that a national legislative instrument be enacted that would provide a statutory definition of the term “child” in line with article 1 of the Convention. It also recommends that the State party amend the Family Law to remove all exceptions that allow marriage for those under the age of 18 years.**

## C. General principles (arts. 2, 3, 6 and 12)

### Non-discrimination

22. The Committee welcomes the initiatives introduced by the State party to address discrimination, particularly against Roma children. However, it is concerned about:

(a) The persistent discrimination against Roma children in all areas of life, which is among the principal reasons leading to the placement of Roma children in institutions;

(b) The fact that Roma children, as well as children with disabilities, migrant, refugee and asylum-seeking children, minority children, children living in remote areas, children in street situations, children with HIV/AIDS, and lesbian, gay, bisexual and transgender children, continue to face discrimination with regard to access to education, health care and adequate housing;

(c) The commission for protection against discrimination’s lack of a special unit to deal with cases of discrimination against children.

23. **The Committee urges the State party to:**

(a) **Ensure full implementation of relevant existing laws prohibiting discrimination, including by strengthening public education campaigns to address negative social attitudes towards Roma children, children with disabilities, minority children, refugees and asylum-seeking children, migrant children, children in street situations, lesbian, gay, bisexual and transgender children and children with HIV/AIDS;**

(b) **Ensure that children living in rural areas have access to quality education and adequate health care and housing;**

(c) **Ensure the availability of sufficient human, technical and financial resources for the effective implementation of the national strategy for the prevention of and protection against discrimination for the period 2014-2018;**

(d) **Introduce a specific mechanism within the commission for protection against discrimination to address cases of discrimination against children.**

### Best interests of the child

24. The Committee welcomes the amendments to the Law on health care that were adopted in 2011 to ensure the right of the child to have his or her best interests taken as a primary consideration, and notes the general framework established by the State party to ensure that the best interests of the child are upheld as a fundamental principle of child protection. However, it is concerned about the continuing misunderstanding with respect to its meaning and the responsibilities it entails, particularly among the judiciary, and about excessively long court cases and the non-enforcement of family judgments having a negative impact on the right of the child to have his or her best interests taken as a primary consideration.

25. **In the light of general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party strengthen its efforts to ensure that this right is appropriately**

**integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions and in all policies, programmes and projects that are relevant to and have an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving that principle due weight as a primary consideration.**

#### **Right to life, survival and development**

26. While noting as positive the overall decrease in child mortality, the Committee is seriously concerned that the State party's infant mortality rate remains above the European Union average. It is further concerned about the high rate of infant and under-5 mortality among Roma children due to limited access to neonatal services.

27. **The Committee urges the State party to:**

(a) **Improve the regional organization of neonatal services to ensure access to adequate institutional and professional capacities in line with the OHCHR technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age (A/HRC/27/31);**

(b) **Strengthen efforts to ensure that access to adequate health care and neonatal services are extended to the most vulnerable families, including Roma families and those living in marginalized and remote areas;**

(c) **Strengthen the provision of health care to Roma women and children through effective outreach services, and ensure that the "Health mediators" project has sufficient human, technical and financial resources to ensure that regular home visits are carried out effectively.**

#### **Respect for the views of the child**

28. The Committee notes as positive the ongoing efforts undertaken by the State party to ensure respect for the views of the child, including the consideration of that principle as one of the priority areas in the 2011 Law on social welfare. However, the Committee is concerned that traditional practices and cultural attitudes in the family, schools and certain social and judicial settings continue to impede the full realization of the rights of children to express their views freely. Children in vulnerable or marginalized situations, such as children in alternative care and children with disabilities, are often not consulted in matters concerning them.

29. **In accordance with article 12 of the Convention and in the light of general comment No. 12 (2009) on the right of the child to be heard, the Committee encourages the State party to ensure that children's views are given due consideration in the family, at school, in the courts and in all relevant administrative and other processes concerning them, through, inter alia, the adoption of appropriate legislation, the training of professionals, the establishment of specific activities at schools and general awareness-raising. The Committee further encourages the State party to work in collaboration with relevant stakeholders to disseminate the Convention and to strengthen the creation of meaningful spaces through which children can influence public policy.**

### **D. Civil rights and freedoms (arts. 7, 8 and 13-17)**

#### **Birth registration**

30. The Committee notes as positive the amendments to the Law on non-contentious procedure that have corrected loopholes relevant for "legally invisible people" by establishing a procedure for determining the date and place of birth of unregistered persons. It further welcomes the development, in cooperation with the Ombudsman and the Office of the United Nations High Commissioner for Refugees, of the guidelines for implementing

administrative procedures related to the birth of the child on the basis of “all in one place”. The Committee is, however, concerned that despite the amendments there are currently approximately 8,500 persons who were not registered at birth, with the vast majority declaring themselves as Roma. The Committee is concerned that those people have limited access to the enjoyment of basic rights, including to health care, education and social protection.

**31. The Committee recommends that the State party ensure full implementation of the new regulations that enable immediate birth registration of children whose parents do not have personal documents, and initiate procedures to establish the nationality of children born to stateless parents or those whose nationality is unknown.**

## **E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

### **Freedom of the child from all forms of violence**

32. The Committee notes as positive the efforts made by the State party to develop a child protection system, in particular through the adoption of the general protocol on the protection of children from abuse and violence and the regulations on the protocol for action taken by institutions in response to violence, along with the corresponding multidisciplinary teams established at the municipal and community levels to implement the mechanisms. Despite the progress made, the Committee is seriously concerned about:

- (a) The high number of reported cases of violence against children;
- (b) The inhuman or degrading treatment experienced by children, particularly children with disabilities, living in institutional care homes;
- (c) Reports indicating that children with disabilities, particularly those with intellectual impairments, are more likely to be victims of physical and sexual violence;
- (d) The widespread instances of violence in schools, particularly at the primary school level, often perpetrated against children with disabilities and lesbian, gay, bisexual and transgender children, as well as instances of cyberbullying;
- (e) The inadequate implementation of the general protocol, the regulations and the relevant special protocols, the lack of a general understanding as to what constitutes violence against children and the limited ability of professionals to recognize cases, as well as insufficient cooperation and information sharing at the interdepartmental level and among relevant agencies and inadequate follow-up.

**33. With reference to general comment No. 13 (2011) on the right of the child to freedom from all forms of violence and target 16.2 of the Sustainable Development Goals on ending, inter alia, all forms of violence against children, the Committee urges the State party to:**

- (a) **Establish legislative and other measures to ensure mandatory compliance with the general protocol on the protection of children from abuse and violence and the relevant special protocols aimed at protecting children from abuse and violence, and ensure that sufficient human, financial and technical resources are available to ensure implementation;**
- (b) **In coordination with the office of the ombudsman, in its capacity as the national preventive mechanism, establish a monitoring mechanism to ensure that all children in institutions and alternative care are free from all forms of torture and inhumane or degrading treatment, and ensure that they have access to a confidential, safe and child-friendly mechanism for complaints related to their deprivation of liberty, their conditions of detention or internment and their treatment;**
- (c) **Ensure that preventative mechanisms are established to protect children with intellectual and other psychosocial impairments from any kind of physical or sexual violence and establish compulsory training courses on violence against children for all relevant professionals;**

(d) **Strengthen national programmes to address violence in schools, with support from the Ministry of Education, Science and Technological Development and teacher training agencies to establish standards, mentoring programmes and peer review in order to tackle violence in schools, and provide training, including for parents, on the risks of (cyber)bullying;**

(e) **Develop a public awareness campaign as a means of changing prevailing attitudes in relation to violence against children and move towards zero tolerance;**

(f) **Ensure efficient cooperation, coordination and data sharing between child protection services, the police and the justice system;**

(g) **Seek technical cooperation from the United Nations Children's Fund (UNICEF) and the World Health Organization as a means of addressing the above-mentioned issues.**

#### **Abuse and neglect**

34. While the Committee notes as positive the establishment of special protocols on the protection of women from family violence and on the conduct of police officers in the protection of minors against abuse and neglect, it is concerned that gaps in coordination are preventing multidisciplinary teams at the local level from functioning properly. It is further concerned at prevailing societal attitudes according to which domestic abuse is perceived to be a private matter.

35. **The Committee recommends that the State party:**

(a) **Further strengthen awareness-raising and education programmes, including campaigns, with the involvement of children, in order to formulate a comprehensive strategy for preventing and combating child abuse;**

(b) **Establish a national database on all cases of domestic violence against children and undertake a comprehensive assessment of the extent, causes and nature of such violence;**

(c) **Ensure the allocation of adequate human, technical and financial resources to the office of the deputy ombudsman to enable it to implement long-term programmes for addressing the root causes of violence and abuse;**

(d) **Encourage community-based programmes aimed at preventing and tackling domestic violence, child abuse and neglect, including by involving former victims, volunteers and community members and providing them with training support.**

#### **Corporal punishment**

36. While the Committee welcomes the information provided by the State party during the dialogue that amendments to the Family Law would ban corporal punishment in all settings by June 2017, it remains concerned that the practice is currently permitted in the home, continues to be widely accepted in society as a means of disciplining children and is not explicitly prohibited in legislation to date.

37. **In the light of general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, the Committee urges the State party to:**

(a) **Explicitly prohibit corporal punishment in legislation;**

(b) **Ensure that the prohibition of corporal punishment is adequately monitored and enforced in all settings;**

(c) **Promote positive, non-violent and participatory forms of child-rearing and discipline through awareness campaigns;**

(d) **Ensure that offenders are brought before the competent administrative and judicial authorities.**



### Harmful practices

38. **The Committee recommends that the State party establish a system to track all cases involving child marriage among ethnic groups, particularly Roma girls; provide child victims with shelter, as well as appropriate rehabilitation and counselling services; and develop awareness-raising campaigns highlighting the harmful consequences of child marriage.**

## **F. Family environment and alternative care (arts. 5, 9-11, 18 (1) and (2), 20, 21, 25 and 27 (4))**

### **Children deprived of a family environment**

39. While the Committee welcomes the progress made through the State party's deinstitutionalization process in considerably reducing the number of children living in institutional care and increasing the number of children entering family-based care, it remains concerned that:

(a) The number of children, including children under 3 years of age, placed in formal care is still significant, with the risk of family separation and institutionalization remaining high for children from the most disadvantaged groups, including Roma children and children with disabilities;

(b) Despite provisions outlined in the Law on social welfare that limit the number of children per residential institution to 50, reports suggest that five large-scale institutions continue to house significantly more children;

(c) Children with disabilities continue to be significantly overrepresented in residential care;

(d) Living conditions in large-scale institutions for children with disabilities are inadequate, with children reportedly suffering from segregation, neglect, limited privacy and exclusion from education and play and subjected to the use of potentially inappropriate medical treatment, with caregivers or medical staff failing to provide information about or seek consent for such treatment;

(e) Insufficient support and inadequate training for social workers, along with gaps in the child protection system, has led to the separation of children from their families without proper assessment and planning, with the risk of reinstitutionalization remaining high;

(f) Support for the reintegration into society of children and young people leaving institutional and alternative care, including those with disabilities, is insufficient.

40. **Drawing the State party's attention to the Guidelines for the Alternative Care of Children, the Committee emphasizes that financial and material poverty, or conditions directly and uniquely attributable to such poverty, should never be the sole justification for removing a child from parental care, for placing a child in alternative care or for preventing a child's social reintegration. In this regard, the Committee recommends that the State party:**

(a) **Immediately reduce the placement of children under the age of 3 years, including those with disabilities, in residential care institutions and expedite placement in family-based care; and ensure adequate safeguards and clear criteria, particularly for Roma children and children with disabilities and on the basis of the needs and best interests of the child, for determining whether a child should be placed in alternative care;**

(b) **Implement the provisions outlined in the Law on social welfare that limit the number of children per residential institution to 50;**

(c) **Implement measures to reduce the number of children in large-scale institutions for children with disabilities and ensure that institutionalization is used only as a last resort, including by providing information to expectant parents and**

health-care workers who advise new parents on the rights and dignity of children with disabilities;

(d) Take immediate steps to ensure that the rulebook on prohibited practices that was prepared for employees in the area of social protection is enforced so that children in institutions will be free from all physical or psychological abuse and neglect, and hold those responsible to account for such abuse or neglect; prohibit the use of seclusion, physical restraints and isolation as means of discipline; and ensure that the best interests of the child are respected when deciding on necessary and appropriate medical treatment and that the views of children are heard and taken into account;

(e) Ensure adequate legal safeguards and clear criteria for determining whether a child should be placed in alternative care, taking into consideration the views and best interests of the child, and enforce such criteria by raising awareness among family court judges;

(f) Strengthen support to children and young people leaving care, including those with disabilities, to enable them to reintegrate into society, by providing access to adequate housing, legal, health and social services and educational and vocational training opportunities;

(g) Raise awareness in society to counter the stigmatization of and discrimination against children in alternative care.

#### **Adoption**

41. While the Committee notes that the number of adoptions of children with disabilities and special needs has increased, it remains concerned that the number of adoptions of children with severe disabilities and Roma children remains very low.

42. **The Committee recommends that the State party:**

(a) Ensure that children with disabilities and Roma children are not discriminated against in the adoption process and establish programmes to reduce misconceptions related to the adoption of children with severe disabilities and Roma children;

(b) Ensure enhanced coordination among relevant agencies, along with sufficient staff training, to ensure appropriate long-term support for the adopted child and adoptive parents.

### **G. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1)-(3) and 33)**

#### **Children with disabilities**

43. While the Committee welcomes the efforts being made to ensure equality for children with disabilities, it is concerned that:

(a) A shortage of reliable data hinders the delivery and evaluation of services for children with disabilities;

(b) A disproportionate number of children with disabilities continue to live in institutions, owing to the stigmatization of children with disabilities and a fragmented system of social assistance that does not sufficiently encourage, and provide support for, families to keep their children at home;

(c) Parents and families of children with disabilities who are in need of constant care and assistance have limited access to services and benefits to meet their needs;

(d) Parents may decide that a child with disabilities will not attend a school that provides inclusive education, without guaranteeing the principle of the best interests of the child, resulting in a large proportion of children with disabilities attending special schools.

44. **In the light of general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability and establish a comprehensive strategy to ensure the inclusion of children with disabilities, and:**

(a) **Enhance the collection of data on children with disabilities and conduct studies and analyses on the effectiveness of the implementation of the Convention and the existing laws and policies;**

(b) **Reform the system of social assistance for children with disabilities and their families in order to improve its coherence and coordination and avoid unnecessary institutionalization, and undertake awareness-raising campaigns to combat the stigmatization of and prejudice against children with disabilities;**

(c) **Establish legislative and other measures to enable children with disabilities who are in need of constant care and assistance to remain with their biological families through services for children and parents and/or through financial support and assistance to parents who are unable to work and generate income because they provide constant care and assistance to a child with a disability;**

(d) **Give priority to measures to facilitate the full inclusion of children with disabilities, including those with intellectual and psychosocial disabilities, in all areas of public life, such as leisure activities, community-based care and the provision of social housing with reasonable accommodation.**

#### **Health and health services**

45. While the Committee notes as positive the adoption of a number of policies to improve access to adequate health care, including the ordinance on a national health-care programme for women, children and young people, in 2010, and the national programme for the enhancement of early childhood development, in 2016, it remains concerned that:

(a) Regional disparities and equity gaps, combined with financial constraints and inadequate health insurance coverage affecting a considerable portion of the rural population and vulnerable groups, continue to hinder access to basic health-care services;

(b) Roma mothers and young children are particularly vulnerable and continue to have limited access to adequate maternal and general health care, resulting in high mortality rates, early births and low rates of immunization against childhood diseases, and that significant challenges in regular and timely vaccine procurement lead to delays in immunization coverage for children, particularly Roma children;

(c) High levels of malnutrition and stunting affect the Roma community, with poverty and social isolation further exacerbating the situation;

(d) Despite the introduction of Roma health mediators in 2009 as an effective mechanism for reaching the most vulnerable children, the position of those mediators is not institutionalized within the health-care system and they continue to operate on a project basis;

(e) Access to early childhood development services, including referral to appropriate health and paediatric care, remains limited, particularly for children with developmental difficulties and from socioeconomically deprived backgrounds, while regional disparities prevent equal access to the developmental counselling units throughout the country;

(f) Information on breastfeeding is limited in the country.

46. **In the light of general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, and taking note of target 3.1 of the Sustainable Development Goals on reducing maternal mortality and target 3.2 on ending preventable deaths of newborns and children under 5 years of age, the Committee recommends that the State party:**

(a) **Ensure the availability of and equitable access to quality primary and specialized health care for all children in the country, and strengthen efforts to ensure**

that access to adequate health care, including prenatal care for uninsured pregnant women, is extended to families living in the most vulnerable situations, particularly those living in marginalized and remote areas;

(b) Allocate adequate human and financial resources to ensure full implementation of the ordinance on the national health-care programme for women, children and young people;

(c) Strengthen and expand support in Roma communities for newly appointed health mediators and ensure the institutionalization of Roma health mediators within the health system;

(d) Ensure equal access to counselling and other health-related support services for children with developmental difficulties;

(e) Support public advocacy and media engagement that address knowledge, attitudes and practices to encourage immunization, and apply the OHCHR technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age;

(f) Fully implement the International Code of Marketing of Breast-milk Substitutes and develop a national programme for the protection, promotion and support of breastfeeding through comprehensive campaigns. Mothers should be appropriately supported through counselling structures in hospitals, clinics and the community and the baby-friendly hospital initiative should be implemented throughout the country.

#### **Mental health**

47. The Committee notes the measures taken by the State party to address mental health issues, however it is concerned about the shortage of qualified child psychiatrists and community-based mental health services.

48. **The Committee recommends that community-based mental health services be made readily available and that steps be taken to strengthen preventive work, particularly in the home environment and care centres. It also recommends that the number of child psychiatrists and psychologists be increased.**

#### **Adolescent health**

49. While welcoming efforts to address adolescent health through expert groups established by the Ministry of Health and various preventive programmes, the Committee is concerned about the lack of a comprehensive national programme and poor coordination among agencies, which undermine the potential to develop a strategic and sustainable response to preventing early pregnancies. It is also concerned about the high incidence of drug, tobacco, alcohol and other toxic substance use among children and adolescents.

50. **In the light of general comment No. 4 (2003) on adolescent health and development in the context of the Convention, the Committee recommends that the State party:**

(a) **Develop comprehensive, age-appropriate education on sexual and reproductive health, including information on family planning and contraceptives, the dangers of early pregnancy and the prevention and treatment of sexually transmitted diseases;**

(b) **Ensure unimpeded access to sexual and reproductive health services, including confidential counselling and modern contraception for adolescent girls and boys;**

(c) **Address the incidence of drug use by children and adolescents by, inter alia, providing children and adolescents with accurate and objective information and life skills education on preventing the abuse of substances, including tobacco and**

**alcohol, and develop accessible and youth-friendly drug dependence treatment and harm reduction services.**

### **Standard of living**

51. While noting as positive efforts undertaken by the State party to address poverty and social exclusion, including through the Law on social welfare, the Committee remains deeply concerned that:

(a) Children in marginalized and remote and rural communities continue to be disproportionately affected by poverty, while Roma families, families with four or more children and families with children with disabilities are at higher risk of experiencing multidimensional poverty;

(b) Inadequate housing continues to be a problem, particularly for Roma families who are often subjected to forced evictions, which leaves children without access to basic services, including clean and safe drinking water and sanitation, therefore rendering them vulnerable to serious health problems;

(c) Costly and cumbersome administrative procedures, as well as inadequate information and skills among the most vulnerable groups, hinder access to financial social assistance;

(d) With more than 30 per cent of all children accessing the child allowance, the allocated amount is relatively low and is insufficient to cover the basic needs of children living in poverty, and that families that are entitled to financial social assistance are also placed under considerable pressure to produce documentation in order to satisfy the burden of proof necessary to make their claim.

**52. The Committee draws the State party's attention to target 1.3 of the Sustainable Development Goals on implementing nationally appropriate social protection systems and measures for all, and recommends that the State party:**

(a) **Consider holding targeted consultations with families and children, including those in vulnerable situations, in particular Roma families, and with children's rights civil society organizations, with a view to strengthening the strategies and measures for reducing child poverty;**

(b) **Strengthen the support provided to children living below the poverty line, in particular single-parent families, families with four or more children and families with children with disabilities, and ensure that social protection measures cover the real costs of decent living for the children, including expenses relevant to their rights to health, a nutritious diet, education, adequate housing and water and sanitation;**

(c) **Review its legislation, policies and programmes on housing in order to prevent and eliminate homelessness, taking into account the special needs of children, including Roma children and children with disabilities and their families and young people leaving alternative care;**

(d) **Review the adequacy of cash benefits for children from the perspective of securing a minimum standard of living, and ensure access to such benefits in terms of information, outreach and user-friendly procedures;**

(e) **Simplify the administrative procedures and provisions of support for cash benefits to facilitate access by families living in the most vulnerable situations.**

### **Impact of climate change on the rights of the child**

53. The Committee draws the State party's attention to target 13.5 of the Sustainable Development Goals on promoting mechanisms for raising capacity for effective climate change-related planning and management, and recommends that the State party collect disaggregated data identifying the types of risk faced by children related to the occurrence of a variety of disasters.

## H. Education, leisure and cultural activities (arts. 28-31)

### Education, including vocational training and guidance

54. While the Committee notes as positive efforts made to improve the education system, it remains concerned that:

(a) The rates of non-attendance and school dropout are high, and that non-attendance and school dropout remain a problem for a significant number of students in many parts of the country;

(b) Efforts to achieve inclusive education are hindered by regional disparities in available funding and resources for schools, insufficient training for teachers and education assistants and continuing resistance from school staff and parents;

(c) The enrolment of children with disabilities is low at all levels of education, and “special classrooms” located within mainstream schools still prevail;

(d) Equity gaps continue to prevent children from vulnerable groups, including children with disabilities, migrant and asylum-seeking children, children from rural areas, deprived children and Roma children, from gaining access to quality education;

(e) The participation of Roma children, particularly girls, in preschool, primary, secondary and vocational education remains low, with many Roma children continuing to face segregation in the school system; high levels of truancy among Roma children are also of concern;

(f) Educational support measures for children are precarious owing to insufficient funding for the interdepartmental committees tasked with assessing individual cases, and that measures introduced in 2015 are aimed at limiting the number of education assistants in schools;

(g) Preschool facilities are inadequate, with overcrowding in urban areas and inadequate facilities in rural areas, and that societal perceptions influence decisions made by parents of children with disabilities as to whether to enrol them in preschool education.

55. **In the light of general comment No. 1 (2001) on the aims of education, and taking note of targets 4.1 and 4.2 of the Sustainable Development Goals on ensuring that by 2030 all girls and boys complete free, equitable and quality primary and secondary education and have access to quality early childhood development, care and preprimary education, the Committee recommends that the State party:**

(a) **Develop programmes to reduce dropout rates, and provide for the monitoring and evaluation of such programmes;**

(b) **Strengthen efforts to promote inclusive education for all children, particularly the most vulnerable, and ensure that adequate human, financial and technical support are available to implement the provisions outlined in the Law on the fundamentals of the education system;**

(c) **Guarantee all children with disabilities the right to inclusive education in mainstream schools independent of parental consent, train and assign specialized teachers and professionals in integrated classes providing individual support and due attention to children with learning difficulties, and address the shortage of speech therapists and qualified professionals for children with mental and psychosocial disabilities;**

(d) **Further strengthen efforts to improve access to quality education in rural areas and in small towns, including access to preschool, secondary and higher education, particularly for vulnerable groups;**

(e) **Facilitate the participation and inclusion of Roma children in education at all levels, and raise awareness among teachers and staff at psychological and pedagogical counselling centres about the culture of Roma people;**

(f) **Establish legislative provisions to regulate the system for providing additional support to pupils in the education process, and ensure that enough professionals are available to address the individual needs of pupils;**

(g) **Ensure equal access for all children, particularly from vulnerable groups, to early education programmes regardless of their parents' employment status, and provide the funding necessary to ensure that preschool facilities are adequate, with appropriate training provided for teachers and education assistants.**

## **I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)-(d) and 38-40)**

### **Refugee and asylum-seeking children**

56. While the Committee welcomes the State party's continued cooperation with the Office of the United Nations High Commissioner for Refugees and the efforts the State party has made to improve reception facilities for children and to adapt the child protection system to suit the needs of asylum-seeking and refugee children, it is concerned that:

(a) Vague references in the Law on asylum in relation to the special treatment of refugee and asylum-seeking children, along with the absence of a proper identification procedure and an insufficient number of interpreters at the border, increase the risk that unaccompanied children will not be identified as such when entering the country;

(b) Under current regulations there is no separate asylum procedure for unaccompanied children, resulting in delays in the appointment of legal representatives, inadequate interpretation services, the appointment of up to three different guardians, who are often not properly trained to act as custodians, the identification of ad hoc accommodation for unaccompanied girls while boys are initially placed in centres for foreign unaccompanied minors, and long-term placement of unaccompanied asylum-seeking children under the age of 16 in asylum centres that do not have adequate facilities or trained staff to care effectively for the children 24 hours per day, seven days per week;

(c) Limited space in asylum centres has forced many asylum-seeking and refugee children, including unaccompanied and separated children, to sleep on the streets without adequate shelter and in unsafe and unsanitary conditions, while others are afraid to go to the centres for fear of being deported, leaving them vulnerable to smuggling rings reportedly operating in the State party;

(d) Some unaccompanied and separated children have been returned, pursuant to the readmission process, without an assessment of their best interests and without being informed, in a language they can understand, of their right to seek asylum;

(e) A number of children of undetermined citizenship are currently at risk of becoming stateless in the State party.

57. **In the light of general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin, the Committee recommends that the State party:**

(a) **Establish fair and efficient asylum procedures that are to be carried out in a child-sensitive manner, in both procedural and substantive aspects, and that can be used to systematically identify and refer unaccompanied or separated children for appropriate protection and support, and consider amending relevant national legislation, including the Law on asylum, in this regard;**

(b) **Ensure the full inclusion of asylum-seeking and refugee children who are unaccompanied or separated in the existing child protection system, provide accommodation in foster families or other accommodation facilities adequate for their age, gender and needs in line with best interest assessments conducted on an individual basis and establish specialized services for children with emotional, psychiatric and behavioural problems;**

(c) **Ensure that all asylum-seeking children are systematically provided with information on their rights and obligations, asylum procedures and available services to prevent them from resorting to sleeping without shelter for fear of deportation, and take the steps necessary to protect unaccompanied children from smuggling rings;**

(d) **Ensure full respect for the principle of non-refoulement and facilitate access to the asylum system for children in need of international protection in line with articles 6, 22 and 37 of the Convention;**

(e) **Guarantee the right to acquire Serbian citizenship for all children currently residing in the State party who would otherwise be stateless, regardless of their own, or their parents', legal status.**

#### **Children belonging to minority groups**

58. The Committee is deeply concerned that stigmatization of and discrimination against Roma people, including children, are still widespread, resulting in violence and hate speech against them, and that they face difficulties in gaining access to social protection services and social integration programmes.

59. **The Committee urges the State party to:**

(a) **Conduct campaigns, at all levels and in all provinces, aimed at addressing the negative attitudes towards the Roma in society at large and take effective measures to prevent violence and hate speech against Roma;**

(b) **Assess the particular situation of Roma children and take measures to facilitate their access to social protection measures and social integration programmes, including by improving the cultural sensitivity of services provided and readjusting the scope of social programmes.**

#### **Children in street situations**

60. While the Committee notes as positive the efforts made by the State party to address the plight of children living in street situations, it is concerned that they are not legally recognized as victims but rather, after turning 14 years of age, treated as offenders. The Committee is also concerned that the capacities of the competent authorities and institutions are also insufficient.

61. **The Committee recommends that the State party:**

(a) **Assess the number of children living and/or working on the streets, and update studies on the root causes of their situations;**

(b) **Implement, and monitor and evaluate the implementation of, the recommendations outlined in the Protector of Citizens' report *Prevention of Exploitation of Children in South-East Europe: Child Begging in the Republic of Serbia*, with the active involvement of children in street situations;**

(c) **Ensure that support, particularly reintegration with family or placement in alternative care, is provided with full respect for the child's best interests and giving due weight to their views in accordance with their age and maturity.**

#### **Sexual exploitation and trafficking**

62. The Committee welcomes the progress made by the State party in addressing trafficking and sexual exploitation. However it remains concerned that:

(a) As a result of the limited resources, the identification of victims remains a challenge, particularly among asylum-seeking and refugee children;

(b) There is no system for providing specialized care, support and accommodation for child victims of trafficking.



63. **The Committee recommends that the State party:**

(a) **Establish adequate and coordinated mechanisms to identify and protect child victims of trafficking, including systematic and timely information-sharing among relevant officials, and strengthen the capacity of police officers, border guards, labour inspectors and social workers to identify child victims of trafficking;**

(b) **Ensure that child victims of trafficking are provided with specialized care, support and appropriate accommodation.**

#### **Administration of juvenile justice**

64. While the Committee notes as positive efforts undertaken to reform the juvenile justice system, it remains concerned that, owing to funding constraints, existing provisions that provide alternatives to detention are not being fully implemented. It is further concerned at reports indicating that correctional educational institutions are significantly limited in terms of capacity with regard to parameters on the administration of justice and at reports of ill-treatment of children deprived of liberty.

65. **In the light of general comment No. 10 (2007) on children's rights in juvenile justice, the Committee urges the State party to bring its juvenile justice system fully into line with the Convention and other relevant standards. In particular, the Committee urges the State party to:**

(a) **Expediently establish specialized juvenile court facilities and procedures with adequate human, technical and financial resources, and ensure that specialized judges continue to receive appropriate training;**

(b) **Ensure the provision of qualified and free legal aid to children in conflict with the law at an early stage of the procedure and throughout the legal proceedings;**

(c) **Ensure that alternative measures to detention, such as diversion, probation, mediation, counselling or community service, are fully implemented wherever possible, and ensure that detention is used as a last resort and for the shortest possible period of time and that it is reviewed on a regular basis with a view to withdrawing it;**

(d) **In cases where detention is unavoidable, ensure that detention conditions are compliant with international standards, including with regard to access to education and health services.**

#### **Child victims and witnesses of crimes**

66. While the Committee welcomes the development of guidelines for hearing the testimony of children so as to prevent secondary victimization and traumatization of the child in criminal proceedings as a means of improving conditions for child witnesses, it remains concerned that:

(a) Inadequate harmonization between the Criminal Procedure Code and the Law on juvenile criminal offenders and criminal protection of juveniles, in relation to the criteria for questioning particularly vulnerable witnesses, often leads to the revictimization of child witnesses;

(b) Legislative reform to ensure child-sensitive procedures is slow, while lengthy court cases and a lack of support services for children and their parents often result in the revictimization of children during court proceedings.

67. **The Committee recommends that the State party:**

(a) **Take measures to harmonize the Criminal Procedure Code and the Law on juvenile criminal offenders and criminal protection of juveniles and to exclude the possibility of questioning particularly vulnerable witnesses;**

(b) **Expedite the establishment of child-sensitive procedures and ensure that interviews are conducted in an appropriate manner, in the absence of the accused and**

by adequately trained judicial staff, in order to prevent the revictimization and traumatization of children.

**Follow-up to the Committee's previous concluding observations and recommendations on the implementation of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography**

68. The Committee regrets the lack of information regarding the implementation of its recommendations on the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography (CRC/C/OPSC/SRB/CO/1).

69. **Reiterating its previous recommendations (see CRC/C/OPSC/SRB/CO/1), the Committee urges the State party to expeditiously take all measures necessary to implement those recommendations, and in particular to:**

(a) **Establish in domestic legislation an explicit definition of the crime of the sale of children and ensure that it is incorporated into relevant legislation in accordance with articles 2 and 3 of the Optional Protocol;**

(b) **Take all measures necessary to address the sale of children, child prostitution and sex trafficking in Roma communities;**

(c) **Establish and exercise extraterritorial jurisdiction over all crimes prohibited under the Optional Protocol without applying the criteria of double criminality;**

(d) **Strengthen its social security protection system to cover all child victims of offences prohibited under the Optional Protocol, including Roma children, refugee and asylum-seeking children, internally displaced children, migrant children and children affected by migration;**

(e) **Take all measures necessary to establish a mechanism for the rehabilitation, recovery and reintegration of child victims of crimes prohibited under the Optional Protocol.**

70. **The State party is requested to provide, in its next report to the Committee, information on the issues outlined in paragraph 69 above.**

**Follow-up to the Committee's previous concluding observations and recommendations on the implementation of the Optional Protocol to the Convention on the involvement of children in armed conflict**

71. The Committee welcomes the adoption of the 2011 Law on conscription, compulsory labour and requisition, in which obligatory military conscription was abolished, and the fact that children under the age of 18 are not permitted to serve in the Serbian armed forces, even in times of war. However, the Committee regrets the lack of information regarding the implementation of its previous recommendations on the implementation of the Optional Protocol to the Convention on the involvement of children in armed conflict (CRC/C/OPAC/SRB/CO/1).

72. **The Committee reiterates its previous recommendations (see CRC/C/OPAC/SRB/CO/1) and, in particular, urges the State party to:**

(a) **Amend the declaration it made upon ratification of the Optional Protocol, in which it notes that a person of military age may exceptionally be recruited in the calendar year in which he turns 17, at his own request or during a state of war, and bring it into line with the Law on conscription, compulsory labour and requisition;**

(b) **Establish in domestic legislation a provision to explicitly criminalize the recruitment of children by non-State armed groups;**

(c) **Establish and exercise extraterritorial jurisdiction over crimes committed under the Optional Protocol without applying the criteria of double criminality.**

73. The State party is requested to provide, in its next report to the Committee, information on the issues outlined in paragraph 72 above.

#### **J. Ratification of the Optional Protocol to the Convention on a communications procedure**

74. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on a communications procedure.

#### **K. Ratification of international human rights instruments**

75. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instrument to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

#### **L. Cooperation with regional bodies**

76. The Committee recommends that the State party continue to cooperate with the Council of Europe on the implementation of the Convention and other human rights instruments, both in the State party and in other Council of Europe member States.

### **V. Implementation and reporting**

#### **A. Follow-up and dissemination**

77. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined second and third periodic reports, the written replies to the list of issues and the present concluding observations be made widely available in the languages of the country.

#### **B. Next report**

78. The Committee invites the State party to submit its combined fourth and fifth periodic reports by 24 May 2022 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

79. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (see HRI/GEN/2/Rev.6, chap. I) and paragraph 16 of General Assembly resolution 68/268.