



**PERMANENT MISSION OF THE REPUBLIC OF SERBIA TO THE UNITED NATIONS OFFICE AND OTHER INTERNATIONAL ORGANIZATIONS**

**СТАЛНА МИСИЈА РЕПУБЛИКЕ СРБИЈЕ ПРИ УЈЕДИЊЕНИМ НАЦИЈАМА И ДРУГИМ МЕЂУНАРОДНИМ ОРГАНИЗАЦИЈАМА**

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The Permanent Mission of the Republic of Serbia to the United Nations Office and other International Organizations at Geneva presents its compliments to the Office of the High Commissioner for Human Rights, and with reference to the latter's Note Verbal dated 18 February 2010, concerning the implementation of the Human Rights Council resolution 12/6 entitled "Human Rights of Migrants: Migration and Human Rights of the Child", has the honour to convey the response of the Ministry of Human and Minority Rights of the Republic of Serbia.

The Permanent Mission of the Republic of Serbia hopes that this information, although conveyed after the provisional deadline, will present significant contribution to the valuable work of the Office.

The Permanent Mission of the Republic of Serbia avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration



Geneva, 6 May 2010

**OHCHR REGISTRY**

**07 MAY 2010**

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## Annex to the Study on Good Practices and Drawbacks in the Implementation of the International Framework for Child Protection in the Context of Migration

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The provisions of paragraphs 1, 3 and 5 of Article 64, of the Constitution of the Republic of Serbia (the Official Gazette of the Republic of Serbia no. 98/6) lay down that children shall enjoy human rights suitable to their age and mental maturity. Children are protected from psychological, physical, economic and any other form of exploitation or abuse. As set in paragraph 4, Article 66 of the Constitution, children under 15 years of age may not be employed, nor may children under 18 years of age be employed at jobs detrimental to their health or morals.

The commitment of the Republic of Serbia to respect the rights and advance the status of children, especially in the prevention and protection from child abuse, is reflected in a number of the Government's strategic documents and laws enacted by the National Assembly of the Republic of Serbia; likewise in reform processes in the field of social and health care, education, justice system and policing, and other areas. The National Action Plan for Children was adopted in 2004 and it defines the country's general policy towards children by 2015. Protecting children from all forms of abuse, neglect, exploitation and violence has been emphasized as one of the priority objectives. The Family Law (the Official Gazette of the Republic of Serbia no. 18/2005) was enacted in 2005 and it defines and prohibits family violence and determines the State's responsibility to undertake all necessary measures to protect children from neglect, physical, sexual and emotional abuse and all forms of exploitation. The National Millennium Development Goals in the Republic of Serbia were adopted in 2007, whereby decreasing violence against women and children was set as one of the specific goals within Millennium Goal 3. In early 2008, the Government adopted the National Strategy for Youth of which a part addresses the protection of children and youth from violence. In 2008 the National Strategy for the Prevention of and Protection from Child Abuse was adopted, which is based on the value principles of the Convention on the Rights of the Child and the Constitution of the Republic of Serbia, as well as those integrated in the National Action Plan for Children. These are: the right of the child to life, survival and development, non-discrimination, the child's best interest and the child's participation. The Strategy refers to all children, without any discrimination, i.e.: regardless of their family status, ethnic background and any other social or individual characteristic of the child (sex, language, confession, nationality, mental, physical or other specificities of the child and his/her family and guardian respectively). The Strategy refers to children in all environments.

In July 2009, the Republic of Serbia adopted a strategy in managing migration, which comprehensively analyses the current status in the field of all types of migration, the legislative and strategic framework, and proposes a set of measures for their completion. One of the three Strategy objectives is to achieve international standards in the field of human rights protection for all migrants, especially vulnerable groups, such as unaccompanied children.

The Family Law determines, *inter alia*, the obligations of all health care, education and social care institutions for children, jurisdictional and other judiciary bodies, associations and citizens to inform the public prosecutor or body of guardianship about the need and reasons for the protection of the rights of the child. The Family Law also determines the right of the child to independent

representation in cases when the interests of the child and that of the child's legal guardian are in collision. The training of judges for processing family affairs and mandatory education in the field of the rights of the child has been introduced. Based on the Law on Social Care and Providing Social Safety for Citizens (the Official Gazette of the Republic of Serbia no. 36/91,33/93 and 67/93) the Regulation on the detailed conditions for establishing and on the norms and standards for operating social care institutions for the placement of children and youth without parental guidance and children and youth with behavioural disorders and the Regulation on Foster Families were adopted. In order to provide that the personality of minors as injured parties is especially protected, the Law on Juvenile Delinquents and Legal Protection of Minors deliberately foresees the introduction of training for all actors. The Law comprises new rules of evidence amended with the aim to protect juvenile injured persons.

Over the recent two decades, the Republic of Serbia had been faced with the problem of accommodating a massive number of refugees and IDPs.

The number of refugees from the former republics of the SFRY was the largest in 1996 totalling to about 600,000, while it dropped to 86,000 by the end of 2009 owing mostly to their integration in the Republic of Serbia. From the outset of the refugee crisis, the refugees from the former republics of the SFRY have been granted rights in the field of health care and education equal to those of the Republic of Serbia nationals, the right to personal documents, the right to work, the right to assistance in accommodation and some of the rights from the field of social care. All rights of the refugees are granted by the Law on Refugees. Concerning unaccompanied minor children, it is vital that, in line with the laws regulating this area, they are provided with legal protection equal to child-nationals without parental guidance. Funds necessary for all aspects of protection are provided in the Republic of Serbia budget. Guardians are appointed to children who arrived unaccompanied, who are also provided with documents, health care, adequate accommodation, inclusion in pre-school and school education and legal protection through competent centres for social work. In that period, an important role was played by the Tracing Service of the International Organisation of the Red Cross in finding families or relatives.

In the Republic of Serbia, IDPs, whose number is about 210,000 including unaccompanied minor children, as nationals of the Republic of Serbia enjoy all rights granted by the Constitution and laws.

The major challenges the State is facing now are to ensure the conditions for the full integration of all refugees who decided to stay in the State and to improve the conditions of living for IDPs. In this sense various projects are being implemented with the aim of solving housing and employment issues of refugees and IDPs. With regard to the vast amount of funds needed for these projects, while financing sources are limited, in solving these problems an absolute priority is given to families with children.

The rights of asylum seekers are governed by the Law on Asylum. The basic principles of the Law on Asylum, *inter alia*, are: the principle of non-discrimination, the principle of family unity, information and legal aid, free access to UNHCR, gender equality, care for persons with disabilities and the principle of representing unaccompanied minors. Under this Law, asylum seekers and persons who have been granted protection are entitled to health care, free primary and secondary education, the right to work, the right to personal documents and the right to social care.

Children whose asylum admission procedure is ongoing and are accommodated in the Asylum Centre are provided access to language courses and participation in creative workshops. Non-governmental organisations provide free legal and psychological aid.

Readmission Agreements are one of the tools for combating illegal migration and to review the implementation practice of international frameworks for the protection of children's rights. These agreements are brought in line with the standards of all European conventions and are conditioned by the obligation of full respect for human rights, first and foremost: those granted by the European Convention on Human Rights and Fundamental Freedoms. The fact that they particularly address the issues of the procedure with and admission of minors, indicates the specific importance attributed to the rights of the child and protection of the child's interests through these international covenants.

Since 2003, the competent body within the Ministry of Interior for implementing the Readmission Agreement is the Police Directorate, i.e.: the Department for Implementing the Readmission Agreement. Since 2006, the Ministry of Interior is also the competent body for concluding a Readmission Agreement.

In the framework of its international cooperation, so far the Republic of Serbia has signed 16 bilateral readmission agreements covering 18 countries, while the Agreement between the Republic of Serbia and the European Community on readmission of persons residing without authorisation (the Official Gazette of the Republic of Serbia no. 103/07) has been implemented since 1<sup>st</sup> January 2008 in the Republic of Serbia.

Up to now, the Republic of Serbia has had the role of a host country in the readmission process. The decision on whether and when a person would, for whom it has been established in the readmission agreement implementation procedure that he/she is a national of the Republic of Serbia, be readmitted to the Republic of Serbia and on the existence of the obligation of readmission, is exclusively made by the competent foreign body. The implementation procedure of the Readmission Agreement is carried out with full respect for the right to family unification. Of the total number of applications for the readmission of our nationals received so far, according to age structure, about 80% of the readmission applications refer to full age persons, while about 20% of them refer to minors.

The approval to readmit a minor requires that he/she will be readmitted with one of his/her parents and guardians respectively. The readmission is effected with the prior notification by the foreign body in order to protect the rights of the child. Minor persons are readmitted accompanied either by the foreign guardianship body or by the police officer of the Ministry of Interior. When readmitting a minor person at the border crossing, where the readmission is effected, the Ministry of Interior ensures the presence of a parent, guardian or representative of the guardianship body, i.e.: Centre for Social Work.

With regard to migrant children, the reintegration of children repatriated under the Readmission Agreement presents a special problem. Oftentimes, these children do not speak the mother tongue, they change environment abruptly, and repatriated families are faced with the problems of solving housing and employment problems and obtaining personal documents in the countries they were returned from. Diploma recognitions are complicated and long-lasting. The problem of the return of children unaccompanied by their parents is especially cumbersome. In order to create a strategic framework for resolving these problems, the Government of the Republic of Serbia adopted the Strategy on the Reintegration of Returnees based on the Readmission Agreement

(the Official Gazette of the Republic of Serbia no. 15/09), which foresees a set of measures for creating a stronger institutional framework and for strengthening local communities, where these persons return to. Likewise, a Council for the Reintegration of Returnees and a Returnee Reintegration Strategy Implementation Team were formed, and in order to accomplish the tasks determined in the Reintegration Strategy, a National Action Plan for the implementation of this Strategy has been developed. Relevant ministries cooperate on specific tasks set in the Action Plan by exchanging information about the announced returnees (especially minors) according to the Readmission Agreement, in order to ensure the basic aim, which is to provide assistance and ensure the ultimate reintegration of persons returned under readmission. The Reintegration Strategy foresees special social protection of persons exposed to risk in the process of readmission and unaccompanied children – children who are permanently or temporarily separated from their parents or guardian in the readmission procedure, based on the Readmission Agreement, are considered as such – with regard to the need of enabling their integration in education, psycho-social and healthy development of the children of returnees.

With regard to the implementation of the recommendations by the UN Committee on the Rights of the Child, the Strategy for the Reintegration of Returnees, based on the Readmission Agreement, comprises an institutional framework: assistance, protection and reintegration of returnees, coordination and exchange of information among the requesting and requested countries in order to provide the full protection of the child's rights during admission, monitoring reintegration and evaluation. The Law on Civil Registers and the Law on Residence provide minor children the right to identity, including the registration of birth and residence in the Republic of Serbia. The Law on Identity Cards stipulates the parental duty that parents shall also register their minor children when registering residence and changes in address of residence respectively, whereby they enable them the achievement of some rights.

The Ministry of Interior has taken over from the Reintegration Strategy of Returnees based on the implementation of the Readmission Agreement, the obligation to provide assistance to returnees in the procedure of solving their status-related issues: residence and issuance of identity cards, as issues preceding the solution of social insurance, health care, and enrolment of children in schools. The above mentioned issues are resolved in summary proceedings in the competent organisational units of the Ministry of Interior.

Although most of the strategic and normative presumptions for problem-solving are in place, the major impediment to achieve full and satisfactory protection of all migrants is the difficult economic situation of the country and the relatively scarce financial resources vis-à-vis the massive number of migrant beneficiaries of various rights and programmes.