Child Rights References in the Universal Periodic Review

Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Bosnia & Herzegovina - 7th Session - 2010
17th February, 2.30pm to 5.30pm

National Report
32. In early December 2008, three new ombudsmen of BiH were appointed. A number of specialized departments were established for monitoring of: children's rights, persons with disabilities, ethnic, religious and other minorities, economic, social and cultural rights, political and civil rights and for the elimination of all forms of discrimination. The Article 7 of the said Law, inter alia, defines that the Ombudsman is competent to receive individual and group complaints regarding discrimination, provide legal and natural persons with notices about their rights and obligations, and the possibilities of judicial and other protection; on the basis of the appeal it decides whether to accept the appeal or to start the investigation process; it proposes to start the mediation process.

43. The difficulties caused by a complicated political system in BiH are well known, due to fragmentation and/or ambiguities in the division of responsibilities, which in all child-important areas are at lower levels other than the state government. The key problem is the lack of awareness of professionals in government bodies and other institutions of the obligation to apply in practice the principles of international instruments for protection of human rights because their use is guaranteed by the Constitution of BiH.

44. BiH became a signatory of two Protocols to the Convention on the Rights of the Child, namely: the Optional Protocol on the Inclusion of Children in Armed Conflicts and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in 2000, and it also signed the Millennium Declaration. In order to implement the Convention on the Rights of the Child and to meet the UN Millennium development goals, the Action Plan for Children of BiH for the Period 2002 – 2010 was adopted with the objective to strengthen the position of children in BiH.

45. The state is aware of the fact that a large number of children in BiH does not enjoy free health care, that they are exposed to poverty, violence, mine threat and other risks, so it adopted and implements a number of documents to improve public child care and systematically enhance the situation of children's rights: the Strategy on Social Inclusion with the National Development Plan (2008 - 2012), the National Strategy for Combating Violence against Children (2007-2010), the Mine Action Strategy, the Strategy on Inclusion of Children with Special Needs (2006), the National Strategy on Early Child Development (2006), the Strategic Directions of Development of Education in BiH (2008-2015), the National Strategy of the Narcotic Drug Control, Prevention and Elimination of Abuse of Narcotic Drugs in BiH (2009-2013), the Strategy against Juvenile Delinquency in BiH (2006-2010). In 2008, MHRR, in cooperation with UNICEF, produced a comprehensive analysis of legislation in the field of regulation of identity (birth registration and citizenship acquisition), carried out an action that resulted in the birth registration of more than 2,000 children in the birth registries and almost the whole recording of children-families who have problems with such entry, and it offered solutions for other similar cases, which will positively reflect on the exercise of the rights of children to education, health and social protection.

46. The current implementation of the project "Strengthening the system of social protection and inclusion of children in BiH" will contribute to the process of establishing and implementing a sustainable development strategy for the integrated system of social protection of children and their families.

59. Generally speaking, the cases of trafficking are usually of cross-border nature as presented in the report on the situation of trafficking in BiH. BiH is there usually a transit country or destination for victims coming from Eastern Europe countries. However, in the past few years there appeared a new phenomenon - trafficking in women and girls who are recruited in the chain of human trafficking at the local level, with the aim of sexual exploitation in other parts of the country, while the number of identified foreign victims of trafficking is in permanent decline and the number of female citizens of BiH identified as victims of trafficking in BiH until this year (2009)
constantly growing. Increase of trafficking of women BiH citizens within the borders of BiH faced the law enforcement agencies with new challenges in identification and investigation of crimes in the field of human trafficking. However, the current data on victims of trafficking are not disturbing and there is a continuous trend of reduced number of identified victims. BiH has invested sufficient efforts in terms of creating a sustainable system including establishment of a uniform system of data keeping and establishment of the system of direct aid and assistance to victims of trafficking, which provides intervention resources at the state level. This system was established in partnership of government, NGO and international sector and therefore has a special value especially in terms of strengthening both the partnership of the governmental and non-governmental sector and international and regional cooperation.

UN Compilation

1. In 2005, the Committee on the Rights of the Child (CRC) recommended that the State implement and incorporate OP-CRC-SC in the criminal justice systems.7 In 2006, the Committee on the Elimination of Racial Discrimination (CERD) recommended that Bosnia and Herzegovina consider making the optional declaration provided for in Article 14 of ICERD,8 and that it ratify the amendments to Article 8, paragraph 6, of ICERD.9 The Committee on Migrant Workers (CMW) encouraged the State, in 2009, to consider making the declarations provided for in articles 76 and 77 of ICRMW.10

11. UNICEF indicated that the Law on Human Rights Ombudsmen, amended in March 2006, stipulated that Entity Ombudsoffices should be replaced by a national Ombudsoffice. It also called for separate organizational units to be established to monitor the implementation of children’s rights.36 UNICEF reported that despite the recommendation of the CRC37 to strengthen the function of the Council for Children, this advisory body was not re-elected in 2007. 38 The Republika Srpska appointed an Ombudsman for children in 2008.39

17. CRC noted, inter alia, the adoption of a National Plan of Action to combat trafficking in 2001 and of the Action Plan for Children 2002-2010,51 and recommended its effective implementation.52

23. CRC72 was concerned that there are still approximately 30,000 minefields throughout the country. CRC recommended that the State continue carrying out mine-awareness campaigns, undertake as a matter of priority demining programmes and extend the psychological and social assistance to children affected.73

29. In 2005, the Special Rapporteur on trafficking in persons, especially women and children, recommended that increased attention be devoted to the prevention of internal trafficking and trafficking from Bosnia and Herzegovina to other countries, with particular attention to the root causes of the phenomenon.95 Long-term prevention should also include anti-discrimination measures, job opportunities for women, legal migration projects targeting women, awareness raising programmes targeting violence against women.96

31. CRC noted that specific juvenile courts do not exist per se and was concerned at the lack of alternative measures to detention.101 CRC recommended that the State: ensure systematic training for judges; ensure that persons under 18 be deprived of liberty as a last resort and that when in custody they be separated from adults; establish the right to a defence counsel.102

36. UNICEF indicated that birth registration of Roma children remains one of the key obstacles.115 The HR Committee was concerned about the frequent failure of health institutions to issue birth certificates for Roma children.116

37. CRC noted the phenomenon of illegal inter-country adoption of children from Bosnia and Herzegovina and recommended that the State ensure that adoption procedures are in conformity with article 21 of the CRC.117

46. CRC was concerned that a significant number of children, especially Roma, are living or working on the streets, do not attend schools and that many are forced to work.142 CRC recommended that the State: ensure that street children are provided with nutrition, clothing, housing, health-care and educational opportunities;143 combat trafficking in children;144 increase efforts to prevent the use of illicit drugs,145 provide for mental and reproductive health counselling;146 launch campaigns to raise awareness on HIV/AIDS.147

49. The Special Rapporteur on education noted in 2007 that the practice of “two schools under one roof” emerged after the war: children of different ethnicities attend the same schools but were taught different curricula and at separate times.155 CERD156, CESC157 and CRC158 were concerned about the existence of mono-ethnic schools and “two schools under one roof” wherein children are physically segregated. CERD159 and CESC160 urged the State to end public school segregation and implement a common curriculum, sensitive to the cultural attributes of the ethnic groups. The Special Rapporteur encouraged ethnic group leaders to collaborate with the Agency for Preschool, Primary and Secondary Education. 161

50. The 2008 CCA indicated that the education system was characterized low attendance rates,162 and that the level of discrimination against minorities remains high regarding education.163 UNICEF indicated that due to fear and insecurity, minorities lack the capacity to exercise their right to education in their own language.164 CRC recommended that articles 28 and 29 of the CRC be implemented, particularly regarding children living in poverty, refugee and returnee, Roma and children with disabilities.165 CESC urged the State to promote equal access by Roma children to education.166

51. CRC was concerned at the inadequate number of professional teaching staff167 and that violence in school is widespread.168 CEDAW remained concerned about the early dropout rates of girls in rural areas, especially of Roma girls.169 CRC recommended paying particular attention to the high dropout rates and increase the availability of vocational training.170

59. CRC was concerned that violent incidents against returnees and IDPs and their property, memorials or religious objects are frequent.185 CERD welcomed the progress in reducing the number of incidents in which attempts to return have been impeded by violence or threats, in particular the prosecutions and punishment of perpetrators.186

61. CRC recommended that, as highlighted also by UNHCR,189 the State address, inter alia, the needs and rights of displaced and
refugee children, and ensure proper accommodation, social and professional reintegration for their parents.

Stakeholder Information

2. The Informal NGO Coalition for UPR of Bosnia and Herzegovina (The Informal UPR Coalition) noted that Bosnia and Herzegovina has ratified the majority of the UN conventions relating to human rights. The Convention on the Rights of Persons with Disabilities has not yet been ratified. However, the Conventions that the State had committed to apply have not been applied directly: only one case of direct implementation of the Convention on the Rights of the Child has been recorded so far.

21. Global Initiative to End All Corporal Punishment of Children noted that corporal punishment was lawful in the home. Corporal punishment was considered unlawful in schools under the legislation against physical abuse of children, but there was no explicit prohibition. There was no explicit prohibition of corporal punishment of children in alternative care settings.

22. Regarding conditions of detention, CCPR expressed concern over overcrowding, lack of staff and lack of education of the present staff, and lack of security within the prison. It was further reported that no measures were taken to avoid the contact between juvenile and adult offenders and that there was no women section found within the prison. OSCE recommended that the State and Entity Ministries of Justice, in conjunction with the penitentiary system, initiate a public discussion process to determine the best suitable model of a national mechanism for the prevention of torture.

34. According to Ombudsman, complaints filed with its Department for Children are mainly related to problems of execution of court decisions, administrative organs’ decisions, familial conflicts, and non-issuance of birth registration particularly in those municipalities dislocated during the war and where registry books were destroyed. The Informal UPR Coalition expressed similar concerns.

47. The Informal UPR Coalition noted that although the primary schooling was defined as compulsory and free, the situation did not fit into the definition. Almost 4% of children at the school age were not enrolled either due to a big distance from school, inaccessibility of school to children with special needs, extreme poverty, non-possession of documents – birth certificate, which particularly affected Roma children, or curricula and text-books not suitable for children members of minorities. Ombudsman noted that despite the request by the UN treaty monitoring bodies that Bosnia and Herzegovina take measures to eliminate the concept of “two or three schools under one roof” as it leads to discrimination and segregation of children based on ethnicity, this model still exists. OSCE expressed similar concerns recommending that the education sector should adopt affirmative measures and monitoring systems for children in rural communities and from poor households to ensure their attendance in primary and secondary school. Ethnically coloured segments must be removed from school curricula.

48. CCPR noted that access to health care and education was limited, so were the possibilities for employment. Schools did not have classes in culture and history of ethnic minorities or classes in the Roma language. CoE Commissioner recommended Bosnia and Herzegovina to take comprehensive measures to increase the attendance of Roma children in school and to prevent their drop-out, ensure the inclusion of Roma children in pre-school education and of Roma girls in education at all levels.

49. According to The Informal UPR Coalition, although the Law on Education provides for the inclusion of children with disabilities, inclusion does not exist in practice.

Final Report and Conclusion - To Follow