



REPUBLIC OF SERBIA

GOVERNMENT

Date: 5 September 2017

Belgrade

**REPONSE TO THE QUESTIONNAIRE OF THE OFFICE OF THE HIGH
COMMISSIONER FOR HUMAN RIGHTS WITH RESPECT TO THE
PROTECTION OF THE RIGHTS OF THE CHILD IN HUMANITARIAN
SITUATIONS**

1. Please submit information on main challenges which your country is facing in the protection of the rights of the child in humanitarian situations.

The refugee / migrant crisis which our country has faced has forced us to face many challenges - economic, safety-related and humanitarian.

In the reception centers, since the migrant route has been closed in the March of 2016, there has been, among the total number of persons in the centers, 47% of minors accommodated. Currently there are 18 centers (5 centers for asylum and 13 reception centers) with total capacity of 6000 persons. At this moment there are 4.505 persons accommodated, including 2.172 minors among whom there are 747 unaccompanied children.

Because of the aforementioned circumstances, the closing of the migrant route, the period of staying of migrants on the territory of the Republic of Serbia has been prolonged, and having in mind the number of minor migrants that are among them, including the unaccompanied children, that represents an additional challenge for the country.

The Government of the Republic of Serbia is constantly making a great effort to overcome the challenges that Serbia is facing when it comes to the migrant crisis. All migrant children in Serbia have been registered, and to every unaccompanied child there has been assigned a guardian from the competent center for social work. Every child is being monitored from the moment they enter the Republic of Serbia, till they reach their final destination.

All permanent and temporary reception centers have a special children's corner, and the system for social protection has increased and strengthened capacities for the accommodation of unaccompanied minors. Through partnership with the civil society organizations, there has been provided a psycho-social support and there have been additional recreational and educational activities organized for children and youth.

In accordance with the principle of the best interest of the child, to all migrants and refugees that are school age, regardless of their legal status, there has been provided access to formal education and to the services of informal education which the competent institutions are providing in cooperation with UNICEF and the civil society organizations.

Educational support is provided through the involvement of children into the regular school classes in schools which are nearest to the reception centers in which the children are accommodated. Children have an organized transport to the school and back. All the employees have to attend trainings and courses so that they can give adequate support to the children.

The Government of the Republic of Serbia has adopted, on the 4th September of 2015, a Plan of action in case of an increase in the number of migrants with needs assessment, through which it has defined the main ways of reactions, measures and activities which have to be taken in order to give the adequate protection to migrants during the winter.

2. Please state the current status of the legislative framework of your country with respect to the protection of the rights of the child in humanitarian situations. Please include information on statutory provisions (including provisions of the Constitution) which explicitly address the protection of children and their rights in humanitarian situations with regard to their physical and mental health, protection from exploitation, and education.

The Republic of Serbia is a party to 9 international treaties in the field of human rights, including the Convention on the Rights of the Child. Serbia fulfils its obligations undertaken by ratification of the Convention through application of recommendations and submission of interim reports to the Committee on the Rights of the Child.

The Constitution, inter alia, guarantees the protection of children and their right to life, right to inviolability of the physical and mental integrity, freedom and safety, health care, social protection, protection from exploitation, as well as the right to education. All the rights guaranteed by the Constitution equally refer to foreigners and Serbian nationals, except for the voting rights (Articles 17 and 64 of the Constitution).

The protection of the rights of the child is prescribed by the Family Act, Law on Social Protection, Criminal Code, and laws relating to health care and education.

The Law on Emergency Situations regulates the system of protection and rescue in the Republic of Serbia. This Law does not contain any provisions specifically regulating the protection of children and other vulnerable social groups. However, in the case of evacuation, the priority are mothers with children up to the age of 15, or other persons which are legally

obliged to look after and take care of juveniles under the age of 15, pregnant women, sick persons, persons with developmental difficulties or persons with disability etc.

During evacuation, special attention is also given to the treatment of women and children with respect to accommodation into collective centres, ensuring hygienic conditions, health care and psychological prevention in terms of not separating mothers from their children, child care, and protection from child trafficking.

A new legislative framework is being prepared in the field of disaster risk reduction and emergency management, which will regulate the field of protection and rescue of children in emergency situations in a more comprehensive manner. This law is being prepared on the basis of the Sendai Framework for Risk Reduction 2015-2030.

The Law on Police prescribes that the Ministry of Interior shall implement tasks from its scope during a state of emergency or war by adjusting its organisation, forms and methods in the changed circumstances with the laws and by-laws adopted for the purpose of elimination of the state of emergency or martial law.

The Law on Asylum of the Republic of Serbia prescribes the principles, conditions and procedures for granting and revoking asylum, as well as the status, rights and obligations of persons seeking asylum and persons who have had their right to asylum recognized in the Republic of Serbia. This Law does not apply to persons who have gained the refugee status on the basis of the Law on Refugees of the Republic of Serbia. Serbia may grant asylum or another form of protection as prescribed by the Law. Subsidiary protection is a form of protection grants to a foreigner who, in the case of their return to the country of origin, may be exposed to torture, inhumane or degrading treatment, or their life would be endangered by violence of wider proportions caused by an act of external aggression or internal armed conflict or widespread violations of human rights.

If a foreigner does not meet the requirements for being granted an asylum in Serbia, it shall be taken into consideration ex officio whether conditions are met for granting him/her subsidiary protection. In accordance with the Law on Asylum, the procedure and all decisions at first instance with respect to an application for asylum shall be the responsibility of the competent organisational unit of the Ministry of Interior - the Asylum Office. The Asylum Commission makes decisions at second instance on appeals against decisions of the Asylum Division. The Government appoints the Chairperson and 8 members of the Commission. Until the adoption of the final decision on an application for asylum, persons seeking asylum are provided with accommodation and basic living conditions in the Asylum Centre, within the Commissariat for Refugees.

In Asylum Centres, asylum seekers are ensured accommodation and basic living condition until the adoption of the final decision on their application. Funds for operations of these Centres are provided from the budget of the Republic of Serbia.

Challenges that employees of the Asylum Office face in the implementation of the procedure addressing an application for asylum submitted by an unaccompanied minor include establishing the person's identity, year of birth, nationality, and connecting them with their family members, in view of the fact that most asylum seekers do not have identity documents, and thus their personal data are recorded on the basis of their statements.

With respect to protection of children in humanitarian situations, the Asylum Office acts in the best interest of the child in its decision-making process.

The Commissioner for Refugees has adopted the Rules of the House at the Asylum Centre, which defines the rules of conduct for persons seeking asylum who are accommodated within the Centre in accordance with the Law on Asylum, as well as other issues relevant to the smooth operation of the Centre. The Rulebook on Housing Conditions and the Provision of Basic Living Conditions in the Asylum Centre has also been adopted.

The Law on Conscription, Compulsory Labour and Requisition regulates, in an unambiguous and detailed manner, the issue of conscription, including draft, which commences in the calendar year in which a Serbian national reaches the age of 18.

Legislation regulating conscription does not provide for the possibility of a voluntary enlistment of persons under the age of 18 into the military forces.

Also, the Law prescribes that the assessment of fitness for military service and drafting of persons who wish to serve in armed forces shall be conducted no earlier than the calendar year in which the recruit reaches the age of 19.

In case of war, children/students of military education institutions may not participate in combat operations.

3. Please submit information on national policies, strategies and action plans with respect to the rights of children in humanitarian situations.

The Republic of Serbia has established many new mechanisms and reinforced the existing ones for the protection of children from all types of abuse and neglect, and the multisectoral approach is applied on the national and local level.

The Council for Child Rights (CCR), which was established in 2002, is still in charge of the coordination of activities in the field of child rights, as the expert and advisory body of the RS Government. In addition to regular tasks of the CCR, special attention will be paid in the future period to furthering of inter-departmental and multidisciplinary approach in the promotion, prevention and protection of child rights, including protection of the rights of the child in humanitarian situations.

The General Protocol has contributed to the development and expansion of the network of multidisciplinary teams for protection of children in the local community, as well as the implementation of the conjoint model of these teams on the municipal level throughout Serbia. Multisectoral cooperation is conducted in accordance with the Special Protocols on the conduct of police officers in the protection of juveniles against abuse and neglect; for protection against domestic violence and protection of women from violence in intimate partner relationships; protection of children from abuse and neglect in the educational and pedagogical system, health care system, and social protection system; and judicial practice in protection of minors from abuse and neglect.

The Strategy for Prevention and Protection against Discrimination for the period 2014–2018 prescribes a series of measures and activities for the purpose of improvement of the status of children and prevention of discrimination, whose implementation should indirectly contribute to the improvement of the status and protection of children in humanitarian situations.

The protection of children and exercise of the right of the child is also prescribed by other strategic documents of the Government, and specific measures and activities for achievement of the objectives of the strategy are specified in accompanying action plans, such as the Action Plan for implementation of the National Youth Strategy, and the Action Plan for the National Strategy of Counteracting and Preventing Trafficking in Human Beings

in Serbia, women and children in particular. The Strategy for the Prevention and Protection of Children against Violence is being prepared.

Protection and rescue of the population from natural and technological disasters is regulated by the National Strategy for Protection and Rescue in Emergency Situations, the National Disaster Risk Management Programme of the Government of the Republic of Serbia, and the Instruction on Methodology of Risk Assessment and Protection and Rescue Plans in Emergencies.

The National Strategy for Protection and Rescue in Emergency Situations provides for creation of conditions necessary for building a disaster-resilient society through a development of an integrated system for protection and rescue in the country. One of the strategic objectives is provision of information on disaster risk, as well as on the possibilities for protection, which would be available to everyone, especially citizens who belong to vulnerable social groups, such as women, children, elderly persons and persons with disabilities.

In May 2017, the Government of the Republic of Serbia adopted the Regulation on Determining Hazardous Work for Children, with an Appendix listing activities and conditions hazardous to children, while this Ministry prepared the Expert Instruction for Social Work Centres concerning Action for Protection of Children from Exploitation and Child Work.

4. Please list examples of good practice that your government is taking to protect the rights of the child in humanitarian situations, both at national and international levels.

An example of good practice of the Republic of Serbia in the protection of children in humanitarian situations is protection of unaccompanied underage migrants, as well as in cases of protection against domestic violence, abuse and neglect, and in cases of natural disasters, when the guardianship authority is a body entrusted with the public authority in carrying out activities aimed at protection of children and family.

Considering the large influx of migrants and refugees from the war-affected areas to the Republic of Serbia and considering the fact that there is a large number of children among the migrants, the Ministry of Labor, Employment, Veteran and Social Affairs issued in July 2015 an Instruction for the actions of Social Work Centres and Institutions of Social Protection for Accommodation of Users for Providing Protection and Accommodation of Unaccompanied Underage Migrants. The regulation regulates organisation of work and obligations of the said institutions in the procedure of temporary accommodation and care of underage migrants. The Instruction was sent to all centres for social work in the Republic of Serbia. According to this Instruction, the centres for social work shall, immediately upon receiving a written or oral notification by the Ministry of Internal Affairs, Directorate of Police - the Border Police Directorate or the Commissariat for Refugees and Migration, about an unaccompanied underage migrant found in the territory of their local and actual jurisdiction, provide to such a minor: a) guardianship protection by appointing a temporary guardian in accordance with Article 132, paragraph 2, point 4 of the Family Law, b) accommodation in a social care institution for accommodation of beneficiaries having in its organisational structure a special organisational unit for temporary accommodation and care of unaccompanied underage migrants which will, in accordance with its activity, provide

security, health care and basic living conditions. The accommodation is temporary and may last until the moment when a minor migrant decides to seek asylum, in accordance with the Law on Asylum, after which accommodation for such minor will be provided in the asylum centre. A social protection institution for accommodation which has within its organisational structure a special organisational unit for temporary accommodation and care of unaccompanied underage migrants shall, in accordance with its activity, provide to unaccompanied minor migrants: safety, health care in accordance with special regulations on health care and basic living conditions (housing, adequate food in accordance with the national and religious origin of the underage migrant, personal hygiene, clothing, footwear, etc.). In the event of lack of capacity to accommodate unaccompanied underage migrants, other social welfare institutions for accommodating beneficiaries shall make available their free capacities for the reception and care of such persons.

Underage foreigners are accommodated in the shelters accompanied by police officers and on-call officers of the Centre for Social Work in which their identity has been previously established, based on the testimony of the minors themselves. The Centre for Social Work provides, from the domain of its jurisdiction, a Provisional Conclusion on Accommodation as well as a Decision on Direct Custody. After admission to the Centre, a temporary guardian is appointed from the ranks of professional workers of the social care institution, who then takes over and meets all obligations stipulated in the decision on temporary custody. This implies protection of the interests of an underage foreign person, prohibition of discrimination, respect for the right of an underage foreign person to protection of cultural and ethnic identity, the right to an interpreter, the right to inter-organisational cooperation until the return of an underage foreigner to the country of origin or until accommodation in one of the Asylum Centres. Institutions have accompanying records and documentation on the underage foreigners (the birth certificate, a dossier containing all the supporting documentation of the case of each particular minor).

Psychosocial support is provided by employees in institutions with adequate education. The treatment is on a short-term basis and is focused on stabilising the child / young person, assessing their needs and determining the further form of protection and planning activities with family members. In addition to the employees, psychosocial help in shelters is also provided by psychologists from different NGOs.

In the course of 2016, within the framework of the project "Strengthening Institutional Capacity for Response to the Challenges of Irregular Migration", the Ministry of Internal Affairs prepared a Manual "Humanitarian Border Management - Standard Operational Procedures for the Border Police" and developed a curriculum related to the conduct of police officers in the state of increased inflow of migrants. Eight training sessions were organised for police officers, attended by 205 border police officers and 32 police officers from the regional police administration.

Regarding migration management, the Ministry of Internal Affairs has issued a mandatory instruction on handling smuggled persons, envisaging, inter alia, the procedure of providing assistance to underage smugglers, asylum seekers, pregnant women, single parents with underage children, persons who were subjected to torture, rape and other serious forms of psychological, physical or sexual violence.

The Sector for Emergency Management of the Ministry of Internal Affairs implements activities in the area of prevention in order to raise the level of security culture and to be better informed about natural and other disasters.

Bearing in mind that, in humanitarian situations, children are one of the most vulnerable groups, special attention is paid to the education of children in the field of disaster risk reduction and emergency response. Training of children of preschool and school age consists of the organisation of visits of fire-fighting/rescue units to preschool and school institutions, organisation of exercises, simulations and distribution of educational materials. Also, the emphasis is on education in the field of evacuation from an endangered building.

In cooperation with the OSCE Mission in Serbia, a Manual on Behaviour in Emergency Situations has been prepared, providing information on behaviour in unknown situations in order to reduce harmful effects. The manual has been translated into the languages of national minorities officially in use in Serbia.

The Sector for Emergency Management of the Ministry of the Interior has implemented since 2009 a "Fire Prevention Month", during which firemen rescuers train preschool and school children on the basic elements of fire protection and behaviour in case of fire.

With the aim of developing a safety culture in children and young people, the Ministry of Internal Affairs has provided a large number of preventive and educational activities through lectures for elementary and secondary school students.

During the school year 2016/2017, there were 44,000 pupils of elementary schools attending the lectures within the project "Safe Childhood - Development of the Culture of Youth Safety".

Within the framework of the concept of community policing, primarily through more efficient prevention, better communication and cooperation with other state bodies, measures are taken for improving the safety of children and youth and prevention of security risks.

In the period 2012-2017, projects were carried out in all police administrations in Serbia in the areas important for the security, 40 of which were intended for the education of children and youth.

In recent years, in addition to police officers, prosecutors, centres for social work, asylum centres, educational workers also have the priority task of training civil servants in relation to the identification of trafficking in children.