

INFORMATION ON THE CHILDREN'S RIGHT TO HEALTH IN THE REPUBLIC OF SERBIA
PROVIDED BY THE PROTECTOR OF CITIZENS (OMBUDSMAN) OF THE REPUBLIC OF
SERBIA

Issue No. 1: Health challenges related to children

a) For a number of years, Serbia has been faced with the lack of funding for healthcare services. The cause of this problem is not only in economic and monetary crisis in Serbia, but also in the lack of financial discipline of employers required to pay mandatory health insurance of employees and their family members and the long-term absence of the authorities' efficient response to employers' non-compliance with regulations. This issue was also pointed out by the Protector of Citizens in its explicit recommendations issued to the Health Insurance Fund of the Republic of Serbia for the purpose of protection of children's right to health insurance and healthcare. The Protector of Citizens recommended to the Fund to issue health insurance document to every child and in such way prevents children to bear the consequences of illegal behavior of third parties who failed to comply with the obligation of paying mandatory insurance of employees (and the lack of the adequate response from the state authorities mandated to ensure the respect for the mandatory health insurance regulations).

b) Healthcare services for children with disabilities are insufficient and unavailable to all children. Lack of healthcare system's support is one of the factors influencing the decisions of parents of children with disabilities to place their children in social protection institutions. Children with psycho-physiological disorders and speech-language pathology lack full and appropriate healthcare services;; on the contrary, last year's scope of services covered by mandatory health insurance has been reduced as compared to the previous years, which is direct contravention of National Plan for Preventive Healthcare of Children with Psycho-physiological Disorders and Speech Pathology, issued by the Government. This reduction has been introduced despite several indicators of increased number of pre-school and school children with some form of speech - language pathology.

There are no existing records of children with disabilities based on which the needs for healthcare services could be estimated and planned. For example, the Regulation on the National Plan for Preventive Healthcare of Children with Psycho-physiological Disorders and Speech Pathology, enacted by the Government of the Republic of Serbia in 2009, provides for establishing of data collection and management system. This system, however, has not yet been put in place.

The failures described above have caused the Protector of Citizens to issue its recommendations to the Ministry of Health, Health Insurance Fund of the Republic of Serbia and the Serbian "Dr. Milan Jovanovic Batut" Public Health Institute.

c) Children who are victims of violence, abuse and neglect lack proper and available healthcare services focused on reducing harm caused by violence and remedying/mitigating effects thereof. Even though the Ministry of Health adopted a Special Protocol of the Healthcare System for Protection of Children from Abuse and Neglect as early as 2009, the healthcare system did not determine the special healthcare services for children who are victims of violence, while the healthcare personnel are under obligation to work under the so-called capitation formula, requiring the doctors to "process" a certain number of patients during working hours, which compromises the rules of the adopted Special Protocol. Existing services are available only to children in larger cities, whereas smaller local environments have no facilities or healthcare workers trained to work with children victims.

Identification of violence against, abuse and neglect of children in primary, as well as secondary healthcare is at a very low level. A number of healthcare institutions established teams for protection of children against violence, abuse and neglect as late as this year, and there are institutions that still lack such teams.

Cooperation of healthcare institutions in the protection of children from violence, abuse and neglect with other systems (especially education and social system) is insufficient and sometimes even non-existent. In one case, the Protector of Citizen issued recommendations to a healthcare institution for its failure to notify the police and Centre for Social Work (social service) of serious forms of peer violence, which is the healthcare institution's obligation under the Special Protocol of the Healthcare System for Protection of Children from Abuse and Neglect.

d) Children who abuse drugs and psycho-active substances do not have available specialized institutions for treatment of child addiction. Children addicts are treated within existing institutions providing for adults, which prevent application of adequate treatment suited to children.

Under the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles, "subjecting to appropriate tests and alcohol or drug addiction rehabilitation" can also be ordered as a means of diversion from criminal proceedings against juveniles. Due to a lack of an appropriate specialized institution, such means of diversion are impossible to carry out. This also prevents the judicial system from fully conforming to internationally accepted standards and commitments arising from ratified international instruments in the area of juvenile justice.

e) Healthcare services are not fully available to disadvantaged children. "Legally invisible" children (children not registered in birth registers) cannot apply for social services (especially financial assistance for children and their families). The registration of such children into birth registers is subject to a number of conditions that often cannot be met by families. Birth registry certificate and certificate of residence are often demanded for issuing the health insurance document for children, although the Law on Health Insurance provides that children acquire the right to health insurance by operation of law (if not exercised otherwise) and that Roma citizens (including children) who do not have permanent and/or registered residence have the right to health insurance *ipso iure*.

Healthcare for children who life and/or work on the street ("street children") is insufficiently available, having in mind the increased vulnerability of these children. There are no healthcare services suited to this population of children.

f) Although the process of transformation of social protection institutions in Serbia is still in progress, the number of children placed in such institutions is not small, especially the children with intellectual disabilities or multiple developmental disorders. Healthcare services provided to such children are at a very low level, due to the insufficient number of healthcare employees in such institutions and inappropriate status thereof. For example, the Protector of Citizens performed monitoring of Home for Children and Persons with Developmental Disorders "Dr. Nikola Sumenkovic" in Stamnica in 2009, and established that 427 beneficiaries were living in the Home at the time, 79 of which were children. Only one doctor (general practitioner), 22 medical nurses, 85 nursing aides, one physical therapist and one laboratory technician were employed at the Home. Specialist doctors were hired on a case-by-case basis, under relevant agreements on additional work: neuropsychiatrist, intern and psychologist, who provided their services on call and only during business days and working hours. Such level of healthcare services resulted in the lack of proper rehabilitation of children with intellectual disabilities, lack of plans for enhancing children's intellectual and other capacities, and significantly reduced possibilities for these children to be

integrated into the community. Based on current data (source: www.stamnicazavod.org.rs), there has been no change in the ratio of beneficiaries in this Home and the number of employed healthcare workers, primarily doctors. It is worth noting that institutional placement of many children could have been avoided if they had been provided with prompt and appropriate health and/or psychosocial treatment.

g) Child counselling services (developmental counselling centres) and youth counselling services (adolescent counselling centres) in primary healthcare are insufficiently developed. Under current standards provided by subordinate legislation, developmental counselling centres are established within primary healthcare institutions in municipalities having no less than 8,500 children of preschool age. If a developmental counselling centre is established, it must employ a paediatrician, a psychologist, a defectologist, a social worker, one pedagogue on a part-time basis and one medical technician. In a municipality having no less than 7,000 children aged 10-18, a youth counselling centre can be organized within a primary healthcare institution, employing one paediatrician, a medical technician, a psychologist, one gynaecologist on a part-time basis, a social worker, and, if necessary, a medical doctor of a different specialty.

Issue No. 2: The current status of the child's right to health under Serbia legal framework

1. Under the Constitution of the Republic of Serbia, Article 68, children, pregnant women, mothers during maternity leave, single parents with children up to the age of seven and the elderly are entitled to healthcare funded from public revenues, unless exercised otherwise.

The right of the child to the highest possible level of health and healthcare is provided for under the Law on Healthcare ("Official Gazette of the Republic of Serbia", No. 107/2005, 72/2009 – other law, 88/2010, 99/2010 and 57/2011).

A child acquires the right to health insurance in two ways: as a family member of an insured person¹ or independently – *ipso iure* (by operation of law) as a member of a vulnerable social group². Children may become insured persons by operation of law if they “do not meet the conditions for becoming insured persons as contemplated by Article 17 of the Law or if they do not exercise the rights related to mandatory health insurance as family members of insured persons” (Articles 17, 22 and 24 of the Law on Health Insurance, "Official Gazette of the Republic of Serbia", No. 107/2005, 109/2005 - correction and 57/2011).

2. There are no special provisions on key factors of children’s health in the Law on Healthcare.

3. Under the Law on the Fundamentals of Education System ("Official Gazette of the Republic of Serbia", No. 72/2009 and 52/2011), one general objective of education is “developing and practicing healthy lifestyles, awareness of the importance of own health and safety, need for nurturing and developing physical abilities and raising awareness of the importance of sustainable development, protection and preservation of nature and environment, environmental ethics and protection of animals” (Article 4).

4. In December 2011, the Protector of Citizens presented to the public the Preliminary Draft Law on the Rights of the Child – a law that would provide for the rights of the child in the Republic of Serbia in a uniform and holistic manner. Provisions of the Preliminary Draft provide in more detail for children’s right to health and healthcare and the obligations of government authorities, as well as legal and natural persons providing healthcare services, taking into consideration the

¹ Article 24 with respect to Article 17 of the Law on Health Insurance

² Article 22 of the Law on Health Insurance

Convention on the Rights of the Child, other international instruments ratified by the Republic of Serbia and internationally recognized standards for protection of children's right to health. This chapter of the Preliminary Draft contains provisions on: the child's right to health, prerequisites for health and healthy development, healthcare, child's right to information necessary for his/her health and healthy development, preventive healthcare, child's health education, child's participation in making decisions related to his/her health, the right to timely and complete information, respect for the child's opinion within the healthcare system, the right of the child to individual consent, the right of the child to confidentiality and privacy and the right of the child placed in a medical institution for treatment.

Issue No. 3: National policies, strategies and plans of action for addressing the main health issues

1. National Plan of Action for Children (Government of the Republic of Serbia, 2004) – chapter "Better Health for All Children" sets the following strategic goals:

- Enable a healthy and safe onset of life for all children
- Provide optimal conditions for the development of every child
- Health promotion among young people and adolescents.

2. General Protocol on Protection of Children from Abuse and Neglect

3. Special Protocol on Healthcare System for Protection of Children from Abuse and Neglect

These two documents provide for the responsibilities of healthcare institutions in the events of suspicion or knowledge of violence or threatened violence against children and provide in more detail for the actions by healthcare institutions for prevention of violence, identification of violence and intervening in violent situations.

4. National Strategy for Youth and Youth Health Development Strategy

The documents are related to persons aged 15 – 30, thereby also including children aged 15-18. One of the general objectives of the National Strategy for Youth is to "preserve and improve youth health, reduce risks and leading health disorders and develop healthcare suited for youth". General objectives of the Youth Health Development Strategy include: development of a safe and supportive environment for youth development and health; development of a system for transfer of knowledge and skills for acquiring health-oriented attitudes, habits and behaviour; improved and unvaried quality of youth healthcare, especially tailoring of services to youth developmental needs.

5. Strategy on Development of Mental Health Protection

The Strategy acknowledges that the existing system of youth and children's mental health protection is insufficient and ineffective, that the personnel is insufficiently trained, that the human and other resources are deficient and that the youth mental health prevention system is not connected to the primary healthcare and other systems, most of all education and local government systems.

6. Anti-Drug Strategy

The goals of the Strategy include better informing of children and parents on drugs, development of preventive actions, more efficient implementation of actions in the area of criminal law, improvement of treatment through increased resources (both financial and human) and improved quality, development of reintegration plans and harm reduction plans.

Although very important in assessments and planning, it must be stressed that strategic documents cannot be the only solution to accumulated problems and deficiencies. Regular and prompt

evaluation is essential for analysing the achievements and accomplishment of goals set in strategies and for prospective adjustments of goals and planned measures.

Issue No. 4: Role of schools in promotion of children's right to health

One of the goals of education, as set forth by the Law on the Fundamentals of Education System, is the “developing and practicing healthy lifestyles, awareness of the importance of own health and safety, need for nurturing and developing physical abilities”. The information on the presence of health issues in the curricula and special and extracurricular activities are not available to the Protector of Citizens.

Preliminary Draft Law on the Rights of the Child stresses the importance of healthy life styles and therefore contains provisions related to education and informing of the children on healthcare and the role of education system.

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