

# *Childs Rights Monitoring at Local Level*

A Pre-study in Estonia, Lithuania, Moldova,  
Romania, Serbia and Sweden



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## **Abbreviations**

CEDAW	United Nations Convention on the Elimination of Discrimination Against Women
CRC	United Nations Convention on the Rights of the Child
DFID	United Kingdom Department for International Development
EU	European Union
MONEE	Monitoring in Central and Eastern Europe, the Commonwealth of Independent States and the Baltics – a research project of the UNICEF Innocenti Research Centre
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
OSCE	Organisation for Security and Cooperation in Europe
UN	United Nations
UNICEF	United Nations Children's Fund

# Foreword

Save the Children Sweden is pleased to present this pre-study on the monitoring process of children's rights at local levels in Estonia, Lithuania, Moldova, Romania, Serbia and Sweden.

In the last few years there has been a significant improvement in the development of adequate legislation and policies that has strengthened children's rights in Europe. Furthermore, both reports by states and alternative reports from the civil society to the UN Committee on the Rights of the Child have contributed to a better understanding of children's situation in Europe. Yet, much remains to be done to ensure that changes at national levels transpire down to local levels in order to result in actual changes in the daily lives of children.

Save the Children Sweden is of the opinion that the UN reporting process has to be complemented with more extensive and continuous monitoring of children's rights on national, regional and local levels. With increased decentralisation in Europe a greater amount of decision are taken at municipality levels that affect the every-day-lives of children. This leads to that local monitoring will become increasingly important in order to assess the impact on children's rights. Consideration must therefore be given as to how countries successfully can approach local child rights monitoring in a strategic and sustainable manner.

It is not the intention of this pre-study to find 'good models' of how local child rights monitoring could best be implemented, nor to use experiences from individual countries to make conclusions at a European level. Instead this pre-study hopes to bring to attention the diversity of experiences in this field in order to inspire a debate and discussion regarding how to ensure a strategic and holistic approach to local child rights monitoring. Such a discussion shall give due consideration to various factors such as central, regional and local actors, existing monitoring structures and national specifics. At the same time, this discussion would benefit from a debate at a European level, where regional actors such as the EU and the Council of Europe could contribute with arenas to carry these issues further into concrete actions.

Save the Children Sweden is much looking forward to continue this discussion in Europe and together with partner organisations strive for the development of a Europe where all European children enjoy their rights implemented as equally as possible, regardless of which country or city they live in.

Britta Öström  
Regional Representative Europe  
Save the Children Sweden

## *Executive summary*

Decentralisation has an impact on children's rights at local level, where decisions concerning every-day-life have been gradually moved from central to regional or municipal level. Yet, data on children's rights are usually issued by central authorities and there is little information on whether and how local monitoring of children's rights is conducted. For the purpose of this pre-study, a desk review and interviews were carried out in order to clarify this issue and collect opinions of key players in six countries across Europe.

In the first chapter, the study examines to what extent decentralisation has been taking place in the various countries. Three main trends are observed: de-concentration in a centralised context in Moldova, Romania and Serbia, transitional decentralisation in Estonia and Lithuania and strong devolution of power to municipalities in Sweden.

In Moldova and Serbia, political and administrative power has been de-concentrated in the educational and social fields, but the central government remains the main source of funding and authority. Municipalities are free to develop and fund additional services for children, but for cultural and financial reasons, these possibilities are under-developed. In Moldova, the situation in the Criuleni District and the Chisinau Municipal Department of Child Rights Protection reflect the openness of the system to increased local autonomy, as well as its extreme limitations. In Serbia, heavy administrative duties have been delegated to intermediate levels of government, such as the City of Belgrade and the Autonomous Province of Vojvodina, but policy-making in most areas remains centralised. Local Plans of Action developed in parallel to the National Plan of Action for Children have fostered the involvement of some municipalities in child rights monitoring. Other projects supported by the Ministry of Labour, Employment and Social Policies also encourage municipalities to develop local theme-based initiatives in favour of children.

Romania is seen as a mixed case. Systematic and wide-scale decentralisation of child protection services has consisted mainly in administrative delegation of power to the district level, and shifting of responsibilities for service provision to the municipal level. Yet, coordination of education, health and child protection efforts at local level are an issue and decentralisation remains incomplete. Methodological guidance and supervision is guaranteed by central authorities, still dominated by the child protection paradigm that has prevailed during the EU accession process.

In Estonia, standards are established at central level, but implementation varies according to each sector. Health is mainly private but central regulation and insurance for under 18 have been established. Main social welfare services and benefits are provided at local level according to national law and procedures. Municipalities are also strongly involved in education and child protection.

In decentralised Lithuania, one problem is that child protection agencies feel limited and pressured by local authorities. The scope of social services depends

on local political priorities and conflicts of interests between departments of the local administration are common. As a result, central government is re-investing into national standard-setting and monitoring while, at the same time, municipalities such as Kaunas are experiencing further autonomy. NGO services like Save the Children day care centres are becoming part of the local authorities' sphere of responsibility.

In Sweden, service provision, administration and market decentralisation is strong. Municipalities are rather autonomous in the way they implement national policies and parliamentary decisions. Some municipalities, like Örebro, have become proactive in child rights implementation. Yet, this overview concludes that respect for children's rights is less dependent on decentralisation than on CRC awareness, resources allocated to children, inter-sectoral collaboration at all levels and the existence of independent monitoring mechanisms specialised in children's rights.

The study further looks at how independent institutions undertake local child rights monitoring. The Paris Principles and the General Comment N°2 of the UN Committee on the Rights of the Child constitute strong international standards on the role of such institutions in the promotion and protection of the rights of the child. However, they do not explore the issue of local mechanisms and their potential relationship with national ones. The study analyses how national, regional or even municipal ombudsmen exert their legal, political and moral authority to monitor children's rights at the local level in the six countries. Whether they are specialised in children's rights or operating only through a thematic unit, they may act on children's issues through decentralisation of their office, delegation of power to territorial branches or outreach work throughout the country. Collaboration between autonomous monitoring entities also appears as a potential solution to better address local cases of children's rights violations or undertake complementary monitoring initiatives. Interviewees propose different ways to expand the network of actors and resources in this field, without necessarily creating new structures.

Self-monitoring of state structures is also examined. Central organs usually organise routine reporting and, in some cases, more sophisticated monitoring initiatives: data collection using new rights-based indicators, thematic case studies, and longitudinal research. With the exception of academic initiatives, data collection remains the task of local authorities or local services, depending on the degree of decentralisation in place. However, full involvement of local players and feed-back to field workers are limited.

In this context, child rights monitoring by local governments is a new phenomenon that national institutions may encourage by setting the agenda and providing methodological support. Examples from Sweden, but also from Moldova and Romania, give the reader some food for thought. In addition, a short chapter on information and coordination of initiatives at national level shows that recently established structures are necessary but have limited power and mandates.

NGO involvement into systematic monitoring at local level is happening with various degrees of success in the countries studied. The case of Lithuania is the most typical. The limitations of governmental practice are reproduced in the NGO sphere. On the one hand, the lack of resources and the emergency of field work prevent monitoring from being a priority when acting at local level. On the other hand, when monitoring is undertaken, central NGO offices based in the capital city are usually the ones taking the initiative, requesting data from the local level but analysing it themselves and failing to ensure adequate feed-back to the field. Only where important resources are available can NGOs boast a more holistic practice, such as in Romania and Sweden.

The study concludes by discussing the necessity to establish a balance of power, a resort in case of violations and alternative sources of information on the implementation of children's rights at local level. Whether the state system remains strongly centralised or whether local authorities have gained much power and market decentralisation is the norm, all countries studied show a deficit in this field, despite some good practice. The study makes a number of recommendations on directions in which international, national and local players may look to further develop adequate responses.

# 1. Introduction

Save the Children Sweden has for several decades been engaged in promoting children's rights in the spirit of UN Convention on the Rights of the Child (hereafter "the CRC") adopted in 1989.<sup>1</sup> The domestic department within Save the Children Sweden was called the Children's Ombudsman in the 70's, but Save the Children Sweden was strongly advocating the establishment of a national Children's Ombudsman, which took place in 1993. The world's first official ombudsman was appointed in Norway in 1981. Debate, experiences and knowledge about the function of "independent institutions for the protection children's rights" started developing and spreading around the world.<sup>2</sup> Formal networks were established in order to reinforce mutual learning and technical assistance between children's ombudsmen of different countries.<sup>3</sup>

State parties to the CRC were forging their experience in self-monitoring on the situation of children, in order to be able to present their initial report to the UN Committee on the Rights of the Child (hereafter "the UN Committee"). The challenges of reconciling existing practice and statistical data with the requirements of the UN Committee were great. States gradually became aware of the need to develop specialised services, child rights-based data collection, and national coordination bodies. Similarly, civil society and NGOs working with children took CRC reporting process as an opportunity to express their views, but also to collect data. The capacities of civil society and NGOs varied from thematic shadow reports to systematic monitoring, and evolved over time in close connection with funding and political priorities. In many countries, a National Day of the Rights of the Child was established, which was an annual occasion to take stock of progress and change, through media attention and public events. National plans of action elaborated around the UN General Assembly Special Session on Children and broader national strategies such as Poverty Reduction Strategies and Millennium Development Goals also created a framework for action and monitoring, despite their limited child rights focus.

At European level, the EU accession process and some thematic initiatives of the Council of Europe were also strong factors in fostering child rights monitoring and legal checks. Although the European institutions tended to focus mainly on extreme child protection issue (institutional care, sexual exploitation of children, trafficking, etc.), they set a precedent in putting children's issues on the agenda of high-level negotiations.<sup>4</sup> Independent research exercises, such as those undertaken by the UNICEF Innocenti Research Centre, and its MONEE

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<sup>1</sup> The full text of the Convention and all related UN material and country reports are available on <http://www.ohchr.org>

<sup>2</sup> Per Milijeteig, *Children's Ombudsmen: Save the Children Norway's experiences with supporting and cooperating with institutions protecting children's rights*, vol. I, Oslo 2005.

<sup>3</sup> See, for instance, the European Network of Ombudspersons for Children (ENOC) : <http://www.ombudsnet.org/enoc/index.asp>

<sup>4</sup> See, for instance, the section on acceding countries Bulgaria and Romania in S.Ruxton, *What about us? Children's rights in the European Union, next steps*, Euronet, 2005.

projects<sup>5</sup> in particular, have also been instrumental in involving national academics, statistical services and administrations in unprecedented child rights monitoring efforts.

More than fifteen years after the adoption of the UN Convention on the Rights of the Child, most countries have established monitoring routines and mechanisms, but new challenges are emerging. One of them is the issue of decentralisation and its impact on child rights monitoring that this pre-study will explore.

## **1.1 Objectives of the pre-study**

As part of its Europe Programme, Save the Children Sweden has been supporting various European organisations working with children's rights. During a partner meeting in 2006, issues concerning the future situation of children's rights in Europe were discussed. Amongst many identified trends of development, one issue surfaced of which the organisations had limited knowledge and information: local child rights monitoring. Many child rights organisations recognized that a national decentralisation process had various impacts on children's rights at a local level, where decisions concerning the every-day-life of children, such as school, health and social care, were gradually moved from a central to a municipality level. At the same time, the monitoring of children's rights remained in most part centrally initiated and there was little information on how the local monitoring of children's rights was conducted in Europe. This sparked the existence of this pre-study on local child rights mechanisms, with an objective to gather information on how European countries deal with local child rights monitoring mechanisms in a decentralisation process. The six countries included in this pre-study were chosen based on available child rights partner organisations with a capacity and interest in assisting with the study.

It was primarily necessary to assess the extent to which decentralisation had become a reality and whether it was affecting children. As the various sectors of governance affecting children were not equally decentralised, it would be important to have an overview of key areas (social affairs, education, health, justice) while keeping in mind that all other fields also affect children in one way or another. In each case, how was child-related information compiled and shared at local level? How was it consolidated at national level? Were any regional disparities observed and, if so, how were they addressed?

In Lithuania and Sweden, some independent institutions specifically protecting children's rights already existed at national level. It would be worth checking how they dealt with child rights monitoring at local levels; what type of intervention, tools for comparative analysis, and legal remedies they were using or lacking. In Estonia, Moldova, Romania and Serbia, no such body officially existed yet, but general independent mechanisms also had child rights monitoring functions.<sup>6</sup>

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<sup>5</sup> See the TransMONEE database, as well as numerous research reports, on: <http://www.unicef-icdc.org/resources/>

<sup>6</sup> Terminology and translation into English of these functions and titles vary greatly from country to country. For the purpose of the present study, they will be referred to as general

How specialised and active were these institutions in the area of children's rights? How was child rights monitoring performed in the different regions, then? Could the existing institutional setting guarantee independent, accessible and effective action to protect children's rights everywhere in the country? Would the creation of some new mechanisms improve the situation? If so, at what level should they be established first? What should be the mandate of such mechanisms? Overall, what similarities and differences could be observed between these countries? Were there some challenges common to all?

This pre-study is not an answer to all these questions, but it should provide a general picture of the situation in these countries, and highlight needs and tensions. It is designed to lift the issue to a European level, in order to encourage governments and civil society to discuss different ways of ensuring equal rights fulfilment for all children within one country and, ultimately, within Europe. It may be used both as a planning and as an advocacy tool by Save the Children Sweden and its partners.

## **1.2 Methodology**

The study methodology consisted of a literature review of existing documents related to child rights monitoring mechanisms at national, regional and local levels in the countries studied, as well as general information on human rights monitoring, decentralisation and governance. This information was gathered by national partner NGOs, Save the Children Sweden and the author of the study. A questionnaire was developed to research information gaps and collect opinions of key players in each country. Interviews were run in the course of several days in each country in December 2006 and January 2007. 38 interviews were carried out, with between one and three interviewees each, and in one case, through a group discussion with young people in Moldova.

As the focus of the study was to present the general situation in each country, quotes from interviewees has been used only to illustrate this general picture, rather than to display individual reflections.

Respondents included central government representatives from various ministries, local government representatives, ombudsmen or equivalent bodies at national, provincial and local levels, as well as some representatives of international agencies (OSCE and UNICEF), Save the Children and other NGOs. Information was received mainly through semi-structured interviews, based on the questionnaire which some of them had received and completed in advance to the meeting. The questionnaire sought to clarify how child rights monitoring is performed in the country as a system (however incomplete it may be), what impact national/central monitoring mechanisms have on the local level, and what mechanisms exist and function at local level. The two last parts

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*or children's Ombudsman. Note that the official titles are: Legal Chancellor (Estonia), Controller for the Protection of the Rights of the Child (Lithuania), Parliamentary Lawyers (Moldova), People's Advocate (Romania), Protector of Citizens (Serbia), Provincial Ombudsman (Vojvodina, Serbia), City Ombudsman (Belgrade, Serbia), Children's Ombudsman (Sweden, national and local levels).*

included specific questions about individual complaint mechanisms. (See appendix for a complete list of partners, interviewees and the full version of the questionnaires.)

## 2. State decentralisation and children

The basic assumption of the present study is that there is a growing trend to decentralise state administration and services in Europe and that this necessarily has an impact on children. Through documentation and interviews, we collected information and impressions on the scope of this process and the extent to which it may have affected children's rights in each country. A brief description of the overall scheme of state administration in each country is provided in the "country information" available in appendix. We will therefore focus here on sketching out common trends observed in relation with children.

A recent UNICEF study on the effects of decentralisation on primary education<sup>7</sup> provided a useful recap of basic definitions:

Decentralisation involves the transfer of all or part of the decision-making, responsibilities and authority vested in central government to regional, provincial or local authorities (districts, municipalities and communities) or even schools themselves. Decentralisation can have political, administrative, fiscal and market dimensions. There are overlaps and interactions between these facets.

Political decentralisation is the devolution of policy and decision making power (such as over content of curricula) to local governments, sometimes democratically elected.

Administrative decentralisation refers to the transfer of planning and management responsibilities from central to local levels.

Fiscal decentralisation creates changes in the control over financial resources to local authorities, including the distribution of central resources to local authorities, sometimes using needs-based formulae (which may include, for example, the number of households below the poverty line) and delegating or devolving revenue collecting powers to local governments.

Market decentralisation is the transfer of control over resource allocation to non-state actors, such as the private sector by supporting private sector schools through policy, tax breaks, or even subsidies. Requirements that parents contribute used fees (and the schools, to a matching extent, "sell" their services to parents) can also be viewed as a form of market decentralisation.

The extent to which power is transferred by each type of decentralisation can be classified as:

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<sup>7</sup> Hinsz S. and Patel M., *Effects of decentralisation on primary education. A survey of East Asia and the Pacific Islands*, UNICEF Regional Office for Asia and the Pacific, July 2006, based also on Klugman J. *Decentralisation: A Survey from a Child Welfare Perspective*. Innocenti Occasional Papers, EcoSoc Policy series n°61, Florence, Italy, 1997.

De-concentration: is shifting management responsibilities from the central power to lower levels while the centre retains overall control (centre decides, local level implements).

Delegation: occurs when central authorities lend authority to lower levels of government, or even to semiautonomous organizations, with the understanding that authority can be withdrawn (local levels can decide, but decisions can be overturned centrally).

Devolution: is a transfer of authority over financial, administrative, or pedagogical matters that is permanent and cannot easily be revoked.

This and other studies on decentralisation<sup>8</sup> concluded that political decentralisation is usually positive if community participation is enhanced, thus preventing local elites' abuses and political shifts at the expense of social sectors such as education and health. Administrative decentralisation needs to be adequately supported by central authorities in terms of capacity-building and information systems. Fiscal decentralisation can lead to better expenditure efficiency and relevance, but excessive fiscal devolution limits central control of state finances, flexibility in national tax reforms and egalitarian policies. Market decentralisation allows local authorities to free up resources for other services, but these gains may be short-termed. Private actors (firms, NGOs or autonomous bodies) become responsible for the sustainability of the services they provide and may not guarantee equal access or treatment of their beneficiaries.

In the countries studied, three main trends emerged: de-concentration in a centralised context in Moldova, Romania and Serbia, transitional decentralisation in Estonia and Lithuania and strong devolution of power to municipalities in Sweden. The following paragraphs describe the situation in each country within this rough classification. This will provide us with a framework within which to address monitoring issues in the next chapters.

## **2.1 De-concentration in a centralized context**

In Moldova and Serbia, political and administrative power has been de-concentrated in the educational and social fields, but the central government remains the main source of funding and authority.

In Moldova, services to children are managed at district level, while most budgets and policy-making remain under central command. The District Council for Child Protection basically re-established the work dynamics of the former Soviet Minors' Commission, whose disintegration had left a child protection vacuum. The Council is composed of the District Education Department's Director, the District Child Protection inspector, and representatives of health and social assistance services. The vice President of the District Council chairs the Child Protection Council. Hence, the local entity most involved in child rights

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<sup>8</sup> See for instance: P. Lundberg, *Decentralized Governance and a human-rights based approach to development*, UNDP, 2004, and *Local governments and human rights – Doing good service*, International Council on Human Rights Policy, Geneva, 2005.

protection is chaired by a locally elected figure, but all other members are employed by a central ministry and supervised by the corresponding district administration depending from the ministry. It is interesting to note that the regulations of the National Council for Child Rights Protection were basically reproduced and adapted to the District level. They are the same throughout the territory on the grounds that “there are the same problems everywhere”. Social services are decentralised and schools are funded on the local budget, but reporting is hierarchical: municipalities report to the District Council for Child Protection, which report to the National Council for Child Protection and schools report to the District school inspectors and director, who report to the Ministry of Education. Municipalities are free to develop and fund additional services for children, but for cultural and financial reasons, these possibilities are under-developed.

In the Criuleni District, two situations illustrated the possibility for local authorities to be more engaged in child rights implementation, while having limited means and interests. In one case, a local NGO running the local Youth Centre had supported the creation of a youth council constituted of young people from various municipalities. A budget was voted by the District Council to support the Centre. These young people were not formal representatives of their community, but they knew the situation through informal contacts with peers. Last November, they represented their district in a National Youth Forum organised to evaluate the national youth strategy to be implemented in local communities throughout the country. They discussed legislation, youth participation and economic development, access to health and education, youth information and leisure, active citizenship and solidarity. Although they felt that the event was manipulated by national politicians and media, the young people felt that their voices were heard and that regular consultations of youth from various regions would be useful. Locally, the group became involved in ecology and sensitization of younger children to safety issues. The young people are now asking to participate in district and municipality council meetings. An agreement has been signed and they are waiting for invitation.

In another case, an NGO day-care centre for children with special needs, Speranza, was open some years ago in partnership with local social actors (parents, social assistants, family doctors, schools, local public authorities). Political support was given by the municipality council, and international agencies supported the project financially. Work was also done with the local media to sensitise people. Round-table Conference’s were organised and activities extended to rural areas. Public debates and social theatre with the participation of children with disabilities contributed to the process. The Centre undertook research, publishing and training, including in rural communities. It is currently organising a national conference with the university and the national parents’ umbrella association on the theme of integration. It also collaborates with the social protection department to develop new national standards. It has grown to become an important resource and a reference at national level. Hence, the Ministry of Health and Social Protection recently decided to buy its services to turn it into a state service. This was considered as a positive step as most NGOs have difficulties to remain sustainable, but it is interesting to note that national rather than local authorities took this initiative.

Another example is the Chisinau Municipal Department of Child Rights Protection, created in 1997 with support from the city mayor: “It is the dream of other municipalities”. All the members of the child protection commission are integrated into the department. Only the juvenile police services decided to remain outside. The department includes a tutelary service, and services by sector. The former Soviet youth club buildings remained the property of the municipality, so there are 48 spaces of different size and comfort for recreation throughout the City. Each recreational centre has one to three staff members paid by the municipality. They are particularly useful for children at risk, but open to all children living in Chisinau. The department also provides some specialised services such as:

Three temporary placement centres for up to 20 children, for which a solution of reintegration with the biological family or placement in a foster family has to be found rapidly;

Three day centres for children with disabilities;

One shelter for five mothers and their children;

NGO centres with authorization from the tutelary service to provide services to children.

Family visits and inquiries.

In all other municipalities of the country, children can only rely on the limited services provided by the central government, through District administration. There have been some attempts to change Chisinau municipal department’s name in order to challenge its autonomy, but a local campaign of signatures and even an appeal to the Parliament allowed the service to remain untouched. This seems to illustrate the fact that growing local autonomy still requires central political support, despite the legislation in place.

**In Serbia**, heavy administrative duties have been delegated to intermediate levels of government, such as the City of Belgrade and the Autonomous Province of Vojvodina, but policy-making in most areas remains centralised. Devolution of power to local authorities for the provision of non-basic social services by state or non-state actors remains good intentions, except for major cities that have the means to follow-up on this measure.

*Centralised management was one of the main characteristics of the political system in the previous period. The majority of responsibilities for determining rights, decision-making on the way they will be realised and the necessary resources, are concentrated at the level of the Republic. The local self-government does not have enough autonomy, and neither is it interested in fulfilling citizen’s needs through the development of a wide range of community based services. The lack of choices of services leads to an irrational use of financial resources, favouring institutional forms of protection through residential accommodation, financed by the Republic, and insufficient development of support programmes and services for individuals and families who are facing everyday-life difficulties. It is necessary for municipalities and cities to regain responsibility for social welfare of their citizens, because the best way to efficiently, feasibly, timely and rationally fulfil people’s need, is to do it in their natural environment, the family and the local community.*

*The Social Welfare Development Strategy,*  
Ministry of Labour, Employment and Social Policy,  
Republic of Serbia, December 2005, page 13.

Despite the decentralisation intent of the current Social Welfare Development Strategy (see box) and recently adopted laws, local involvement in child rights implementation remains limited. The central government is responsible for financing and having control over the realisation of all rights legally defined as ‘common interest rights’, as well as capacity-building and special national programmes. The municipalities have jurisdiction over the financing of ‘open forms of social protection’ (day care centres, home care and assistance, clubs, pre-school activities) but with insufficient resources, very few municipalities are actually able to provide them. Social services are delivered to children at the local level by Social Work Centres (SWC) established in each municipality of the Republic. The network of centres is well preserved, but efficiency and quality of work is significantly challenged by the system of double supervision by both the municipality and the Ministry. The municipality has to ensure administrative and management control, but the Ministry remains involved in financial and methodological supervision. Indeed, besides securing funds for cash benefit and residential care, the central government still covers most salaries and monitors the legal and professional aspects of the work. Social Work Centres thus remain dependent on republican authorities and are not functionally tied with local authorities. They are exhausted by the strain of transition and the change in family structures and values (single parenting, divorce situations, etc.), which make their work more complex. Most interviewees expressed doubts as to their capacity to evolve. Still, efforts have been made by some municipalities to become more involved and to provide additional resources to work with specific groups, such as the Roma community, through vaccination programme, better birth registration, and improved access to pre-school and elementary school.

Education remains centralised, but some power has been delegated to municipalities. For example, school principals are appointed by the local government, for four years. Their background is pedagogical, rather than managerial. They are therefore highly dependant on local politics. According to some interviewees, principals end up being torn between the requirements of local school councils and of the Ministry, as well as between loyalty to their fellow teachers and to their political constituency. Paradoxically, decentralisation has led to a deficit of autonomy. “Everything is politicised” and decentralisation is so limited that it has multiplied layers of administrative and political complexity, instead of diluting them.

There is a strong intention to decentralise state administration further in areas that affect children, but political change might put these plans on hold. At the same time, before progressing in decentralisation, both central and local authorities should address the problems that have already emerged: increased political pressures, limited capacities and means for local service provision, absence of child rights perspective at local level, and lack of specialised services for children in municipalities.

One solution has been to develop Local Plans of Action in parallel to the National Plan of Action for Children developed around the UN General Assembly Special Session for Children. This initiative of the National Child Rights Council and the national office for UNICEF was followed by 16 municipalities in the country. It was an occasion to train representatives of local authorities on children’s rights, support them to research local needs, define

specific goals, and integrate them into the 2007 local budgets, in anticipation of above mentioned challenges. Other projects supported by the Ministry of Labour, Employment and Social Policies also encourage municipalities to develop local theme based initiatives.

**Romania** is a mixed case. As an answer to the extreme consequences of the Ceausescu regime, it supposedly became the champion of decentralisation, especially of the field of child protection. However, this systematic and wide-scale decentralisation policy consisted mainly in administrative delegation of power to the district level, and shifting of responsibilities for service provision to the municipal level, without much delegation of political autonomy.

*In some cases, [institutionalised] children may need to move to different areas and become the responsibility of other authorities. This may be because this is in their best interests to be closer to family and friends or because of agreements between Counties linked to the origin or wishes of children. Where any transfer of responsibility for a child or a group is envisaged this should be associated with an extra level of planning (...). What must be avoided notwithstanding pressure on resources is either:*

- *the host authority (the County currently caring for the child) giving up its responsibility for the child without a credible plan for the child's future being put in place; or*
- *the child "falling between" two Counties as they argue about who should take responsibility for the child.*

*Romania has a history of children finding themselves "on the street" for a range of reasons and it is vital that the de-institutionalisation process does not become the cause of further examples of this. Hence, good social work practice and inter-agency (inter-county) arrangements are vital in these circumstances. Resource issues and other factors must not allow good standards to be compromised. Where there is a dispute between counties, and other parties, all efforts should be made to resolve these at the earliest possible point, also by seeking the involvement of third parties such as the National Authority for Child Protection and Adoption.*

*De-institutionalisation of children's services in Romania*

*A good practice guide, a publication of the High Level Group for Romanian Children, Government of Romania and UNICEF, August 2004, p.107*

Following county divisions, there are 47 General Directorate of Social Assistance and Child Protection in the country (41 county directorates and six city districts directorates in Bucharest). Each one operates under the supervision of the county council. Most municipal services are supervised by their corresponding directorate. There are only a few exceptions where some services (ex. isolated residential institution) remain autonomous from the directorate and operate under the authority of the municipal council. Some specific educational services depend methodologically from the Ministry of Education (curriculum, teachers, etc.) and institutionally from the local council.

This situation appears close to that of Moldova, except that the resources at the disposal of each county directorate are much more developed. For example, the directorate of Bucharest District 2 has responsibility over about 2 800 employees (all administrative, local services and institutions included).

One other major difference is that vertical development in the various sectors has been so important, that cross-sector linkages have become complex. Collaboration between child protection and education services takes place on a case by case basis. All sectors implementing children's rights (education, health, etc.) may collaborate through specific agreements. For instance, common schools may have agreements to undertake joint activities with residential care institutions. Yet, there is no coordination of education, health and child protection efforts at local level, only joint case management in child protection commissions (i.e. issuing status decisions, such as the degree of disability to be recognized by the state). In municipalities, social services provide support through social and financial benefits to families in difficult situation. Only when these measures fail do they transfer the file to the Directorate.

In addition, decentralisation remains incomplete. Some children with disabilities living in institutions remain under the responsibility of the central government. There is also some resistance to market decentralisation. Some directorates are reluctant to sub-contract NGOs and take over their activities with less competence and experience.

The National Authority on Child Protection has the monopoly of child rights and child protection strategy, including at local level through child protection directorates under its methodological supervision. Some inter-ministerial meetings are organised at national level but it is felt that the implementation of children's rights remains too dominated by the child protection perspective that has been a national priority for so many years now.

## **2.2 Transitional decentralisation**

In Estonia, Lithuania, and Sweden, strong decentralisation is the norm in most sectors. Of course, Estonia and Lithuania are still in the process of re-establishing this pre-Soviet tradition. Legal and political steps towards decentralisation were taken very soon after independence in the early 90ies, but practice takes more time. Yet, in the field of children's rights, both countries already have to deal with the same challenges as Sweden in terms of regional disparities and balancing out the powers of local authorities.

In **Estonia**, standards are established at central level, but implementation varies according to each sector. Health is mainly private. The development and implementation of health policy, including public health policy, is the responsibility of the Ministry of Social Affairs and its sub-agencies. Its main tasks are to ensure the availability and quality of health services, to coordinate health promotion and disease prevention, and to collect and analyse health statistics. Assurance of service quality lies on the Health Care Board, who keeps the register of health care professionals, issues license to health service providers and conducts proceedings concerning patients' complaints on the quality of health care. The county governor is responsible to organise general medical care, appoint family physicians and determine their service areas in the county. Local government is not responsible for organising or financing health services. But as most of the hospitals are under the ownership of local governments, they still

have some role in the organisation of specialised in-patient medical care via hospital councils. Health insurance is provided by Estonian Health Insurance Fund. Health insurance covers all Estonian residents who pay contributions by themselves (self-employed persons) or whose contributions (health insurance part of social tax) are paid by employers. There are groups of Estonian residents whose health insurance is covered by State. Among these groups are all persons under 18 years of age. Main social welfare services and benefits are provided at local level according to national law and procedures, and municipalities can also develop additional provisions.

According to the Constitution of Estonia, education shall be supervised by the state. Schooling licenses for pre-school child care institutions, basic schools and secondary schools are issued by the Ministry of Education and Research. Most basic schools and upper secondary schools are municipal, but they follow the national curriculum. Some are state schools administered by the Ministry of Education and Research or by the county government. Attendance of state and municipal schools is free of charge. There are also a number of private schools. The executive bodies of local governments shall register children subject to the obligation to attend school and, together with schools, they shall monitor the performance of the obligation to attend school and create conditions for the compliance therewith.<sup>9</sup> State supervision in schools is exercised by officials of Ministry of Education and the county governor, with a focus on quality education, effectiveness and legality of schooling and education. According to the Local Government Organisation Act the supervisory control shall be organised by the local municipalities for ensuring legality and effectiveness of municipal pre-school child care institutions and schools. Generally the supervisory control is exercised by the education department of local government or concerned officials appointed by local government. The functions of a local government include the organisation, in the rural municipality or city, of the maintenance of pre-school child care institutions, basic schools, secondary schools, and leisure. National standards exist for teacher training and salaries. Municipalities recruit school principals who recruit teachers. This is a problem in non-attractive rural areas, where municipalities try to offer extra advantages (ex. accommodation) and be proactive in recruitment. The Basic schools and Secondary Schools Act sets also the rights of school students and their parents. According to the law students have a right to address the Ministry of Education and Research, county governor or child protection organisations for the protection of their rights.

Decentralisation was quick after independence despite administrative challenges. It was natural to go back to the pre-Soviet decentralised system. Nowadays, the central state is not very strong at balancing out regional disparities. Municipalities have an equal access to central budget provisions, but there are huge disparities in service provision.

The Social Welfare Act was recently amended in order to better cover monitoring and minimum standards and include the option for municipalities to out-source some social services to NGO or private enterprises. These provisions will be monitored by the Ministry of Social Affairs and the Ministry of Interior also has a

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<sup>9</sup> *Basic Schools and Upper secondary Schools Act*

department on regional development, covering transportation and housing, which should address disparities. Every policy decision has to be discussed with the National Union of Local Municipalities and county councils, which are very powerful. They have established a working group on social issues, with which the ministries have a good collaboration.

Overall, it is felt that from a child rights perspective, local authorities have a better understanding and awareness of local needs. Lack of funds, lack of mobilisation or other political priorities may distract their efforts, but they are definitely closer to people than central government and their support is more immediate. Some small municipalities lack training and specialists. The Bureau of the Minister of Population Affairs, together with Tartu University, undertook a study, including a child friendly index, to measure the scope of local services and benefits. It gave a contrasted picture but, not one where small municipalities are necessarily providing fewer services. It also revealed that there is positive emulation between municipalities to provide better conditions for children and families.

Some legal issues remain unsolved. One concern is the fact that the local administration is all-powerful in individual child protection cases. It has both a guardianship, a protection and a self-monitoring mandate. The new Family Law should transfer guardianship authority to the local courts. Also, neither the Chancellor of Justice, nor the local administration, has the mandate to monitor NGO services that are not part of the governmental system (i.e. not supported financially by the municipal budget). For day care, private nannies that are not declared are not monitored, but recently approved amendments of the Social Welfare Act set regulations for obtaining a licence and for the creation of a national register. If parents recruit a nanny who has a license they are entitled to get financial support compensation from local government to cover expenses. The register will be under the administrative responsibility of the county governor, who will be able to act upon parents' requests. Local kindergartens are under local control. As providing day care is an obligation for local authorities, parents who don't obtain a space receive a financial compensation to pay a nanny.

A few child care services remain under central command. The educational rehabilitation of children with mental or behavioural problems, children in conflict with the law below the age of 14 or minor between 14 and 18 years of age who can be influenced under the provisions of Juvenile Sanctions Act (special schools) are under the responsibility of the Ministry of Education and Research. Access is authorised to NGOs, but reform is not happening. There is a lack of specialised intervention and the institutions are isolated. There has been occasional NGO monitoring with Tartu University, but there are no systematic and specialised external interventions there. The situation of children with disabilities living with their parents has greatly improved through day care services at local level.

In juvenile justice, the system remains centralized. Abuses in the length and conditions of pre-trial detention have decreased. The Ministry of Justice has developed a child rights based approach and has alerted the Ministry of

Education and Research on the situation in special schools. Still, the salaries and qualifications of people working with children in conflict with the law have to be up-dated. The right of mothers to keep their baby in pre-trial detention is being addressed further as a response to a request of the Estonian Union for Child Welfare.

Alternative (substitute) care can be provided by self-employed person, legal entity, municipal institution, state institution or institution administered by state and who has valid activity licence issued by a county governor. Alternative care is funded by state, funding is to be guaranteed by Ministry of Social Affairs via the county governor. The local government of a child's residence who needs alternative parental care makes the decision, finds a suitable service provider and present an application for funding to the county government. A contract is then made between the local government, the county government and the service provider.<sup>10</sup> The responsible official of the local government should visit a child, placed in alternative care twice in a year for monitoring and evaluating the well-being of the child. The county government is responsible for monitoring institutions and gathering statistical data from all municipalities once a year. The county government department for social welfare also provides occasional training and sharing of information from the ministry to the municipalities. According to the Social Welfare Act foster care can be provided by suitable family and is effected on the basis of a written contract entered into between the rural municipality government or city government and the caregivers.

In **Lithuania**, one negative aspect of decentralisation is that child protection agencies feel limited and pressured by local authorities. The debate on whether to separate them out from municipal administrations has been going on for several years. During a meeting in March 2006, a survey showed that 56 out of 60 municipal child protection services would prefer to work under central command and the Association of Municipal Child Protection Agencies is lobbying for them to become attached to the recently established National Agency for Adoption and Child Protection.

The national Children's Ombudsman is opposed to this proposal. She argues that the mandate of central agencies is policy making, while municipalities are responsible for direct protection and service provision. In her views, the Ministry of Social Affairs is trying to re-centralise power. If that is to be done, it would be better to have a separate Ministry for Child and Family Affairs, in order to enable the development of a child rights perspective at national level, rather than the current social care approach. At the beginning of her mandate, the Ombudsman became acquainted with the country's centrally run post-Soviet residential institutions and witnessed many problems. De-institutionalisation was seen as a solution, together with decentralisation. She is therefore in favour of transferring remaining residential institutions from central (county) to municipal supervision. Generally, on the issue of decentralisation, she believes that "when the mayor of a town is strong, many problems can be solved easily".

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<sup>10</sup> *Social Welfare Act, these requirements were adopted in 2006. There are also children homes owned by local municipalities and private children homes, but they must obtain a licence from the county government.*

Yet, there are also legal and structural challenges. The Public Administration Law states that administrative units must consist of at least five posts. In small municipalities, child protection teams of less than five employees are therefore merged with the social assistance division. This is seen as a major threat to child protection. Also, funding for most child protection agencies comes from the national budget, but the funds are administered by the municipalities. So, whether they are funded by the national or the local budget, child protection professionals are employed by the municipality. Child protection inspectors feel constrained by the City administration. They cannot communicate with local media and journalists should be referred to the local press relations department. They are under the pressure of other City departments on certain issues, such as house evictions, and the City government wants to avoid internal discrepancies. There are sometimes direct confrontations in court cases, where the child protection inspector defends the interests of the child while other City representatives defend the interest of the City. The only power of the child inspector is to stop a legal process on the basis of a child's best interests.

*Indeed, there are constant conflicts of interest between departments. In particular, when families don't pay their taxes and are evicted, the child protection division tries to act in the best interests of the child, but direct pressures are exerted by the head of the Health and Social Protection department and from higher hierarchical level if needed. The same may happen in cases of problems in the school environment, where the education division defends the interests of the school, while the child protection division tries to act in favour of the child. In such cases, the national Children's Ombudsman may intervene but her recommendations are non-binding. Also, she tends to send her recommendation to the Health and Social Protection department, not to the City mayor or Council who could be more objective in dealing with the issue.*

*Interviewee, Lithuania*

Kaunas is the only City where the child protection agency is independent from the City administration. Still, there is daily cooperation with the City education and health departments. A programme of "Solidarity for the Benefit of the Child" was developed. The agreement engaged the various entities to jointly monitor the situation of children aged 0-3 for better prevention, as the child protection agency usually only intervenes once problems have already developed. The group meets once a month about general and concrete cases. Sharing information in time, avoiding duplication of work, and agreeing on a single inter-departmental plan for each family is the key to success. As mentioned by one interviewee, «If you have ten nannies, the child has no head», meaning that one child should not be directly followed by different state actors, but rather by one person in collaboration with all relevant services. The child protection agency also has good contacts with social assistance and NGO services, which constitute a network of nine City services and nine NGO day centres.

In small municipalities, there are fewer families and therefore there is more potential for intervention. The scope of social services depends on local political priorities. A research carried out by the Office of the Children's Ombudsman showed that earmarked funds sent by the Ministry to the municipalities are not necessarily spent on children. The problem is related to the law on local government allowing for local decisions on budget spending. Local authorities

argue that the funds not spent on child rights protection are spent in other social welfare areas. In addition, political parties in power tend to place their staff in municipality administrations. Therefore, municipality staff is not specialised and the high turn-over depletes the institutional knowledge even further.

As for services depending only from the municipality, such as pre-school, there are great disparities. In Kaunas, specialised kindergartens and night baby care are available, but in small municipalities former kindergartens have been closed down. Similarly, in the health sector, some municipalities have had to close local clinics and there is a shortage of psychologists. In some municipalities, there is no Social Care Centre, so the child protection inspectors have to deal with social service provision on top of their mandate of individual case management.

Municipalities are also experimenting market decentralisation. The Lithuanian Save the Children's network of children day care centres is a strong illustration of this development.<sup>11</sup> The project started in 1996 with the aim of implementing children's rights to care, protection, physical and mental integrity. The establishment of these centres would reduce social exclusion and increase the responsibility of localities in providing services to children. Currently, 27 day care centres, run by Save the Children, provide services to 500 children from 300 families in 17 towns. A recent evaluation showed that 50 per cent of beneficiaries are from single parent families, 50 per cent from large families (3 children or more), and 70 per cent from unemployed families (77 per cent of which suffer from long-term unemployment). As the main problem of beneficiaries' families is unemployment, rather than internal family issues, Save the Children intends to work on changing public attitudes towards children who attend the day care centres. In 2005, Save the Children succeeded in signing an agreement with the municipality of Silute in order to transfer the coordination of the day care centre to the local administration. Save the Children is currently negotiating with other municipalities for them to also take over their local day care centre. Hence, market decentralisation is only a stage in the devolution process.

### **2.3 Devolution of power to municipalities**

In **Sweden**, administrative and market decentralisation is strong. Municipalities are responsible to implement national policies and numerous parliamentary decisions, as well as ensuring service provision. The central government has limited political and fiscal powers to act in the field of education (curriculum and monitoring), as well as health, transports and culture through county administration. The County Administrative Board has a supervisory role in relation to the municipalities. It is their responsibility to ensure that the decisions taken by the Parliament and the government are adequately implemented. County Administrative Boards also coordinate central government activities at local level in their respective counties. Only traditionally central functions such as foreign policy, justice and interior affairs fully are under central command. Hence, services for children and implementation of children's rights may differ from municipality to municipality. Fortunately, strong child rights awareness combined

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<sup>11</sup> See *Gelbėkit Vaikus, Save the Children Lithuania, Annual report 2005, Vilnius, 2006, p 6.*

with high social standards and a good economic situation have usually enabled local governments to respect children's rights.

While protection and provision rights might be quite natural to respect for a municipality that has the means to do so, respecting the CRC fundamental principles (non-discrimination, best interests, right to life and survival and child participation) could be more of a challenge. In that respect, some municipalities have invested more resources and energy than others.

A few years ago, 25 municipalities came together to request technical support on children's rights implementation from the national authorities. This led to the creation of a long-term partnership between 12 municipalities, based on a formal agreement signed by each. The administrative structures behind this involvement (staff, budget, etc.) are based on political decisions, rather than regulations. In Örebro, for example, there is no legal provision guaranteeing their sustainability.

During the Swedish EU Presidency (2001), Örebro decided to organise a European Conference on CRC implementation at local level (23 countries, 150 delegates, 150 local youth participants). This was the first such initiative taken by a local government, later followed by other cities in Europe. The conference chair, Thomas Hammarberg,<sup>12</sup> highlighted that child rights expertise was lacking at local level, that national specialised bodies were not sufficient to service the 290 municipalities in Sweden. It was decided that a national resource centre should be created. Its aims would be to provide child rights education and development for local politicians and officers, to undertake research on local child rights issues, to develop European collaborations and to sensitize the public. The project was approved and the centre will be established in 2007 with a start up budget of 2 million SEK from the central government. The Steering Committee of the Centre will be composed of representatives of municipalities, of the county council and of the National Social Board.

Meanwhile, the partnership between the 12 municipalities was developed in three key areas: the creation of tools for better CRC inclusion in local governance, such as "child checklists" in municipality budgets and activity planning by sector and in "child rights balance sheets"; experience-sharing in child participation; development of child rights indicators. Annual meetings are held, where all appointed representatives (one city board member and the officer in charge of the project in each municipality) agree on a plan of action. Working groups composed of the municipalities' officers undertake activities in the three fields. A rotation system allows each municipality to invite and chair a working group session, develop ownership over the overall project and present some of its best practices through field visits and presentations. This system enables mutual critical feed-back and collective progress in the three areas. However, elaborating indicators that can be applied at local level remains a challenge. Efforts have been made to apply or adapt indicators developed by the National Social Board for statistical purposes, but this has proved too limited. The working group has

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<sup>12</sup> *Current Council of Europe Commissioner for Human Rights, former member and vice-chair of the UN Committee on the Rights of the Child, Secretary General of Save the Children Sweden and Secretary General of Amnesty International.*

highlighted the need for qualitative indicators. If it manages to finalise them, the National Social Board would support their replication and dissemination in the whole country. Each partner may become a multiplier in its region, working with municipalities from regions not involved so far, including the Northern part of the country.

When asked whether children know about the child rights mechanisms developed by the municipality, officials of the Örebro City Administration argue that children don't necessarily know about them, but they are the direct beneficiaries of initiatives which do not exist in other municipalities, such as official child consultation. Adults are more aware of them, thanks to local media coverage. Such measures have not allowed any immediate or direct change to local policies, but they have improved the status and inclusion of children's rights on the political agenda. They have also improved awareness in other municipalities and attention to qualitative approaches at national level.

*Strategy to implement the UN Convention on the Rights of the Child*

*The local government level:*

*The 1998 Strategy : « Municipalities and county councils should establish systems to implement the best interests of the child in local government work.*

*Municipalities and county councils should offer their staff in-service training in order to strengthen their child-related skills and knowledge of the CRC. »*

*The developed strategy:*

- *The government intends to closely follow what effect the clarification of the mandate and powers of the Children's Ombudsman has on the development of CRC work in municipalities and county councils;*
- *In addition, the government intends to commission the Children's Ombudsman to hold regional conferences in order to encourage and spread successful practices in local work on the CRC.*

*Strategy to implement the UN Convention on the Rights of the Child, Ministry of Health and Social Affairs, Sweden, fact sheet N°6, March 2004*

## **2.4 Decentralisation and children's rights**

One way to identify potential connections between degrees of decentralisation and children's rights is to ask oneself whether most decentralised countries display more interest, tools and activities in certain areas of CRC implementation than centralised countries, and vice versa.

This is very difficult to evaluate with such a limited sample of countries, but the following table opens up the reflection. By listing countries in order of estimated stage of decentralisation, side by side with children's rights most addressed in country interviews, we can notice trends to be further tested.

**Table 1: Nature of decentralisation in sectors most affecting children**

<b>Estonia</b>	Devolution of administrative, fiscal and market powers to municipalities for most services.
<b>Lithuania</b>	Central political responsibility to define minimum standards and national strategy in social welfare, education and justice. Remaining central responsibility over some residential institutions (educational, rehabilitative or correctional).
<b>Moldova</b>	Central definition of strategies in all sectors, based on central political and fiscal power.
<b>Romania</b>	Partial delegation of administrative functions to intermediate levels (district/city/province) in social welfare, education and health.
<b>Serbia</b>	Devolution of political and market power to municipalities for additional social and cultural services.
<b>Sweden</b>	Devolution of most political, administrative, fiscal and market powers to municipalities. Delegation of administrative responsibilities to county level in the fields of health, transport and culture. Focused political and fiscal powers at central level in education.

**Table 2: Child rights focus in interviews**

	<b>Estonia</b>	<b>Lithuania</b>	<b>Moldova</b>	<b>Romania</b>	<b>Serbia</b>	<b>Sweden</b>
Best interest of the child			X	X	X	X
No discrimination			X	X	X	
Parental care (deinstitutionalisation)	X	X	X	X	X	
Protection from violence	X	X	X	X	X	
Right to survival and development						
Right to education	X	X				
Child participation	X	X				X
Sensitisation of health professionals to children's rights						X
Sensitisation of children and adults to children's rights at school						X

Whether they have been strongly decentralised or not, all countries of the former communist bloc are still struggling with the challenges of promoting the right to a family and to parental care in a context where residential care remains both a frequent child protection measure and a threat to the child's best interests. The right to survival and development, as well as the right to be free from violence, are also on the top of the agenda of all these countries. This situation is related both to their common communist legacy and to economic development.

The right of the child to be heard has been addressed in interviews with state actors in Sweden, but also in Lithuania and in Estonia. Several key players appeared to have tested child participation, to be able to question it and to look for further ways of developing it. In the other countries, mechanisms such as pupils' councils were referred to, but NGOs rather than governments appeared to have a rights-based perspective on them. In Moldova, the Child Rights Information Centre developed an impressive network of youth councils back in 2004,<sup>13</sup> but municipalities were not able to sustain them in the longer term. One hypothesis is therefore that child participation could be more easily developed in decentralised countries.

Still, as we will see, respect for children's rights is less dependent on decentralisation than on CRC awareness, resources allocated to children, inter-sectoral collaboration at all levels and the existence of independent monitoring mechanisms specialised in children's rights.

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<sup>13</sup> *Child Rights Information Centre, Annual report 2004, Chisinau, 2005.*

## ***3. Independent state institutions monitoring children's rights***

In common language, monitoring means observing carefully how a system or a process is operating over time; recording or listening in order to obtain information; and checking progress. In practice, this usually implies some kind of reaction. Human rights monitoring can also be defined on these two levels. On the one hand, a number of standards have been established as intrinsic characteristics required for a monitoring mechanism to function adequately. On the other hand, the power of this mechanism to trigger reactions is also essential.

Several mechanisms may operate simultaneously in an overall system. From child-led initiatives to national thematic bodies, many entities may constitute such a system. However, as the signatory to the CRC, the State has the primary responsibility to monitor its implementation on a permanent and sustainable basis, while the entire society must respect its provisions. Hence, we will be concentrating most of our attention here on state mandatory functions, focusing as much as possible on the local level, in interaction with the rest of the system. We will refer to civil society groups (NGOs, children, interest groups, etc.), as well as occasional or non-mandatory state initiatives, mainly in relation with such mandates.

International standards and experience in the field of human rights monitoring are still mainly concentrated at central level. As we will see, established principles are adapted to national level politics and administration, but not necessarily to local ones. Therefore, we will need to test them against the local realities described in the interviews. At local level, and in each country, the role and responsibilities of monitoring institutions, their legitimacy, representation, authority, style and methodology may differ, or need to differ, from what has existed so far.

### ***3.1 International standards***

#### ***The Paris Principles***

The UN Principles relating to the Status of National Institutions (The Paris Principles) adopted by General Assembly resolution 48/134 of 20 December 1993 are the main international reference in the field of human rights monitoring. Articles 1 and 2 state that “a national institution shall be vested with competence to promote and protect human rights” and “shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence”. The text defines the range of responsibilities that a national monitoring mechanism should have, as well as issues of adequate funding, stability and duration of mandate, and methods of work. It also provides the following guidelines in terms of guarantees of independence and pluralism:

1. *The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:*

*( a ) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;*

*( b ) Trends in philosophical or religious thought;*

*( c ) Universities and qualified experts;*

*( d ) Parliament;*

*( e ) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).*

In a separate section and without specifying whether this option should be favoured, the text addresses the functions of commissions with quasi-judicial competence.:

*A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:*

*( a ) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;*

*( b ) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;*

*( c ) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;*

*( d ) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.*

## **The Committee on the Rights of the Child's General Comment N°2**

An adaptation of the Paris Principles to the field of children's rights can be found in the Committee's General Comment N°2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child.<sup>14</sup> While supporting the Paris Principles, this text argued in favour of specific mechanisms either within or outside national human rights institutions to focus on children. It is worth repeating here the argument put forward by the Committee as to why there would be any need for children to have additional mechanisms at their disposal, when there are already independent and well-functioning justice and monitoring systems in the country:

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<sup>14</sup> **General Comment N°2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child, CRC/GC/2002/2, 15 November 2002.**

- Children’s developmental state makes them particularly vulnerable to human rights violations;
- Children’s opinions are still rarely taken into account; most children have no vote and cannot play a meaningful role in the political process that determines Governments’ response to human rights;
- Children encounter significant problems in using the judicial system to protect their rights or to seek remedies for violations of their rights;
- Children’s access to organisations that may protect their rights is generally limited

In addition, the Committee insisted on the adequate funding, outreach capacities and support for child participation that these institutions should enjoy. It clearly expressed its preference for individual complaint to be included in their mandate. It also established a new reporting procedure at international level, by encouraging children’s ombudsmen or equivalent bodies to report to the Committee separately from the State party despite being part of the state structure. The text also addresses collaboration with the State party and other stakeholders, including international cooperation. However, it does not explore the issue of local child rights monitoring mechanisms and their potential relationship with national ones. At European level, the requirements formulated in Council of Europe Parliamentary Assembly Recommendation No. 1286/1996 on a European Strategy for Children do embrace local monitoring needs, but from an access rather than from a political or structural point of view, as it encourages member States of the Council of Europe to appoint a commissioner (ombudsman) for children that would be independent and accessible to the public through such means as local offices.<sup>15</sup>

## **3.2 Overview of the situation in the respective countries**

### *Estonia*

#### **Concluding observations from the UN Committee**

In 2003, the Committee welcomed the existence of various mechanisms for filing complaints, such as the Legal Chancellor, also serving as Ombudsman. But it was concerned that this was not a specialized body with an explicit mandate to address violations of children’s rights and to monitor and regularly evaluate progress in the implementation of the Convention. The Committee recommended that the State party consider the establishment of a Unit, or a specialized body, within or outside the Legal Chancellor’s Office, in accordance with “The Paris Principles and the Committee’s General Comment No. 2.16

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<sup>15</sup> Full text available on:

<http://assembly.coe.int/Documents/AdoptedText/TA96/ERECI286.HTM>

<sup>16</sup> Concluding Observations : Estonia CRC/C/15/Add.196, 17 March 2003

### **Present situation**

The situation has not changed. The Office of the Chancellor of Justice remains the only entity having the mandate to monitor children's rights independently. He is supported by two deputies and three departments following ministerial divisions. Children's issues are mostly covered by the department on social affairs, education, health and culture (8-9 staff, including 1 specialist on children). A second department deals with economy, finance and environment (7-8 staff). A third covers all other issues, including detention (13 staff). There are very rare applications by children themselves, but the office undertakes visits to places where children are most vulnerable, such as special schools, foster homes and psychiatric hospitals. Prior to each visit, the institution fills in a questionnaire and provides relevant documentation. These institutions happen to be those under central government responsibility, through county administration. During visits, facilities, documentation and legal compliance are checked, but confidential meetings are also organised with staff and children. The Chancellor can monitor local government services. Every advisor drafts their planned visits annually; in addition extra visits may be conducted according to need - upon specific requests or complaints. Concerning children, there have been recent visits to a foster home/school for disabled children in East-Estonia, a shelter in Tallinn and a foster home in South-Estonia.

### *Lithuania*

#### **Concluding observations from the UN Committee**

In 2006, the Committee welcomed the establishment of the Children's Ombudsman and its comprehensive mandate. However, it recommended that the State party continue to strengthen its support to the Office of the Ombudsman, including by providing sufficient human and financial resources to the Office to enable it to effectively carry out its mandate and monitor the implementation of the Convention throughout the country.<sup>17</sup>

### **Present situation**

The Children's Ombudsman receives complaints from legal representatives and civilians, and children can write directly to her. There used to be about 100 complaints per year, but this figure has now risen to 400-550. She has the right to perform independent investigations and reports. She plays an important role in public awareness campaigns and has initiated a number of policy and legal changes to improve resources and quality of child protection services at local level. The office can initiate research but it has no specific budget for this. The Children's Ombudsman was not part of the delegation to the UN Committee session in Geneva, but following the concluding observations of the Committee, her staff was raised from five to 15 (composed of her, three specialists on individual complaints, and 11 advisers on thematic areas, including a psychologists and several lawyers).

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<sup>17</sup> *Concluding observations: Lithuania, CRC/C/LTU/CO/2, 17 March 2006*

## **Moldova**

### **Concluding observations from the UN Committee**

In 2002, the Committee noted the existence of a national Centre for Human Rights and the information that an ombudsperson for children was part of the National Council for Child Rights Protection, but it was concerned of the effectiveness of these monitoring bodies given the lack of a clear statutory mandate to deal with complaints of violations of children's rights and the lack of transparent and child-sensitive procedures for addressing such complaints. It recommended that the State party appoint, within the Centre or independently, an ombudsperson or commissioner to monitor the implementation of the CRC at the national and local levels.<sup>18</sup>

### **Present situation**

The Centre for Human Rights established in 1997 is still the only independent State monitoring institution. Three "parliamentary lawyers" named by the Parliament act as ombudsmen to guarantee the respect of constitutional human rights and freedoms by central and local public authorities, as well as all other public or private entities; to improve legislation in view of a better implementation of human rights; and to educate the population on human rights law and related issues. This is done through the examination of complaints, the preparation of objections or proposals to central and local authorities or to the Constitutional Court, the dissemination of information in collaboration with mass media and NGOs. The Centre receives all complaints from citizens, but only a few concern children and the Centre can only issue non-binding recommendations. Some monitoring visits were organised to residential care institutions, with special attention to reintegration and after care support mechanisms. But it is mostly through adults' cases that extreme violations of child rights are revealed (i.e. abandoned children of illegally detained women).

The National Council for Child Rights Protection has not established any other ombudsperson. The Centre for Human Rights is a member of the Council and only shares occasional case-based information on child rights violations, such as denied access to education, illegal duration and conditions of pre-trial detention, failure to separate children from adults and police violence.

## **Romania**

### **Concluding observations from the UN Committee**

In 2003, the Committee noted the establishment of the general Ombudsman in 1997 and the fact that he occasionally dealt with children's rights. It also noted that, according to the statement of former President Iliescu at the UN Special Session on children, the draft law on children's rights included the establishment of an ombudsperson for children. It recommended that the State party continue and complete, as soon as possible, its plans; provide this body with adequate human and other resources; and ensure appropriate coordination of the activities of this institution with the Ombudsman. <sup>19</sup>

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<sup>18</sup> CRC/C/15/Add.192, 31 October 2002

<sup>19</sup> CRC/C/15/Add.199 18 March 2003

### **Present situation**

Plans to establish a Children's Ombudsman have not been fulfilled. Within the general Ombudsman's office, deputies are specialised on "the rights of children, family, youth, pensioners, and people with disabilities". The Ombudsman intervenes upon notification either by children themselves, parents, or legal guardians, or it can take action ex officio upon finding out by any other means that the rights and freedoms of a child have been violated (i.e. media, NGOs). However, the Ombudsman only intervenes every year in a few dozens of cases concerning children. Most cases are related to care and protection, periodic review of placement, legal status or identification documents, right to a decent living standard, right to health, right to education, adequate treatment in the natural, extended, or adoptive family, and right to life, physical and psychological integrity. Yet, its activities related to children's rights are limited to some child protection cases and there are no proactive developments.<sup>20</sup> In its report to the Committee, referring to the Ombudsman, the government stated that "being a centrally organised institution, the role of local contacts can be assumed by non-governmental organisation managing programmes for children, whose main object is to promote the rights of the child."<sup>21</sup>

### **Serbia**

#### **Concluding observations from the UN Committee**

The Republic of Serbia has not submitted yet its first report to the UN Committee. The latest report to this treaty body concerning children living on the territory of Serbia was the 1994 report of the Federal Republic of Yugoslavia<sup>22</sup> examined in 1996. The government is finalising its report for the period from 1994 to 2005. It is expected to be submitted to the Committee very soon.

### **Present situation**

In September 2005, the law establishing a general Ombudsman was adopted by the National Assembly but at the time of our visit the mandate-holder had not been appointed yet and up-coming elections stalled the process further. The drafting process of the law had raised concerns around election/removal criteria not guaranteeing independence/impartiality, as well as conflict with the Constitution, definition of mandate and jurisdiction.

The Province of Vojvodina has a general Ombudsman, elected by the Provincial Assembly to protect human rights and freedoms from violations committed by provincial and municipal bodies. His seat is in Novi Sad, with local offices in Subotica, and Pančevo. The Ombudsman has five elected Deputies, including one specialised in the rights of children. Her reports<sup>23</sup> address elements of national relevance, such as the national legislation being insufficiently harmonized with the CRC and perceptions of the child in the national culture. They provide a general analysis of the situation of children in the family, education, social protection and health, with some examples from the region. But they do not address specifically the responsibility of the local government or administration. Her main activities so far have been the investigation of general issues (allegation

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<sup>20</sup> *People's advocate, 2005 activity report, Bucharest 2006, pp. 45-49.*

<sup>21</sup> *State party report to the CRC Committee, para.30, CRC/C/65/Add.19, 5 July 2002*

<sup>22</sup> *CRC/C/8/Add.16, 17 November 1994.*

<sup>23</sup> *See the Annual Reports 2004 and 2005 of the Provincial Ombudsman of Vojvodina.*

of foreign donations to children born after the NATO bombing, missing babies), participation in the children's week at provincial level, visit of homes, meeting with principals of most schools in the province, cooperation on sensitization to children's rights, participation in NGO projects (on refugees, juvenile justice, etc.).

The City of Belgrade has also recently established its own Ombudsman office. The Ombudsman's first deputy is specialised in children and disabled people, as vulnerable groups are seen as a priority. The Ombudsman monitors the activities of 17 City departments operating through 17 district municipalities, as well as City companies (i.e. Congress centre, museums, transports, etc.) funded by the City budget. Although health and education remain centralised in Serbia, responsibility for outpatient clinics, pre-school and primary schools have been transferred to the City.

## **Sweden**

### **Concluding observations from the UN Committee**

In 2005, the Committee welcomed the enactment of the 2002 Bill reinforcing the role of the Children's Ombudsman and noted with appreciation the many activities undertaken by the Children's Ombudsman for the implementation of children's rights. It was, however, the view of the Committee that further improvements could be accomplished. The Committee recommended that the State party consider providing the Children's Ombudsman with the mandate to investigate individual complaints; and that the annual report of the Children's Ombudsman be presented to the Parliament, together with information about measures the Government intended to take to implement the recommendations of the Children's Ombudsman.<sup>24</sup>

### **Present situation**

Since 1993, a Children's Ombudsman is appointed by the government and operates under the Ministry of Health and Social Affairs to ensure that all governmental bodies use the CRC as a basis for all their activities. The Child Ombudsman works at a strategic level, rather than through direct supervision. She monitors the implementation of the CRC for children as a group, rather than individual cases. She makes policy and legal proposals, informs and raises awareness, represents the rights and interests of children in the public debate, compiles knowledge and statistics on children, and follows international developments. She has regular contact with children through youth councils, visits and individual addresses. Her powers have been extended to include the right to request reports from the municipalities and county councils. In its replies to the Committee, the government indicated that it intended to "closely follow what effect these changes have on the development of the work to implement the Convention in municipalities and county councils".<sup>25</sup> There are several Ombudsmen for Human Rights in the country, but the Children's Ombudsman is the only one who cannot pursue investigations in individual cases, take cases to court or represent individuals in court. The reason given by the government is that: "Childhood is not a discrimination ground, neither in the Swedish society

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<sup>24</sup> *CRC/C/15/Add.248 30 March 2005*

<sup>25</sup> *CRC/C/RESP/74: Written replies by the government of Sweden concerning the list of issues*

nor in our legislation”.<sup>26</sup> The Ombudsman on Discrimination has received 20 complaints from children so far. In parallel, a new law was voted on sanctions against municipalities not acting adequately in cases of bullying in schools. This led to the creation of a new ombudsman position within the National Agency on Education in April 2006 to receive individual complaints on the lack of due diligence on the part of

### **3.3 Sources of authority**

As pointed out in various studies on independent human rights institutions, “the process of appointment is central to establishing real and perceived independence, particularly as the authority of most institutions is vested in an individual ombudsman or commissioner rather than a collective body”.<sup>27</sup> However, once appointed, the mandate-holder will rely on various sources of authority to operate and make an impact.

#### ***Legal authority***

Independent monitoring mechanisms may be given various degrees of legal authority. The legislation establishing an ombudsman grants the mandate holder with a number of powers and rights, which gives him/her authority over other players. For example, in Lithuania, the Ombudsman has the power to “supervise and control the activities of institutions, related to the protection of the rights of the child and his legal interests due to which the rights of the child or his lawful interests are or may be violated” (III art.12.3) and the right to “enter without hindrance state and municipality institutions or organisations, non-governmental state establishments and acquaint with their activities” (III art.13.3).<sup>28</sup> These legal provisions guarantee direct authority, for instance, over the director of an institution to be visited. In general, this will be sufficient to avoid opposition to the performance of the monitoring exercise. However, depending on the powers granted by law to the Ombudsman in terms of reporting or sanctions, the director may or may not feel obliged to then comply with the recommendations issued. This depends on the degree of legal authority granted, as well as on the primacy of the rule of law in the country. Hence, legal authority can be granted at two key levels: access to information and power of intervention, but the overall political and institutional context is also instrumental to the exercise of this type of authority.

In the countries visited, limitations to legal authority of independent monitoring mechanisms were related to jurisdiction (i.e. the Provincial Ombudsman of Vojvodina in Serbia cannot act upon violations committed by Federal officials and could only refer them to central instances), lack of enforcement measures (i.e. Moldova) and impossibility to take up individual cases (i.e. Sweden).

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<sup>26</sup> *CRC/C/RESPI/74: Written replies by the government of Sweden concerning the list of issues*

<sup>27</sup> *The General Measures of the Convention on the Rights of the Child, the process in Europe and Central Asia, Innocenti Research Centre, UNICEF, Florence, 2006.*

<sup>28</sup> *Law on The Controller for Protection of The Rights of the Child of the Republic of Lithuania, May 25, 2000 No. VIII-1 708, Vilnius.*

Although the powers of the Ombudsmen are usually limited to making non-binding recommendations, this did not appear to be an issue for most of them. Voluntary lack of compliance is rare. It is rather the Ombudsmen's own follow-up systems that appeared to show some weakness. For instance, in Estonia, a visit to some correctional facilities clearly showed that previous recommendations had not been fully implemented, although the usual follow-up routine had been respected.

*Visits were organised to "special schools" for children in conflict with the law under 14 years, or 14-18 years olds sent by the judge to correctional school as an alternative to detention. There are three such institutions in the country: one for girls, one for Estonian boys, one for Russian-speaking boys. Problems were disclosed: isolation outside studying time, unsatisfactory documentation of inmates, director's discretion to give disciplinary measures, absence of health professional despite internal regulations. The previous visit had taken place in 2003. The recommendations at the time had not been fully implemented, or practice had deviated since. The usual follow-up to a monitoring visit is that recommendations are made by the Ombudsman, and the concerned institution must reply in writing within 30 days to explain what has been done to comply with the recommendation. But in this special school, no one had reported the lack of follow-up after 2003, because it is a matter of mentality. Adults and children in the special school thought that these practices were normal. We have to be patient and gradual.*

*Interviewee, Estonia*

It was interesting to note that in Romania, while the general Ombudsman has the power to undertake monitoring visits in any state service or administration, school inspection services were not aware of this legal provision. The City School Direction argued that it would issue authorization upon request, but that no external agents could intervene in schools without its consent. This revealed a lack of initiative on the part of the general Ombudsman in this sphere, as well as a deficit of public awareness and practical applicability of his legal authority.

### **Political authority**

Indeed, beyond legal authority, interviews have revealed that political authority is also key. The fact that a monitoring mechanism is perceived as being influential in the political arena makes people think that their lack of collaboration could have some consequences. Though difficult to measure, the fact that a person with monitoring functions is being officially or unofficially supported by political bodies entails more immediate compliance with his/her recommendations. This is illustrated by the following example:

*The municipal Children's Ombudsman in the city of Botkyrka in Sweden is convinced that the fact that she has been appointed to report at the highest level of the local political hierarchy with the support of all political parties is the reason why her recommendations are usually followed with immediate effect. For example, in a local primary school, pupils had expressed anxieties about toilets not locking properly, but nothing had been done. When the municipal Children's Ombudsman visited the school, she understood that this was a matter of great importance from the children's point of view and made a recommendation to the school principal. The locks were replaced immediately.*

*Interviewee, Sweden*

One may highlight the risks of political authority going against standards of independence and neutrality. If some kind of political authority is to be recognised, accepted and even promoted, it should be supported by the highest and most representative political body. In most cases, in Europe, this is characteristic of the legislative rather than the executive branch of government. However, several interviews appeared to contradict this assumption. In the case of the municipal Children's Ombudsman of Botkyrka, as the creation of the post had been supported unanimously by the local council, the fact that she was appointed under the Executive Steering Board of the municipality was only seen as natural. Similarly, the national Children's Ombudsman in Sweden is often challenged for being appointed by the government instead of the Parliament, but this did not prevent her from developing an independent CRC report and be heard separately by the Committee in closed session despite political pressures. Vice-versa, interviews in Serbia revealed that political life was so tense that being appointed by the legislative branch of State would neither free mandate-holders from pressures, nor guarantee their independence. Working in this climate was actually one of the greatest challenges of all. This was also expressed in other countries, though to a lesser extent:

*The meaning of independence is still unclear in Romania. Being independent means being poor, because as soon as an entity is financially or politically supported, it receives pressures. Political pressures within the national high-level group are minimal thanks to sustainable foreign presence and the Baroness' [Emma Nicholson, MEP] moral authority.*

*Interviewee, Romania*

### **Moral authority**

Usually child protection and human rights are perceived as noble subjects, which grant national child rights monitoring mechanisms with a moral authority, often supported by religious authorities or community leaders. However, as soon as they become demanding and concrete, child rights monitoring mechanisms may find that this moral authority is only superficially respected. However strong, it may not be enough to expect spontaneous contributions on the part of some administrations. In Sweden, the 1997 law establishing the mandate of the national Children's Ombudsman had to be amended in 2002 to include the right to request both written and oral reports from municipalities and county councils regarding their operations to implement the CRC, in order to palliate their lack of spontaneous collaboration.

One additional factor of moral authority is the relationship of official monitoring mechanisms with civil society. Generally, ombudsmen and NGOs value each other as partners, having complementary roles and feeding each other with precious information. However, NGOs may challenge their authority due to their inaction in the field of children's rights (Romania) or to their lack of enforcement capabilities (Sweden). If the ombudsman is willing to be granted increased powers, such criticisms from civil society can be a good leverage tool. In some countries, NGOs, together with UNICEF, have also been instrumental in arguing in favour of a specialised national Children's Ombudsman versus a general one, which gave a strong civil society base to the proposal. However, it must be said here that progress is slow. In Romania and Serbia, draft laws on the Children's Ombudsman exist but are stalled. In Estonia and Moldova, civil society has not

pushed strongly enough to obtain either a specialised ombudsman, or a reinforcement of the general Ombudsman office to deal more specifically with children's rights. In both countries, the general Ombudsman offices are doing their best to cover children, but they work either from a compartmentalised and/or from a traditional human rights perspective. Interviewees strongly argued in favour of a specialised Children's Ombudsman:

*A separate Children's Ombudsman could have a proactive policy of promoting children's rights and child centred policies. He could be clearly identified to the cause of children, be visible and directly accessible to children. He could have a lobbying role and be children's spokesman. Chancellor of Justice is very active and visible, but with his double mandate of constitutional review of laws and other legal acts (normative review) and Ombudsman he has to remain very formal in order to preserve his credibility. He cannot lobby because he represents the law, rather than any specific group's interests. His mandate is to make high-level but non-binding recommendations, based on legal analysis. He is already facing political attacks, so he cannot go much further within his mandate. Also, he does not have to be involved with children's ombudsmen from other countries.*

*Interviewee, Estonia*

*It is useful to carry out the pre-study on monitoring mechanisms at local level because, unlike adults, children cannot travel to the capital in case of problem. They don't know their rights and they have no independent mechanisms to address. "If the mountain does not go to Mohammed, then Mohammed should go to the mountain"! A Children's Ombudsman should go around the country to have direct contacts with children, because some local authorities have an interest in hiding the real situation. There are instances when inquiries on the situation of children of arrested women in detention find out for example that the child had not even been registered, but there is no actions taken. Some are even destructive. In one case, a child protection inspector threatened a teacher of being fired because he was asking children's opinions on sensitive political subjects. Local action in favour of children varies a lot from one district to another. Some child protection inspectors are totally passive and de-motivated. There should be a better selection of staff appointed to such posts.*

*Interviewee, Moldova*

### **3.4 Modes of action at local level**

In the countries studied, independent monitoring of children's rights at local level has not been explicitly planned. Mandate-holders develop local monitoring policies as they go.

One basic principle is to respect subsidiary channels of intervention. Except in Sweden where child rights implementation is perceived as a collective responsibility in various spheres of state intervention, local child protection services are seen as de facto promoting children's rights. Therefore, the ombudsman's role is mainly to intervene in case of failure or conflict. Indeed, in all these countries, there is certain confusion between child protection and monitoring. A great majority of interviewees speak of "children's rights protection" or "child protection" as being the purpose of child rights monitoring bodies. It is therefore natural that they consider child protection services as front-liners at the local level. In most cases, the ombudsman will act in individual cases where private persons do not agree with child protection measures and in legal or

policy cases where the best interests of the child are challenged by the local authorities, often due to the child protection services' failure to act or to be heard.

*If all child protection agencies were independent from the municipality hierarchy, they could play the role of local ombudsmen. 50% of the job is to represent the interests of children in court, anyway.*

*Interviewee, Estonia*

### **Outreach**

The primacy of the “children’s rights protection” paradigm contributes to the idea that the national ombudsman does not need to be present in localities. Especially in small countries, like Estonia, the Ombudsman’s team is mobile and visits municipalities upon complaints or other requests. Local branches would be superfluous. General trends observed by the Ombudsman at local level, through research or repetitive cases, can be discussed with the association of municipalities and through proposals to the national level (legal proposal, collaboration with the ministry responsible for local government, etc.). In Lithuania, in addition to a strong association of municipality representatives, the heads of local child protection services have created their own association. 56 out of 60 local child protection services are members of this association. Although they happen to disagree with the national Children’s Ombudsman on the status they would like to obtain, their association is a unique tool to discuss local child protection issues a central level.

In Moldova, in order to ensure accessibility, regular hearings are organised at local level. A new entity has apparently been established at district level with UNDP support. They are “human rights coordinators”, with a mandate supposedly covering child rights, but there have no contacts with the Ombudsman office, which appears to create confusion and fragmentation of efforts.

### **Delegation and decentralisation**

In larger countries, national Ombudsmen’s offices may have local branches, but separate regional or local Ombudsmen are also emerging. This constitutes a network of complementary agents, between which mandates and relationships are being negotiated.

In Romania, the general Ombudsman’s office has 15 local offices, corresponding to the 15 county justice courts. Each has two-three staff, depending on the number of counties covered and on the amount of complaints received. They are not specialised in children’s rights. In case of recommendation to a municipal or county council, the territorial officer sends the information to the national Ombudsman who is the only person entitled to issue such a document. When the general Ombudsman undertakes visits to child care institutions, the territorial officer is usually present to second him.

In Serbia, human rights monitoring at local level in the Vojvodina Province operates both through delegation (local branches of the Provincial Ombudsman

office) and decentralisation (cooperation with local ombudsmen). The Provincial Ombudsman himself has an agreement with the Presidential People's Office<sup>29</sup> on the basis of which they transfer cases to each other, depending on the case's jurisdiction. The four autonomous local ombudsmen present in the Vojvodina Province have also signed a cooperation agreement with him to avoid conflicts of competence. One of them even has the legal obligation to focus on children's rights, but in practice these ombudsmen have a very traditional role and have not covered children's issues. With the local branches of the Provincial Ombudsman's office, the situation could be different as the children's rights unit of the office can provide them with training or technical assistance. It is also interesting to note that it is sometimes better for them to transfer a case to the Provincial Ombudsman because they feel "too close" to the case and prefer to avoid personal implication. The town of Subotica is special, as there is both a local branch of the Provincial Ombudsman office and a local ombudsman. According to the Ombudsman, human rights protection is so weak in the country that such a local situation only helps to reinforce the protection net.

Similarly, the recently appointed City Ombudsman in Belgrade hopes to have regular contacts with the local ombudsmen from near-by municipalities. Cooperation is only starting but it seems good. A workshop was recently organised with the European Movement in Serbia to address the deployment of local ombudsmen.<sup>30</sup> The possibility to have more local ombudsmen will depend on the new Local Government Law. According to the City Ombudsman in Belgrade, such a development could support decentralisation in Serbia. It is too early to assess whether local ombudsmen will have the capacity to address children's issues, but the City Ombudsman herself has a broad vision of children's rights. In addition to school violence, she perceives environmental protection as an important area, connected to children's right to health. She hopes to foster new practice in the administration as a whole, by first educating counterparts about her functions, following the Swedish model.

In Sweden, the mandate of Children's Ombudsman is indeed perceived as being much broader than child protection. A child rights focus on local authorities should cover all services and decisions. So, the national Children's Ombudsman does not concentrate particularly on child protection issues, especially since it does not take individual complaints. Its work with local authorities consists in child rights education, information requests and promotion of specific tools such as "child impact assessment" and "child rights budgeting" methods.

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<sup>29</sup> *This is an institution not considered as an independent ombudsman. It is directly attached to the President's Office to receive citizens' appeals. It also has non elected representatives throughout the country.*

<sup>30</sup> *There are no centralised official data on the number, appointment procedures and mandates of local ombudsmen in Serbia. According to unofficial sources, there are currently about 15 local ombudsmen on the territory.*

*The national child rights Ombudsman has no direct impact on municipalities. It does not have the mandate to do field visits or receive individual complaints. It has not interfered in local policies so far, but it has a mobilising role. It requests information from municipalities every two years. This is a stimulating exercise, creating local debate around local data collection and policies. It has revealed the lack of systematic approach at local level and has therefore led to the improvement of information gathering.*

*Interviewee, Sweden*

As for local Children's Ombudsmen, they have either a very specific field of action or the general mandate to oversee all local policies from a child perspective. There again, interviewees did not quite refer to children's rights as being their prime focus, but rather argued in favour of children's perspective (rights, needs and opinions) to be mainstreamed in all local debates and decisions. The national Children's Ombudsman has a strong, though informal, relationship with the five existing local ones. They have regular meetings to share experience and to support each other. They have joint concerns around child participation, bullying, custody issues, rights of children with disabilities, refugee or unaccompanied children (under both the national migration Board and the municipalities' responsibility), and children witnesses of domestic violence.

The national Children's Ombudsman in Sweden strongly promotes the establishment of local children's representative:

*There already exist today various functions within municipal and regional authorities which are charged with looking after the interests of children and young people – such as the social and welfare services, schools, the health services, school students' councils, and public health work. A local representative cannot take over the responsibility (which is often laid down in law) of other functions, but can contribute by reinforcing the child's perspective, and by working to ensure that child-oriented consequence analyses are carried out before decisions are taken in cases concerning either individual children or children in general. Local representatives can also work to ensure that the interests of children and young people are aired in discussions of all issues that concern them. In the larger urban municipalities, which have borough councils, there may be a need for local representatives at both borough and central municipal level if good results are to be achieved.*

*Establishing the function of local representative is perhaps not always the only solution for every municipal or regional authority – but since there is a need for a function concerned with representing the interests of children and young people at the local level, it should be seen as self-evident that every authority needs a local children's delegate. The tasks with which the children's delegate is charged, and her/his organisational status, are matters that are shaped by the needs and opportunities prevailing locally, and by the wishes and requirements of children and young people in the municipality/region in question.*

*Röster som räknas – barns och ungas rätt till delaktighet och inflytande –  
Swedish National Ombudsman Annual Report 2006*

Yet, in all other countries visited as well as in some Swedish municipality, interviewees were of the opinion that to have local children's ombudsmen would be difficult. In small localities, it would be a challenge to find the right place for it in the municipality structure. It would be hard for the mandate-holder to remain unbiased and independent if he/she was employed by the local council. He/She would either compete with child protection services and overload the system, or

“would not know what to look at”. It is believed that no new mechanisms should be created, especially where there is a need to increase support to and efficiency of existing ones.

*Monitoring at local level is not a priority. As budgets are limited, the priority is to get more specialists and services to work with children. Some municipalities can offer a lot (benefits, leisure, sports facilities) in order to attract families, but others can't. There is no need for a local Children's Ombudsman as the local Social Welfare Department is itself acting upon signals and acts a child rights referee at the local Council.*

*Interviewee, Estonia*

*People are not ready for local child rights monitoring. There are not used to the notion of independence yet. It is better to invest more in training. For instance, territorial offices of the Ombudsman or municipal council members could be trained in children's rights. There has been so much focus and EU pressure on the issue of children in institutions that it is time to enlarge the focus to broader child rights issues. Structures in place should be used. Here, it took 6 years to establish the Ombudsman's office, so it should be used. Some legal amendments could be made. There is a need for lobbying. If you inform people, they are open to change.*

*Interviewee, Romania*

On the contrary, it could be helpful for a national Children's Ombudsman office to have thematic ombudsmen. The Lithuanian Children's Ombudsman is now the only person empowered by law to sign recommendations and official documents, which implies that she supervises all files. She argues that it would be better to have shared responsibilities between several ombudsmen. As for Sweden, the National Agency for Education has created a separate ombudsman to deal with bullying cases at municipality level, thus answering a growing need for appeal and compensation mechanisms. In any case, national ombudsmen should develop their outreach capacities. Even in small countries, local actors do not feel adequately heard and considered. Provincial, City or Local ombudsmen seem more accessible.

Thus, we have observed three main models of independent local child rights monitoring (national ombudsman acting at local level, local branches of a national or provincial ombudsman, and local ombudsmen) operating with varying degrees of specialisation, accessibility and effectiveness. While we have seen that all national ombudsmen were acting at local level to some extent, there are strong limitations to this approach: the geographical context, the formal position of a national entity, the lack of willingness on the part of local authorities to collaborate, and the lack of adequate follow-up on the part of the national office. When capacities are limited, national ombudsmen tend to be proactive on the national level and reactive on the local level. Local branches of national ombudsmen appear as a good complementary tool, but only when the central office is specialised in children's rights and has strong capacities to provide child rights training and technical assistance.

Autonomous local ombudsmen are only a valid option if they are specialised in children's rights and, if so, they are still questioned in terms of independence, cost effectiveness and relevance. Also, existing local children's ombudsmen feel sometimes isolated and rely on other such mechanisms at both local and national levels to support them and instil the culture of children's rights on which their mandate is based.

Whether through outreach, delegation or decentralisation, local child rights monitoring requires adequate capacities. The following table provides a very rough estimation of resources and impact of existing mechanisms on the local level. The number of ombudsmen or staff specialised in children’s rights either at central, intermediate or local level, measured against the total child population of the country coincide with various degrees of estimated impact at local level. Although very unsophisticated, this quick check reveals that the level of resources invested in specialised child rights monitoring might be just as important as the type of mechanism and approach chosen to reach the local level. Serbia is an exception. Despite limited specialisation in child rights, the fact that general ombudsman functions exist at intermediate levels of the state structure (Belgrade City and Vojvodina Province each covering a total population of about 2 millions) and that the Provincial ombudsman may act in collaboration both with its own branches and with local ombudsmen, seems to be a positive combination.

**Table 3: Independent monitoring mechanisms’ methods and capacities for local action**

	<b>Type of monitoring mechanism</b>	<b>Main mode of local action</b>	<b>Capacities</b>
Estonia	National Ombudsman with semi-specialised department	Outreach	About 8-9 semi-specialised staff
Lithuania	National Children’s Ombudsman	Outreach	About 15 specialised staff
Moldova	National Ombudsmen	Outreach	3 non-specialised ombudsmen
Romania	National Ombudsman with semi-specialised department + Territorial offices	Outreach Delegation	6 semi-specialised staff + About 40 non-specialised territorial officers
Serbia	Provincial and City Ombudsmen + Local branches of the Provincial Ombudsman + Local ombudsmen	Regional decentralisation Outreach Delegation Decentralisation	2 specialised deputy ombudsmen (Province / City) + 2 non-specialised local branches officers and about 15 non specialised local ombudsmen
Sweden	National Children’s Ombudsman + Other National Human Rights Ombudsmen + National Pupils Ombudsman + 5 local Children’s Ombudsmen	Outreach  Decentralisation	Altogether about 25 specialised staff

## **4. Governmental self-monitoring systems**

Despite their various degrees of decentralisation, all the countries studied follow similar patterns of self-monitoring. Roughly speaking, all field actors provide raw material from their daily work to central ministries. Interestingly, this is often done in a direct line from the local to the central level, without intervention of the intermediate level of central or autonomous administration. This information is quantitative and used for statistical purposes, but the central authorities are all trying or hoping to develop more refined collection systems and indicators. They also tend to undertake in-depth thematic research to palliate the lack of qualitative data. From one country to another, inter-sectoral consultation on research needs is more or less successful. Usually, inter-agency bodies are better at targeting issues of common interests than individual ministries who carry out separate studies at the risk of duplicating research and data collection/provision efforts. Information concerning individual cases that reach the central or the intermediate levels through inspection, hot-lines, complaint mechanisms, NGOs or the media, end up being dealt with at local level, only with extra pressure. But the exposure of higher government bodies to such cases appears to have a strong impact, usefully complementing global data. Thus, despite decentralisation, monitoring of children's situation at local level is still mainly ensured by central governments. Yet, their responsibility and interest in addressing regional disparities, in imposing reporting requirements to local governments and in having a child-rights based approach remain a challenge, as illustrated below. As a result, rights and provisions beyond the direct responsibility of the central government, such as pre-school education and care, safety, recreation, or some health aspects, are under-researched. Most local authorities are not prepared to collect and consolidate information for themselves on the situation of children on their territory, let alone examine them from a child rights perspective. Sweden is a special case in terms of municipalities' CRC awareness; yet monitoring efforts are uneven across the territory.

### **4.1 Top-down monitoring and bottom-up reporting**

In Estonia, statistics are received by the Ministry of Social Affairs and occasional qualitative research is organised at national level. For example, recent research carried out with Tartu University included child perspective on violence against children and a study on large families. A new social information register is being adopted and tested as an on-line database. All children in the country will be included through registration for universal family benefits. Education and health information will also be included. The police register may remain separate. National statistics on child welfare, child protection and health are provided once a year to the Ministry of Social Affairs directly by municipalities. In Tallinn, districts send their information to the concerned City department that forward received information to Ministry. The Ministry of Education and Research also receive statistics concerning education from municipalities.

Qualitative information is collected by the City department when needed, by sending questionnaires to districts. The only additional data systematically received is the number of adopted children, the number of children in orphanages and the City services' beneficiaries. The national pension board also has information about family benefits and the ministry of education has information about school drop-outs.

The implementation of Estonia's 2004-2008 National Strategy to Guarantee the Rights of the Child and the annual Action Plans are monitored by an inter-ministerial working group. There are cooperation gaps but it has been an occasion to work more closely. The information provided by each ministry is not necessarily based on strict data collection; it is rather officials reporting on progress and activities. Most officials are not specialised in children's issues and staff turn over in ministries is high. Also, the current format of the national budget is not adapted to the Action Plan. Discussions are on-going to change the budget structure for it to be better adapted. Reporting is communicated to the government and a parliamentary session is held once a year on the subject of the National Strategy.

In Lithuania, at City level, in Vilnius, the obligation to report statistics to the national agency is very recent. Information received by the City department comes mainly from child protection inspectors, but also from social workers, schools, foster homes, police, hospitals and courts. The department has a mobile team of 2 staff to intervene in crisis situations and the child protection inspectors from all the City districts meet every Monday to share information. Reporting to the Ministry of Social Affairs takes place annually or upon requests. Information is also sent regularly to the City Social Affairs Committee and the Health Committee attached to the City Council, as well as to the vice-mayor in charge of social affairs. This allows suggestions on policy. Yet, interdepartmental meetings are only held in case of specific need, for example if there is a crisis or a special information request from a ministry on a cross-cutting issue requiring data consolidation. For instance, for the purpose of the financial and impact assessment of the National Programme for Drug Abuse Prevention, the City administration divisions of child protection, health, education and public order had to meet. This was a useful process as live discussions add a lot to desk reporting.

Each child protection inspector working at district level has his/her own filing system and no computer. Information on children's risk situations come from any source. According to the new national regulation, upon each signal, the child protection inspector will check the situation and fill in a form if an intervention is necessary. The family will receive a copy of the form and sign to guarantee that they are aware of the intervention and agree to be registered. This form will be sent to the municipality child protection department who will refer the case to the Social Care Centre for intervention through available services. Due to the limited scope of existing services, in many cases, the family will only be registered and will not receive any specific support. All child protection inspectors report annually to the Ministry of Social Affairs. These reports contain only statistical data. The national compilation of data is not sent back to each child protection inspector, but information is accessible. The local administration itself does not

collect information on children in general. It collaborates occasionally with schools on special events or sports, but otherwise it is not directly involved in children's daily life. There have been attempts to establish "community workers" and volunteer citizens' committees in some municipalities to reflect the concerns of people in district management, but this is not working due to a lack of resources and a lack of representative volunteers.

In Moldova, the National Strategy on Child Protection included a point on the creation of a monitoring system, but this has not been implemented yet. There is no general system. Each sector has its inspection reports and statistics, with inherent limits. The Ministry of Education has information on children from 5 to 18, so there is a lack of information on younger children. There is limited data on the situation in pre-schools and a lack of information on school drop-outs. Health indicators are limited to immunization and infection diseases, so there is no information on abuse and neglect, no precise information on mortality rates, or trends in diseases not included in the statistics. The forms filled in by District Child Protection inspectors are very limited. They are sent to the National Statistic Bureau and to the Ministry of Education. Individual Districts do not receive the reports of the other Districts, but training seminars at national level are occasions to learn from each other's situation. For instance, meetings were recently organised on the issue of de-institutionalisation, re-integration of children into family environments and comparative analysis of District situations. Similarly, in the health and social assistance sector, information from the local level is obtained through semester reports. The Ministry has developed a new practice of sending District Health and Social Protection officers to districts to assist report writing. This has been an opportunity for live dialogue. There is generally a good methodological collaboration between the district level and the Ministry. Yet, there are no cross-sector monitoring processes and health services within institutions under the responsibility of other ministries are carried out by their own staff. For instance the Ministry of Justice has its own health personnel in detention, so general reports from the health departments do not include data on prisoners' health. Partial data can be obtained upon request from each institution, but there is no general data collection system, no database, and no common indicators. DevInfo31 is being developed by some expert group funded by UNICEF and DFID. The State itself lacks human resources and coordination mechanisms, although there is now an increasing awareness of monitoring needs. Some officials even feel that NGOs are more equipped than the government itself and that, consequently, civil society could take on part of the official monitoring role, financed by the government.

*Information should be collected on a regular basis and within a specified legal framework, with penalties for entities not fulfilling their reporting responsibilities. There should be a single format for the whole country. All children should be monitored systematically, not only when they address a state service.*

*Interviewee, Moldova*

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<sup>31</sup> DevInfo is a database system that provides a method to organize, store and display data in a uniform format to facilitate data sharing at country level across government departments and UN agencies using the same system. DevInfo has been adapted from UNICEF ChildInfo database technology. See: <http://www.devinform.org>

In Romania, child rights violations and other problems can be identified through the national child hotline, child protection directorates phone lines, direct contacts made by parents, neighbours, children, or referral by teachers or police. The national hotline liaises with directorates or the police, so all cases end up being dealt by child protection services at local level, except when NGOs get involved. In case of a complaint about teachers, for example, the directorate or its services would work in parallel with the police and with the school hierarchy.

*The first and common concern is to eliminate the source of the problem; there are usually no disagreements between institutions, so there is no specific procedure in case of disagreements.*

*Interviewee, Romania*

Regular activity reports are sent to the National Authority on Child Protection. Reports of other directorates are not automatically re-distributed. Information is rather shared during meetings. There is a very detailed on-line national data base that all directorates use now. By law, general information and statistics are accessible to NGOs or to the media, upon request. The National Authority on Child Protection supervises directorates through the reporting mechanisms, as well as through case-based checks (complaints) and annual inspections for licence renewal. Licences are released on the basis of national standards, checked during team visits to each service. The directorates receive inspection reports and must act upon recommendation within a given timeframe. Children with disabilities are under the responsibility of the National Authority on Child Protection, but the Authority for People with Disabilities collaborates on inspection of residential institutions, schools (access and integration programmes) and home education. Together with the National Council Against Discrimination, they may act upon complaints. For example, access to education for children with AIDS is a growing problem.

Romanian schools are inspected by district inspectors on curriculum and management. Some thematic inspectors provide additional support on minorities, children with special needs, human rights, training, European programmes and public relations. An annual activity report is sent to the Ministry of Education and regular reports are sent to the local administration. They include information on school results, drop out rates, etc. Since 1993, psycho-pedagogical service should be available in each school, but the network of counselling services is still in a developing process. There are cases when a counsellor has more than one school in his/her responsibility. Individual counselling can be provided to pupils or parents. The main professor also acts as tutor. Still, some people prefer to go to inspection services, to the Ministry or the media. One representative of the inspectorate is present in each district directorate meetings and some teachers are members of the child protection commissions.

Annual reporting on children at national level is the responsibility of the National Authority on Child Protection. It presents its report to the inter-agency High Level Group on Children. In order to complement this global data collection and nurture policy reflections, the High Level Group on Children has undertaken a few research projects on thematic issues such as teenagers leaving institutions, prevention of abandonment, institutions for children with disabilities, children

living in isolated areas. These initiatives have mobilised heavy field research and academic expertise.

The National Authority for Child Protection has itself recently established a Monitoring Department. It has ambitious objectives of child rights monitoring, for the purpose of situation analysis and policy proposals. Former monitoring tools were focused on vulnerable children, so the need was felt for CRC based data collection. A new tool is in its testing phase. On the basis of new quantitative and qualitative data, it will allow to define further monitoring needs. Both old and new tools are used in parallel during the transition period. They are both operating from a national on-line database. So far, it does not provide information on children other than those under child protection measures. There are 3 modules: one on children files, one on administrative and staff data, and one on finances. Formatted reports can be easily generated. It follows confidentiality rules, as personal data are included. The new form has been sent to all directorates. It targets information gaps and asks about information available neither from the current child protection files, nor from existing statistics of other ministries (education, health, justice, etc) following the CRC format. For example, the number of children registered after the legal time limit of one year is a piece of information only available from each local court. So, it will be a new task for directorates to obtain this information from all the courts in their territory. Similarly, questions on staff training, on children left alone at home, on existing services at local level (state and NGO, with contact details, funding, and beneficiaries' details) will have to be collected for the first time. Some information available from other ministries is known to be underestimated, because parents don't want to report it officially (i.e. AIDS), but directorates will have more precise information from practice to share.

In addition, UNICEF funds the work with Parliament on child rights monitoring. It has supported DevInfo, which was launched last year through the national institution of statistic, and is now included into the national monitoring system.

In Serbia, the Ministry supervises social services delivery through inspection, administrative supervision and intervention upon complaints submitted by citizens. This supervision is limited to the main social services, as well as multidisciplinary protection measures (justice/social/health) based on a new general protocol on the protection of children from abuse. The Ministry has delegated some of its supervising responsibilities to the intermediate state level of the Province of Vojvodina (for all social services) and to the City of Belgrade (for social protection), servicing each about a quarter of the Republic's population. There, the Ministry only acts in case of failure of the intermediate level, but still receives reports from the whole country. The Ministry receives annual reports of all Social Work Centres, as well as the reports of the Vojvodina and Belgrade inspection services, and individual complaints. Complaints are registered at the Social Work Centres, or directly at ministerial level. The Ministry is the last resort before the Supreme Court, to which people may turn in case of disagreement with the Ministry's position on their case. Children may find out about complaint procedures thanks to the national 24h hotline which received some 15 000 calls last year, as well as through the special hotline for children living in foster families". NGOs have also undertaken many child rights awareness raising

activities. Optional classes of civic education in the national curriculum since 2001 also include information on the CRC.

In Sweden, the governmental self-monitoring system can be said to be based on autonomous local monitoring, with some elements of central guidance and support. Central interference is not in the country's custom, yet, tools and funds from the national level for local child rights monitoring are welcome. The monitoring role of the Ministry of Health and Social Affairs is said to be unclear. The National Agency on Education has a strong presence and monitoring role. It uses quality evaluation criteria and guarantees central data collection. It also undertakes regular inspection visits to schools. Some health or social welfare research initiatives take place at county level but they are usually not child rights based. The county administrative boards mainly control financial flows and have no child rights monitoring role. However, some of them are active in the promotion of children's rights and child-friendly approaches, notably in the health sector.<sup>32</sup> In the justice system, internal control of closed institutions under the responsibility of central authorities is also under the scrutiny of local social services having the mandate to support children in custody. According to some interviewees, though, the general characteristics of the system are the weakness of governmental self-monitoring at several levels and the absence of enforcement mechanisms.

## **4.2 Child rights monitoring by local governments**

In Estonia, the Estonian Union for Child Welfare undertook a research on how municipalities involve children in their planning. A questionnaire was sent to all local councils. Some answered it themselves; others transferred it to the responsible department of the local administration. Less than a third of the municipalities answered, but still it brought some interesting results. It triggered questioning in local councils aware of the reference to child participation in the Child Protection Act but actually not implementing it. The research was an incentive for some. For example, one contact person on the Tallinn council realised she was currently working on transportation and had the idea to consult children at the planning stage. There are also some child councils attached to local councils, often organised by the local department on education responsible also for "youth work" and compulsory school pupils' councils that are more or less active. These could become key players in local monitoring efforts.

In Lithuania, the Children's Ombudsman has sometimes requested information to all municipalities in order to inform its policy proposals. This was the case for the proposal it made to transfer the responsibility of open juvenile justice measures to municipalities, and only keep closed sentences under central command (i.e. detention in closed institutions, three being located in the Vilnius County and one in another county). Similarly, there is a project of transferring the responsibility for all foster homes from central command to municipal control, which would enable monitoring by child protection services.

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<sup>32</sup> See for instance the *Health Centre of the Stockholm County publications on the CRC*: [www.folkhalsoguiden.se](http://www.folkhalsoguiden.se)

The Chisinau municipal department in Moldova has taken the initiative of gathering information from each local state and NGO entity working with children, every 6 months. There are regular meetings for experience sharing between all the managers of local recreation centres and periodic visits by specialists. The department also undertakes periodic visits to residential institutions to monitor children's situation and examine cases of possible reintegration in biological families.

In Romania, UNICEF decided to create an independent Child Rights Monitoring Unit that would do monitoring, training and capacity building, as well as advocacy work for the whole country. The government argued that according to the legislation, the government is to coordinate and organise everything concerning children's rights. Yet, if local governments wanted to support child rights observatories, the government could not oppose. Five local child rights observatories, working in agreement with the National Council for Child Protection, were established. These observatories have a local board, consisting of representatives from the local child protection unit, education sector, health sector, court, police, civil society and mass media. These 8-10 persons meet every three months. UNICEF supported the costs for personnel training and for some equipment and the county councils offered the location, supported the cost for facility and equipment. At present, the administrative and personnel costs are supported by the county councils. Initially, the mandate of the observatories was restricted to monitoring, but some observatories developed other type of activities, such as advocacy. Some have produced in depth situation analysis that have had an impact on practice (for example in hospitals, to prevent child abandonment), while others remained descriptive and politically biased. After a year of existence, there is uncertainty about the sustainability of the observatories and about the value of this work, but an evaluation was carried to establish the further role of these structures. They could be overlapping with the work of county councils or NGOs. Still, they could develop aspects in their data collection that are not already in the DevInfo. For example there is a lack of data on child abandonment and these observatories could use certain indicators to make accurate estimations. The up-coming evaluation report will help to estimate the capacity of the observatories and to make some proposals as to how these should function in the future.

In Serbia, the Ministry of Labour, Employment and Social Policy supports collaboration between the main agencies in charge of children's issues at municipal level. One tool has been the Social Innovation Fund. This programme consists of funding opportunities for multidisciplinary projects. Calls are issued on specific themes with strict requirements in terms of interdepartmental collaboration and civil society participation. The latest tender focused on "transformation of residential institutions". 266 projects were submitted and 14 accepted, as well as six additional projects on local services. Projects are monitored by appointed NGOs having experience in project monitoring, while professional social workers are employed by the Ministry to provide technical assistance and monitoring to the project implementers.

Otherwise, information on children is fragmented between the different fields (social work, education, health). There is no overall policy for children. There is

no child rights unit within the local administration. In the meantime, children do not sit still and wait for changes, but are active in putting their rights in practice. The first cases of children complaining against their parents have been received.

For Social Work Centres, more information would be useful, such as comparative data and information on the actual situation in schools on their territory. There are severe violations there and a need for more attention, but the school inspection does not share its reports. In some cases Social Work Centres have reported concerns on bullying at school revealed to them. The parents complained, but the school would not admit to it. In other situations, on the contrary, schools aware of such problems may ask the local Social Work Centre for advice and technical support. But no one has the full picture.

Consultation of children at local level exists in some cases. School parliaments are established by the national school regulation but they are not compulsory. They function mainly in high schools (14-18 years old). Some of them are very active, as well as initiatives from spontaneous groups of students. School parliaments may nurture ambitions of individual children and become recruitment grounds for local political parties, but there is no direct evidence of this. The education system does not have systematic information on how many school parliaments there are, how they work, how they elect representatives, how effective they are, what they discuss and what pupils think about them. Having a legal framework for such bodies is not sufficient in itself. This legal opportunity was not followed by implementation programmes, with the exception of some NGO initiatives that were very successful but could not involve a great number of schools.

In Sweden, local governments guarantee self-regulation and self-reporting on children's situations and related services. Yet, there are no standard cross-sectoral implementation, monitoring or complaint mechanisms for children in municipalities. CRC awareness is widespread, but methods vary.

Some municipalities issue full reports on child rights implementation. Others disagree with this approach as being too specialised, time and resource consuming and are more in favour of mainstreaming children's issues in general monitoring and reporting work. For example, in 2002 and 2005, Örebro municipality produced reports on health on its territory, which included a section on children. However, attempts to do a child impact assessment in the health sector at municipal level was not successful, unlike in the field of environment where it is a well-established tradition and practice.

Beyond local children's Ombudsmen, nearly half of the municipalities have established some co-ordination post related to children's rights. Some think that the establishment of a local child Ombudsman may create some backlash, resulting in local government services escaping their monitoring responsibility and relying too much on the ombudsman. This is why a post integrated into the local administration is often preferred. Municipalities that have such a post are usually better at applying the CRC to their monitoring and reporting systems.

Still, the fact that data provided by municipalities does not allow comparative analysis has been raised by the UN Committee. On one hand, all municipalities

do not provide the same services. On the other hand, they do not report in a systematic way to central authorities or between themselves. This was discussed with the National Association of Local Authorities, which is a powerful lobbying force. The issue is not a priority, as long as specific budgets are not allocated from the central level to deal with it.

The National Social Board is currently testing quantitative indicators for reporting purposes, in collaboration with local statistical services. In parallel to that, the Office of the Children's Ombudsman in Sweden is promoting the following success factors in CRC implementation:

- Unequivocal support and commitment from management
- Ensure the child's perspective is written into central policy documents
- Training and information
- Build on existing work processes
- Financial and personnel resources
- Dialogue and experience transfer
- Follow-up and evaluation

The office monitors local situations through a questionnaire sent to all municipal and regional authorities in Sweden every two years.<sup>33</sup> In 2005, the survey showed that 71 per cent of them make CRC-related decisions, especially at municipal council level. About a third of the municipalities say that the implementation of the CRC is explicitly integrated into key policy documents (objectives and guidelines, budget, strategic plan or plan of action) and have provided at least half a day of training on children's rights to their employees over the past two years. Child-oriented consequence analysis and the application of the CRC remain areas to be developed. Most funds for CRC-related capacity building are earmarked to improve child participation and understanding of the child's situation. Over half of the municipalities believe that their level of knowledge in the traditional child related fields is good, except in the area of planning and road traffic. In terms of methods, 16 per cent of municipal authorities use "child-oriented consequence analyses", 28 per cent make use of a "children's issues check-list" and six per cent have devised a "children's affairs annex".

The proportion of municipalities which have set up a co-ordinating function for their work with the CRC is roughly at 17 per cent and 43 per cent of municipalities have a Youth Council. Others have different fora where children and young people can exert influence – youth panels, young people's assemblies, youth fora, focus groups, children's hearings, open spaces. Municipal authorities that employ a youth co-ordinator gave more positive responses to the questionnaire. Most of these structures work with adolescents, rather than all age groups. Most initiatives are undertaken in school or leisure environments.

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<sup>33</sup> *Röster som räknas – barns och ungas rätt till delaktighet och inflytande – Swedish National Ombudsman Annual Report 2006*

Despite the improvements revealed by this survey, in comparison with its 2003 results, municipal authorities remain limited in documenting their experience and providing feed-back to children. They are requesting additional support and tools from the Children's Ombudsman. The latter argues that it has invested a lot in two priority target groups: elected representatives and upper-level civil servants in local and regional government; and specific categories of employees, such as social services staff, or employees of the health and medical care services. Yet, much remains to be done and the demand outweighs the supply.

Hence, also in Sweden, child rights monitoring by local governments is an emerging challenge. In other countries in this study, reporting and monitoring requirements exist to various extents for branches of local administration or services, but mainly for the use of central governments. Local governments have not developed a strong sense of responsibility in this area. There are some attempts to encourage initiatives that could lead to better local monitoring, but the incentive usually comes from external or higher hierarchical entities. Sustainability and replication of good practice depends on localities.

In most cases, though, local governments only have an interest in technical and financial monitoring of decentralised services. Developing rights-based and clients' centred approaches is not their priority. Local councils and executives may be open to children's views and needs, but they do not see themselves as having to solicit them.

*Local councils do not receive substantive reports from child protection directorates; they only receive financial ones as they fund the services. They receive reports from school inspection services for information. Issues not related to child protection can be addressed to the local council, but it does not need to be imposed.*

*Interviewee, Romania*

In several countries, it was believed that, ultimately, budget allocations to child-related services are the key to CRC implementation. In that sense, financial commissions of the local government could play a critical monitoring role. They could check that minimum standards are respected and that funds earmarked for child-related activities are adequately spent, whether these funds have been transferred by the central government or come from local taxes. The fact that the political opposition be part of this process was seen as an important guarantee.

*Decentralisation does not per se influence monitoring. It is budget allocations that clearly reflect the implementation of children's rights.*

*Interviewee, Lithuania*

However pragmatic, this economic perspective is extremely limited. It fails to take into account ways of mainstreaming child rights implementation in all areas of state government and administration at local level. It excludes concerns of child participation in decision-making, planning and implementation. It also implies that individual child rights violations may fall through the net of local intervention and monitoring. Other interviewees indeed emphasised the lack of analysis and planning capacities at local level.

*In municipalities there is no overall perspective on child protection issues by the authorities, no mapping of future needs. The system only responds to situations and requests. Monitoring should be done at local community level; otherwise the central compilation of information cannot reflect the reality. There is a need to reinforce the municipal level.*

*Interviewee, Moldova*

### **4.3 Information-sharing and coordination**

In most countries, high-level bodies have been created to better coordinate child rights policies. Under the impulse of international agencies, they have produced national strategies, occasional research and thematic programmes, nurturing hopes of better information sharing and monitoring. Ironically, they have mainly shed the light on political limitations and information gaps, without having the necessary power or resources to address them. Conflicts of interests between key players and their lack of executive power lead these bodies to become think-tanks, rather than actual coordination or monitoring mechanisms.

*Moldova's National Plan for Human Rights (2003-2008) is a great disappointment in relation to children's rights (chapter 10 of the Plan). It was a realistic and concrete plan, elaborated with broad participation, but the recent mid-term review at the Parliament revealed that little has been done. The 2003 National Strategy for Children and Family had foreseen activities to establish standards and create local monitoring mechanism. The only standards that exist now concern the status of foster families that has been re-defined and improved. There is still no central monitoring system, only yearly gathering of statistics and listings by the National Statistics Bureau. The Ministries also compile data but they are not analysed. Recently, the National Council for Child Rights Protection did request information to the District Councils of Child Protection about their activities and the National Committee on Adoption requested data from 1997 to 2007 from all districts. But there is no local follow-up.*

*Interviewee, Moldova*

*The lack of inter-ministerial coordination weakens the whole system. Serbia's Child Rights Council is only an advisory body to the government. State affairs are highly politicised and the budgetary allocations of each ministry on children's issues are far below the needs and the practice in neighbouring countries. The proportion of the GDP allocated to education is much lower than in other countries. Roma children are simply not covered by the current system, since they are not integrated into the education and social systems. Children of returnees from EU countries who know neither the country nor the language will be another challenge (150 000 former refugees are expected to return, about 70% of which are children). The only budgets foreseen are those negotiated with the European countries from which these families are returning (Germany, Austria, France, etc.). Therefore, it would be safer and more efficient to have a separate law on children to regulate all state activities, guarantee a full budget and ensure a more comprehensive coverage of children's rights.*

*Interviewee, Serbia*

*In Sweden, the national coordinating mechanism should have organised a hearing of all municipalities, together with civil society representatives. The previous concluding observations of the Committee could have been used as a basis for contributions and dialogue. It is hoped that the creation of the national child rights resource centre will improve the collaboration with national level monitoring mechanisms in the future.*

*Interviewee, Sweden*

## **5. Non-governmental monitoring**

Article 45 of the CRC, and the procedures established by the Committee, have granted NGOs the right to report at the international level. This Convention is the first international human rights treaty that has expressly given NGOs such a formal role in monitoring its implementation. The Committee has systematically encouraged NGOs to submit and present reports in order to provide it with a comprehensive picture as to how the Convention is being implemented in a particular country. This, in turn, has given them some legitimacy to collect information at local and national level.

In all countries, the State CRC reporting agenda has set the pace for NGO monitoring work too. This is especially true when it comes to monitoring child rights implementation at local level. As we will see, national NGOs that have local branches tend to receive regular information from their local counterparts, but rights-based exercises are usually undertaken on the occasion of the drafting of the CRC alternative report. It is striking that NGOs in least decentralised countries are also the least able to undertake systematic local monitoring.

### **5.1 Local monitoring and mobilisation around CRC reporting**

In Estonia, back in 2000, the CRC reporting responsibility was transferred from the Ministry of Foreign Affairs to the Ministry of Social Affairs. NGOs were consulted, and also produced an independent additional report. This triggered the National Plan of Action process and child rights awareness at state level. In 2003, a joint governmental-NGO seminar analysed the UN Committee concluding observations and helped both sectors identify respective strengths and weaknesses. For political reasons, it is sometimes better for NGOs to address certain issues instead of a ministry. Yet, there are no powerful NGOs or external agencies specialised in child rights advocacy and monitoring in the country. There is no culture of systematically marketing human rights and little human rights education by NGOs. Human rights are part of the school curriculum, including a focus on children's rights. Yet, how and to what extent the subject is discussed depends on each school. The Estonian Union for Child Welfare is hoping to mobilise child-related NGOs throughout the country for the next reporting process.

In Lithuania, several alternative reports were produced and presented recently to the UN Committee. Save the Children Lithuania did not join the confederation of NGOs, as their positions could not be reconciled. Save the Children's report focused on violence against children. It was based on five years' experience working with children victims of violence in day care centres, as well as on a survey carried out with parents over seven years. The report also included information from a monitoring exercise in residential institutions and the reconciliation of data from various official sources at ministerial and municipal levels.

The 26 local branches of Save the Children in Lithuania receive a questionnaire from the head office twice a year to share information on children's situation in their area and related activities. This allows the organisation to be aware of trends in the whole territory. However, branches were not particularly involved in the CRC reporting process. They sent information and were involved or informed on the occasion of joint seminars or training.

Somehow, the limitations of monitoring capacities found in governmental practice are reproduced in the NGO sphere. On the one hand, the lack of resources and the emergency of field work prevent monitoring from being a priority when acting at local level. On the other hand, when monitoring is undertaken, central NGO offices based in the capital city are usually the ones taking the initiative, requesting data from the local level but analysing it themselves and failing to ensure adequate feed-back to the field. Only where important resources are available can NGOs boast a more holistic practice.

In Moldova, NGOs are busy with field work. CRC or CEDAW reporting processes have been occasions to depict the situation. In particular, the government has focused a lot of attention on institutionalised children and the situation of foster families, while NGOs are starting to work with biological families. The living standards of mainstream children are becoming even worse than those of children under protection measures. The phenomenon of children left alone at home while parents are working abroad has become common. NGOs are trying to build capacity to react at local level, together with local administrations. For example, the Child Right Information Centre and Terre des Hommes are involved in training on violence against children, on the prevention of trafficking and on life skills to unveil the reality that people witness and empower them act. Local administrations and the police are becoming involved. The police used to see their function as only repressive, but now also value their protection role. Local authorities lacking funding see their advantage in authorising and supporting NGO action in many districts. At this stage, efforts are put on direct action, rather than monitoring.

The NGO alliance, created in 2002 with DFID and UNICEF support, is constituted by 70 per cent small local NGOs. It provides capacity building for them, and the chair participates in the National Council for Child Rights Protection. It is also involved in relevant parliamentary commissions. In December 2005, the Alliance had a meeting with the country's President which sparked off the reform: decentralisation, alternatives to institutions, and NGO participation. But the current change of ministries has blurred the picture and the Alliance is not informed of current plans. The next alternative report to the UN Committee will be prepared by the Alliance, but it is waiting for the official one to be able to react to it. It will be done with UNICEF support in a participative way, with some thematic focuses, round tables in regions to gather information, and using existing research of members.

In Romania, in the period December 2005 – October 2006, Save the Children Romania coordinated the "Child Rights Monitoring Group" Project (CRMG)<sup>34</sup>

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<sup>34</sup> *Child Rights Enforcement in Romania, project report, Salvați Copiii, Bucharest 2006.*

carried out with EU funding, as part of the programme for the Strengthening of the Romanian Civil Society (budget line PHARE 2003/005-551.01.05/04). In order to reach its objectives, the project involved 22 non-governmental organisations active in the implementation of children's rights from all over the country, working groups and specialised networks from the local or national levels, national and international experts, children beneficiaries of the programmes or involved as volunteers in organisations. Four working groups were established based on the monitoring and reporting criteria of the UN Committee on the Rights of the Child:

1. General measures, civil rights, special protection measures;
2. Family environment and alternative care;
3. Child's health and well-being;
4. Education, recreation, culture.

In order to obtain direct source information on the implementation of child rights in Romania, a national research was carried out in spring 2006. The methods used in the research included: documentary analysis, observation, self-administered questionnaire inquiry, focus groups with children, interviews with children, parents and specialists working in child protection.

The documentary analysis consisted in the review of several official reports of national and international institutions, studies and researches conducted by governmental and non-governmental organisations, activity reports and implemented programmes, publications and media articles on children. Additional data were requested from 11 institutions subordinated to the Ministry of Education and Research, the Ministry of Administration and Interior, the Ministry of Justice, the Ministry of Labour, Social Solidarity and Family and the Ministry of Health.

Questionnaires were distributed to 1545 pupils from the secondary level, from schools of arts and crafts, as well as from high schools in 12 counties and Bucharest, from the rural and urban areas, thus representing virtually all the geographical regions of the country. Eight focus-groups were held, attended by 70 persons (children from penitentiaries, children with disabilities, beneficiaries of social centres, children from the community and volunteers of non-governmental organisations, parents and teachers). 40 interviews were conducted with children suffering from HIV/AIDS, with parents of children with Down Syndrome and specialists working in the area of child rights protection in state institutions (civil servants from child protection directorates, social workers, legal specialists, policemen, penitentiary staff and people working in placement centres) and non-governmental organisations.

The processing, analysis, summary and interpretation of the data thus obtained resulted in a general report on child rights enforcement in Romania, a research report regarding pupils' opinion on their rights, as well as the publication of a practical guide on child rights monitoring. These will be the basis for the alternative report to be submitted to the UN Committee by the end of 2007.

In Serbia, the Child Rights Centre is mentioned by other NGOs as being the only non-governmental institution providing child rights monitoring at national level. Its monitoring practice is very professional, but it is under-resourced and not inclusive. It does not collect information from other NGOs, which is indeed difficult because few organisations have a single child rights focus and their activities are irregular and donor driven. Local NGOs don't engage in monitoring and advocacy work despite their experience at local level. Information-sharing remains informal and politicised.

*NGOs were mushrooming at municipal level in the 90s, but they constituted additional jobs and a way of palliating the deficiencies of the State system. For example, associations of teachers carried out educational activities. Under the pressure of international donors, local authorities had to gradually invest in these activities. But, as a result, these NGOs do not constitute a coherent local civil society movement. Civil society mobilisation is an exotic theory planted from abroad, which does not correspond to the country's reality. Personal and political ties still play a central role.*

*Interviewee, Serbia*

Major human rights NGOs (the Helsinki Committee, the Belgrade Human Rights Centre, the Humanitarian Law Centre) do not have a strong interest in children's rights. They only occasionally contribute to studies, such as a recent one on Roma children's access to education. As for regional or international organisations (OSCE, Council of Europe, EU) which could encourage and benefit from local NGO monitoring, their local branches are not involved in child related issues, even when their headquarters are.

Hence, only the Child Rights Centre regularly issues full child rights analysis. It first produced a five year report on the implementation of the CRC for the period 1997-2002. It consisted of legal and policy analysis based on official data. Since this data proved incomplete or irrelevant, the organisation developed its own research. Each year, the Centre undertakes one thematic research (ex. on child labour, children's views on education and health systems, etc.) in close collaboration with academic experts who guarantee methodological standards. Some research is more focused on case studies, in collaboration with field NGOs like Save the Children UK. Being a reference in the whole country, the organisation maintains high professional standards. It is seen as a think tank, but it does not reach out to the local level and local authorities do not use its information. Only the Provincial Ombudsman and ministries have referred to it so far.

The responsibility to draft the 2006 State CRC report has been passed from the former presidential Human Rights Commission to the Ministry of Foreign Affairs after the split with Montenegro. NGOs have not been formally involved, but unofficial comments were made by the Child Rights Centre. UNICEF and the Council for Child Rights have been working actively on compiling The State of Children in Serbia 2006 Report – Poor and Excluded Children,<sup>35</sup> which will certainly be an important document in the CRC review process.

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<sup>35</sup> See on CRIN: <http://www.crin.org/resources/infoDetail.asp?ID=12517>

In Sweden, Save the Children is also investing much energy into the CRC reporting process. During the 90s, as Sweden went through a period of recession and decentralisation, the concluding observations of the UN Committee to the first and second State periodic report denounced the shortcomings of decentralisation in terms of child rights implementation and protection. Save the Children decided to develop regional offices on the Swedish territory. These offices would support the work of local volunteer branches and provide feedback to the national office on child rights implementation in the regions.

Currently, Save the Children has four priority areas within its domestic programme:

- Right to education and non-discrimination
- Adult support
- Violence Against Children
- Refugee children

Two representatives from each regional office work on each priority and regularly meet at the national office to discuss projects and progress in these areas.

Additional thematic research may be carried out to map out local realities. For instance, the organisation has issued child poverty reports, based on official statistics obtained from each municipality, analysing and giving visibility to child poverty trends across the country. It also occasionally undertakes its own data collection, either through outreach work (ex. survey on girls in institutions) or through observations by local branches (ex. study on the access of children with disabilities to mainstream services). The situation of children falling under “special protection measures” is researched on a case by case basis. Research and monitoring needs emerge from the media, from local branches’ alerts, from the political agenda, or in the course of continuous work in Save the Children’s four priority areas.

The CRC alternative report drafting process is an occasion to gather forces and define priorities. In Sweden, there is no permanent NGO coalition, but rather a network of different NGOs, including Save the Children and most organisations are issue-based. The network established a short collective report on the occasion of the last CRC session. Yet, it is difficult for NGOs that share little common ground to co-sign a single report. It is therefore a compilation of issues that these NGOs address. In addition, ECPAT issued a report related to the commercial sexual exploitation of children, while Save the Children presented its own report. This report follows the structure of the State report based on the Committee guidelines. For the next periodic report, there will be an attempt to present a single common set of priorities from all NGOs. Still, Save the Children will again present a full report. The drafting process is now starting. A meeting will soon be held with representatives of the national office and local branches represented through 30 districts. This initial meeting will explore ways in which local inputs and perspectives should be developed and integrated in the report. The outcome of the branches’ work on the four priorities of Save the Children will also be shared. The final report will gather the data from the various areas, as well as give specific examples from the field. The drafting process is also an occasion for local

branches to request hearings with the local authorities and re-activate debates around children's rights, policy outcomes since the last report and progress on the issues raised by the Committee.

## 6. Conclusions

This study has confirmed that International Standards and experience in the field of human rights monitoring are still predominately concentrated at central level and very few strategically address how monitoring at local levels can be strengthened. The issue of local child rights monitoring mechanism and their potential relationship with national ones are hence rather undeveloped at the international level. Although the European Strategy for children embrace local monitoring needs, the Council of Europe rather focus on encouragement of Member States to appoint a Commissioner (ombudsman) for children as such, and only discuss local monitoring in terms of local offices that would strengthen the aspects of independency and accessibility of these Commissioners.

Child rights monitoring at local level should guarantee a balance of power, a resort in case of violations and an alternative source of information. In situations of strong decentralisation, it is essential that central authorities are able to ensure local control and pressure. In situations of powerful central command, local or regional authorities would serve their citizens by establishing autonomous local monitoring entities. Hence, it is up to each country and to each local community to evaluate where information and power gaps are most detrimental to children, in order to palliate these first. Understandably, ensuring the respect for children's rights in all aspects of local governance is far from being a priority in countries struggling to guarantee even minimum standards of living and development for the whole population. However, beyond socio-economic concerns, establishing child rights monitoring routines at local level is a matter of good governance and human rights protection. It constitutes the base of sound development. As we have seen, this can be done by reinforcing the role and capacities of national or regional mechanisms, as well as by stimulating local mechanisms and initiatives.

The result of this study indicates that the respect for children's rights depends on CRC awareness, resources allocated to children, inter-sectoral collaboration at all levels and the existence of independent monitoring mechanisms specialised in children's rights, rather than the level of decentralisation. While decentralisation cannot be said to be uniform in the six countries covered by this pre-study, limited child rights monitoring capacities at local level is a common trend. In the countries studied, three main trends emerged: 1) De-concentration; where the central power level decides and local level implements, such as in Moldova, Romania and Serbia. 2) Transitional decentralisation; where all or part of the decision-making, responsibilities and authority is transferred from central government to regional or local authorities, such as in Estonia and Lithuania; and 3) Strong devolution of power, such as in Sweden, where the transfer of authority to municipalities is permanent and cannot easily be revoked. Regardless of the degree of decentralisation enjoyed, local administrations are mainly solicited by central authorities to collect data and to report on children's situation in their field. They are rarely involved as active partners in the process and do not usually take the initiative. Local governments who themselves display an interest in child rights-based evaluations are a minority. The best interests of the child and children's views are a growing concern, but they are mainly applied to child protection.

## 7. Recommendations

With the diversity of situations in the studied countries it would be difficult, and unrealistic, to recommend one model on how to strengthen local child rights monitoring. A message that clearly comes across is that countries, no matter their decentralisation status, prefer to build upon existing structures, rather than to impose a new monitoring function, such as the equivalent to a local child rights ombudsperson. Instead, each specific situation requires consideration of how the monitoring function best fits in the municipality structure, and how such monitoring function can remain unbiased and independent, without competing with existing child protection services or overload the monitoring system. This said, it has been equally clear that the independent monitoring of children's rights at local levels in the six studied countries has not been explicitly planned and there is a lack of a more strategic approach on how local child rights monitoring is to be conducted, often resulting in mandate-holders developing local monitoring policies as they go.

Based on the result of this study, a number of areas that could benefit from a more strategic strengthening have emerged. These recommendations are rather general and should be viewed from as a starting point for a discussion on further strengthening European child rights monitoring at the local level:

1. International standards are neither specific, nor adapted, to the challenges of decentralisation. Further research and guidance should be developed in this field, notably by the EU, to ensure that local child rights' monitoring is covered in international standards.
2. Decentralisation may impede children's equal access to service provisions. International bodies and states should therefore establish limits and safeguards to be put forward in decentralisation policies, in order to protect the best interests of children.
3. The UN Committee has been instrumental in putting national-level child rights monitoring on the agenda. Consideration should therefore be given as to how it can become a key partner in encouraging State parties to the CRC to establish better monitoring mechanisms at local level.
4. Specialised departments within a general Ombudsman Office are often not specific and efficient enough to address the full range of child right monitoring needs. Key international and national players must continue to lobby for the creation of National Children's Ombudsman's posts, where needed.
5. Consider how national child rights monitoring mechanisms can be strengthened to be more engaged in and equipped for outreach work through specific mandates and obligations to monitor municipalities, regular hearings in municipalities, the potential establishment of local branches, and close collaboration with local autonomous monitoring bodies.

6. There is often a lack of feed-back from central to local administrations which limits their interest and involvement in child rights monitoring. Consideration should be given to strengthen all central monitoring outputs (annual reports on CRC implementation, sectoral monitoring, and thematic studies) in order for these to be re-distributed down to the local level, especially to those who have contributed in data collection, including children themselves.
7. Child rights monitoring bodies at intermediate levels (City, Region, and Province) can have a strong impact on the local level, while enjoying high-level authority. The establishment of such mechanisms should hence be further developed and encouraged.
8. Most municipalities are either not ready, or do not see the need, for local child rights ombudsmen. Yet, child rights monitoring at local levels needs to be strengthened in most countries. Therefore should ways to better promote and strengthen existing practice be further explored, while specialised bodies (Children's Ombudsman, National Authority on Child Protection, etc.) should continue to sensitize local governments to child impact assessment methods, factors of success in CRC implementation, child-friendly budgeting in all areas of governance and administration.
9. Decentralisation appears to favour child participation. Discussions and strategies on how to promote good practice as a human rights achievement, rather than as an option, needs to receive due attention.
10. Children's rights remain a "soft" issue, lacking enforcement, even within some child rights NGOs. As a result, child rights monitoring risk to be seen as an option rather than an obligation. Requirements in this field should be made stronger at all level of governmental and non-governmental action, and especially at local level.

# Annexes

## **Annex I: Country Information**

### **Estonia**

Population: 1,345 million

Under 18 population: 273 000

#### **Local government organisation**

There is a one-tier local authority system in Estonia, 227 municipalities (33 cities and 194,36 rural municipalities) operate within 15 counties (regional units of the Government of the Republic). Municipalities have the right to form voluntary associations at county (regional) and state level. Associations of local authority units perform non-mandatory tasks on behalf of local authorities. Inhabitants of a local authority can directly influence local life through public initiatives, referendums and plebiscites. Council committees sometimes involve citizens in their activities.<sup>37</sup>

#### **Child rights monitoring in Latest UN Committee documents**

##### **Legislation**

Family Law (RT I 1994, 75, 1326; 1997, 28, 422; 35, 538);

Child Protection Act (RT 1992, 28, 370);

Education Act (RT I 1992, 12, 192; 1994, 12, 200; 1997, 42, 678; 81, 1365; 1999, 51, 550; 102, 908);

Pre-School Child Care Institutions Act (RT I 1999, 27, 387);

Basic and Upper Secondary Schools Act (RT I 1993, 63, 892; RT I 1999, 42, 497);

Vocational Schools Act (RT I 1998, 64/65, 1007; RT I 1999, 10, 150);

Hobby Schools Act (RT I 1995, 58, 1004);

Juvenile Sanctions Act (RT I 1998, 17, 264);

Youth Work Act (RT I 1999, 27, 392);

Social Welfare Act (RT I 1995, 21, 323);

State Benefits Act (RT I 1997, 42, 676; 77, 1309; 1998, 86/87, 1407; 1999, 67, 657; 82, 749);

Non-Profit Associations Act (RT I 1996, 42, 811; 1998, 96, 1515; 59, 941; 1999, 23, 355; 67, 658);

Churches and Congregations Act (RT I 1993, 30, 510)

Citizenship Act (RT I 1995, 12, 122; 83, 1442; 1998, 111, 1827; 2000, 51, 323);

Ethnic Minorities Cultural Autonomy Act (RT I 1993, 71, 1001);

Social Benefits for the Disabled Act (RT I 1999, 16, 273).

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<sup>36</sup> Source: Ministry of Internal Affairs

<sup>37</sup> Council of Europe CM/MONITOR(2001)3 REVISED 2, 20 APRIL 2001, see: <http://www.loreg.coe.int>

## **Monitoring body**

The Legal Chancellor,<sup>38</sup>:

Supervision of the activities of State agencies, including the guarantee of constitutional rights and freedoms, is exercised by the Legal Chancellor.

The Legal Chancellor is an independent official responsible for monitoring that legal acts adopted by the State legislator and the executive and by the local governments are in conformity with the Constitution and the laws (article 139 of the Constitution). The activities of the Legal Chancellor are set out in the Legal Chancellor Act (RT I 1999, 29, 406). According to article 19 of the Legal Chancellor Act everyone has the right to recourse to the Legal Chancellor to supervise the activities of the State, including the guarantee of the constitutional rights and freedoms of persons. Thus, the Legal Chancellor also performs the tasks of an ombudsman. There have been filed petitions concerning rights of the child but no petitions received directly from children have been filed with the office of the Legal Chancellor. The Legal Chancellor has the right to appoint special advisers, including advisers to work specifically in the area of the rights of children.<sup>39</sup>

## **National Strategy for child protection**

The working plan of the Ministry of Social Affairs includes drawing up a strategy for the protection of children -- the National Strategy for Child Protection through the year 2008 that includes a national social welfare program for children and their families who need social care and educational support for at-risk children.

At the national level, the protection of children is coordinated by the Ministry of Social Affairs (arts. 4, 5). In the Ministry of Social Affairs, coordination of activities for the protection of children is within the competence of the Deputy Secretary-General responsible for the social sector; daily work for the protection of children is coordinated by the Welfare Department. The Ministry of Social Affairs cooperates with the Ministry of Education, the Police Board and other State agencies.

At the regional level, national policies are implemented by county governments, which coordinate activities for the protection of children pursued by local authorities. The coordinators of work for the protection of children at the local government level are social workers of the social services departments.

## **Monitoring: Data collection**

The ministries and executive agencies collect data necessary for their work. Statistical data on the situation of children is collected by the Statistical Office of Estonia and by the ministries. Studies on the situation of children have also been made by universities and within the framework of international projects. The

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<sup>38</sup> See: [www.oiguskantsler.ee](http://www.oiguskantsler.ee). Other translations use the term « Chancellor of Justice ».

<sup>39</sup> Initial State party report, CRC/C/8/Add.45, 11 July 2002, para.10

analysis made on the basis of the data is used to amend and improve laws and to draft the yearly State budget.<sup>40</sup>

## **Committee on the Rights of the Child Concluding Observations**

CRC/C/15/Add.196, 17/March/2003

### **Legislation**

5. While noting the adoption of various legislative measures with respect to child rights, the Committee is concerned at the weak implementation of legislation in some instances. Noting that the 1992 Child Protection Act reflects some principles and provisions of the Convention, it remains concerned that many of the provisions have not been fully implemented through detailed regulations, in accordance with article 68 of the Act, and with adequate budgetary allocation. The Committee is concerned that there is no process of harmonization between the existing legislation and the Convention and between the various legislative acts.

6. The Committee recommends that the State party:

(a) Establish a process of harmonization and bring laws into conformity with the Convention;

(b) Ensure that the necessary regulations are made for the effective implementation of those legislative measures, including adequate budgetary allocation;

(c) Ensure that children's rights impact assessments are performed on proposals of relevant legislation and policies.

### **Coordination**

7. The Committee notes that the Social Welfare Department of the Ministry of Social Affairs is responsible for the coordination of child welfare policy and that a permanent commission for the child and family has been established with an advisory capacity. However, the Committee is concerned that the Department is not sufficiently mandated for an effective coordination of the activities relevant to the implementation of the Convention throughout the State party.

8. The Committee recommends that the State party:

(a) Ensure that the Social Welfare Department is sufficiently mandated to coordinate the implementation of all areas of the Convention both between ministries as well as between national, regional and local authorities. Furthermore, the Committee recommends that financial and human resources be provided to allow for the effective implementation of the coordination role;

(b) Enhance efforts to strengthen the networks related to the various children's rights initiatives;

(c) Create a multisectoral platform for developing policies and standards for the implementation of the Convention throughout the State party.

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<sup>40</sup> *Initial State party report, CRC/C/8/Add.45, 11/July/2002, para.20*

## **Data**

9. The Committee welcomes the statistical information provided in the written replies; however, it notes the insufficiency of data in some areas and is concerned at the insufficient evaluation of data to devise policies and programmes.

10. The Committee encourages the State party:

(a) To consider the publication of annual statistical surveys on the rights of children, as the Statistical Office currently does in other fields;

(b) To continue its efforts to collect disaggregated data on all persons under 18 years of age for all areas covered by the Convention, including the most vulnerable groups (e.g. victims of abuse and ill-treatment), and to use these data to assess progress and design policies to implement the Convention.

## **Monitoring structures**

11. The Committee welcomes the existence of various mechanisms for filing complaints, such as the Legal Chancellor, also mandated to serve as Ombudsman. Nevertheless, it is concerned that this is not a specialized body with an explicit mandate to address effectively violations of children's rights and to monitor and regularly evaluate progress in the implementation of the Convention.

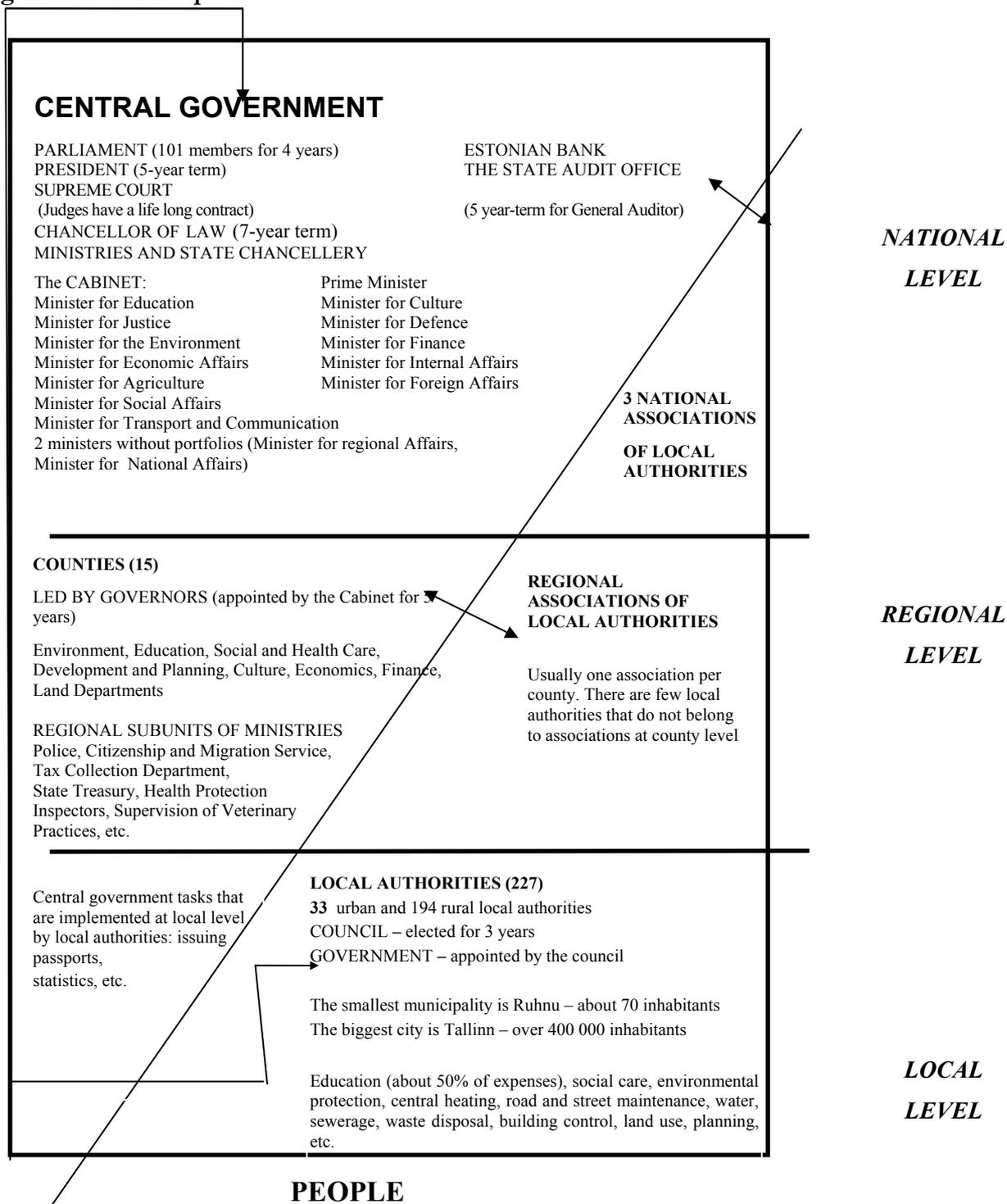
12. The Committee recommends that the State party consider the establishment of a Unit, or a specialized body, within or outside the Legal Chancellor's Office, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights ("The Paris Principles") (General Assembly resolution 48/134, annex) and the Committee's General Comment No. 2, to monitor and evaluate progress in the implementation of the Convention at the national and local levels. This body should be adequately resourced, accessible to children, empowered to receive, investigate and address effectively complaints of violations of children's rights in a child-sensitive manner.

## **National plan of action**

13. The Committee notes that the State party is in the process of elaborating various strategies for implementing parts of the Convention; however, it is concerned at the absence of a rights-based comprehensive plan of action for all children.

14. The Committee encourages the State party to develop a comprehensive rights-based plan of action for the full implementation of the Convention that includes, inter alia, strategies that are under consideration by the State party and goals and objectives of the outcome document "A World Fit for Children" and provide the mechanisms and regulations for the effective implementation of this plan of action.

## Organisation of the public sector in Estonia



Source: Estonia : Structure and operation of local and regional democracy Report adopted by the Steering Committee on Local and Regional Democracy (CDLR) in December 1999. "Local and Regional Democracy" website: <http://www.coe.int>

## **Lithuania**

Population: about 3,6 million

Under 18 population: 769 000

### **Local government organisation**

Lithuania recently re-organised its territorial administration. In 1994, the fragmented and heterogeneous system inherited from the Soviet period was replaced by a single tier of local self-government through district municipalities (savivaldybe). This resulted in 56 units replacing the former 55 districts and 528 municipalities.<sup>41</sup> Municipalities have direct responsibility in pre-school, primary and secondary education, in family welfare and some aspects of health services and housing. But, in almost all the fields under municipal responsibility, the state provides guidance, support and co-ordination.

### **Child rights monitorin in latest UN Committee documents**

#### **Legislation**

In order to implement the regulations of the CRC ratified by the Seimas (the Parliament) of the Republic of Lithuania on July 3rd 1995, Seimas passed a Law on Fundamentals of Protection of the Rights of the Child on March 14th 1996. The fundamental rights, freedoms and obligations of the child, taking into account the traditions of national law and specific situation of the child within family and society, are established within this Law. This Law regulates the fundamental conditions in child behaviour control and liability thereof, establishes parental liability and that of other natural and legal persons for violations of the provisions of the general rights of the child, the system of institutions for the protection of the rights of the child and the legal principles of activity thereof.

Part 2 of article 38 of the Constitution of the Republic of Lithuania establishes the principle that the state protects and is guardian to family, motherhood, paternity and childhood. Article 39 of the Constitution defines that law protects the children who are under maturity age. Part 3 of article 73 of the Constitution, regulating the functions of the institution of the Seimas Ombudsmen, defines that Seimas shall establish other institutions of control if necessary. Law shall establish the system and authority of the aforesaid institutions. Thus, the Constitution of the Republic of Lithuania provides the possibility for Seimas to establish other institutions of control, if necessary.

#### **Monitoring body**

The Controller for the Protection of the Rights of the Child of the Republic of Lithuania (Office of the Ombudsman for Children's Rights):

Based on principles established by the Constitution, other laws and international agreements, and in accordance with undertaken obligations, Law on the Controller for the Protection of the Rights of the Child of the Republic of Lithuania was prepared and adopted by Seimas on May 25th 2000. The main purpose of this law is to establish legal prerequisites, ensuring realization of the

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<sup>41</sup> Council of Europe CM/MONITOR(2001)3 REVISED 2, 20 APRIL 2001, see: <http://www.loreg.coe.int>

principles set forth in the CRC and other legal acts related to the protection of the rights of the child, as well as control the observance of aforesaid principles in Lithuania, control activities of state, municipalities, non-governmental institutions and organizations, and private persons that could violate the rights and rightful interests of the child.

The independence of the Controller and its role as the monitoring body is clearly specified by Article 16(2):

*The institution of the controller for protection of the rights of the child is an independent state institution for supervision and control of the following of the rights of the child that is maintained from the state budget and is established by a resolution of the Seimas.*

Currently, the Ombudsman's office has entered into closer contact with children thanks to the specialized website that provides the child or his/her legitimate representative an opportunity to put questions directly to the Ombudsman and to obtain answer, consulting or advise quickly, without any official formalities of application. Violations of young children's rights and legal interests are most common when the Ombudsman investigates complaints on foster care supervision, i.e. organization of foster care (foster establishment, termination, supervision, foster adequacy with the best interests of the child); disputes about the child and his place of residence, parents participation in nurture processes and communication with children; child maintenance issues and so on; use of physical, mental and sexual abuse against children and child rights violation during mass media.

Some of the achievements of the institution are:

- Within the year 2003, the Ombudsman's Institution has investigated 135 written complaints concerning the violations of children's rights and legal interests. During the same year, over 80 oral complaints had been received and investigated as well;
- Ombudsman has drafted and proposed to Seimas of the Republic of Lithuania the Law on Central Institution for Children's Rights Protection. The aim of this Law is to reform existing institutional children's rights protection system in governmental and municipal level, to strengthen its role and to increase its effectiveness. Additionally, the aim is to settle the implementation of central, governmental and municipal policies and clearly define the goals for each institution and a place in whole institutional system. It is projected that institution should be composed of Children's Rights Protection Institution (central institution) and its territorial structural elements – Children's Rights Protection Departments in municipalities. The UN Committee recommendation on call for the central Institution would be finally implemented by this project;
- The law, which regulates governmental and municipal budget and other supplemented laws, mark a separate line for children's rights protection field sponsorship for the year 2004. This made a real ground to secure

effective and stable work of municipal children's rights protection agencies and realization of their functions;

- Considering the Ombudsman's efforts to improve and make more effective medical treatment in educational institutions – more attention is paid to health services, establishment of medical cabinets at the schools and employment of public health specialists. Public health specialists should safeguard harmless environment for children in educational institutions, to overlook nourishment, to organize over-work prophylaxis for pupils and to evaluate training load. The medics will organize primary prevention and prophylaxis of the deceases from tobacco, alcohol and drugs. They will teach the teachers, parents and their children how to live in a healthy lifestyle. An establishment of medical services at general education schools is an important factor in improvement of health care of school age children. The allocation for health services reached 4,5 million litas for 2004 and was distributed for all 60 municipalities;
- Seimas has passed the law on Supplementation of the Code of Administrative Violations, which was drafted by the Ombudsman. The aim of the project was to regulate the liability for psychological abuse against children and to settle the liability for violations that persons that are temporary responsible for the children, have made;
- Further to the Ombudsman's proposal to prepare the common strategy for the children's rights agencies' activities, the Government confirmed the Program for Improvement of Legal Regulation on the Activities of Municipal Children's Rights Protection agencies;
- In appreciation to Ombudsman's proposal to ensure effective rendering of social psychological assistance to a family, the Minister of Social Security and Labor certified methodical recommendations on the work with families at social risk;
- The Ombudsman expressed her opinion on an execution of decisions of courts of non-monetary character. The Ministry of Justice formed an inter-institutional working group to settle the problems arising on an execution of such kind of decisions.

Nonetheless, the main difficulty for implementation of the Ombudsman's functions is deficient provisions of Law on the Controller for the Protection on the Rights Child. Provisions of the above-mentioned law foresee that the Ombudsman can make the conclusions only after full investigation of the complaint, and do not let to influence the situation at an early stage. The mission and functions of the Ombudsman are not yet clearly defined. Some do not know the Ombudsman's position in institutional system or Ombudsman's mandate, and so on.<sup>42</sup>

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<sup>42</sup> From the ENOC Annual Report of 2003.

## **National Plan of Action**

*Second periodic report, CRC/C/83/Add.14, 15/July/2005*

29. Having regard to the recommendations of the UN General Assembly's Special Session on Children held on 11 May 2002 in New York concerning the development of national plans of action (NPAs), the Seimas of the Republic of Lithuania passed the Resolution No. IX-1569 of 20 May 2003 approving the state policy concept of the Well-being of the Child. The concept covers the key principles and values of the child's well being policy. In view of these principles and values the key issues of the child's well-being were defined, setting specific goals of the child's well-being policy for the coming decade in the principal spheres of maintenance, participation and protection of the child and defining strategic guidelines for the implementation of the policy of the child's well-being. On the basis of this concept the State Policy Strategy on the Child's Well-being will be developed and proposals as to the development of the system of analysis and monitoring will be provided by 30 April 2004.

31. On 7 November 2002 the Seimas of the Republic of Lithuania passed the Resolution No. IX-1185 approving the National Plan of Action for the Promotion and Protection of Human Rights in the Republic of Lithuania, Chapter 8 whereof deals with the child's rights protection measures. According to the Plan in 2004-2005 the funds will be allocated for the development of the system of rehabilitation of children – victims of violence (for the development of the concept of rehabilitation of children – victims of violence, assessment of laws, arrangement of the awareness raising campaign concerning rehabilitation of children – victims of violence and training on the organisation of rehabilitation for such children).

32. With a view guaranteeing the protection of children's rights and addressing different problems (violence, neglect, drug and alcohol abuse, etc.) the continuous programmes are being implemented by public as well as non-governmental organisations.

33. In 2003 the National Programme against Commercial Sexual Exploitation and Sexual Abuse of Children approved by the Republic of Lithuania Government Resolution No. 29 of 11 January 2000 was further implemented.

34. Implementation of the Immediate Action Plan for Combating Violence against Children approved by Order No. 125 of 16 October 2002 of the Minister of Social Security and Labour is also under way. According to this Plan the cooperation between the Ministries of Social Security and Labour, Education and Science, Health, the Interior and Justice is being developed with particular focus on education of society, enhancement of the liability of specialists with a view to protecting children from violence and identifying the cases of violence. See comment on Article 19 of the Convention.

35. For the purpose of addressing social problems of pre-school and school age children growing in problem families at the national level, the Government passed the Resolution No. 731 of 24 May 2002 by virtue of which the National Programme of Children's Day Care Centres of Non-governmental Organisations

for 2002-2004 was approved and its implementation was commenced. See comment on Article 18 of the Convention.

### **Committee on the Rights of the Child Concluding Observations**

CRC/C/LTU/CO2, 17/March/2002

#### **Legislation**

8. While welcoming measures taken to bring national legislation into conformity with the Convention, notably the Strategy of State Policy on Child Welfare and its implementation plan for 2005-2012 (hereinafter the Action Plan for 2005-2012 on Child Welfare), the Committee notes that the national legislation in some areas, inter alia, protection from violence, corporal punishment and physical and psychological recovery and reintegration of the child victim, has still not been brought into full conformity with the Convention.

9. The Committee invites the State party to take all necessary measures to ensure that national legislation satisfies the requirements of the Convention in all respects.

#### **Coordination**

10. The Committee notes measures taken by the State party to improve the coherency and coordination of implementation of the Convention at both central and local levels, including the establishment of the Youth Division of the Family, Children and Youth Department and the State Child Rights Protection and Adoption Service, both under the Ministry of Social Security and Labour. Nevertheless, the Committee is concerned at the lack of coordination and coherency of the implementation of the Convention both at central and local levels, especially with regard to local authorities.

11. The Committee recommends that the State party continue and strengthen its efforts to improve the coherency and coordination of the implementation of the Convention so as to ensure adequate cooperation among central and local authorities as well as cooperation with children, young people, parents and non-governmental organizations.

#### **National Plan of Action**

12. The Committee takes note of several programmes that strive to achieve fuller implementation of children's rights and welcomes the National Plan of Action for the Promotion and Protection of Human Rights in the Republic of Lithuania as well as the Action Plan for 2005-2012 on Child Welfare. Nevertheless, the Committee is concerned that inadequate resources have been allocated for the implementation of these plans and programmes, including the Action Plan on Child Welfare.

13. The Committee recommends that the State party:

(a) Ensure that the Action Plan on Child Welfare is clearly oriented towards the rights of the child as enshrined in the Convention, that it covers all areas of the Convention and takes into account the outcome document of the 2002

United Nations General Assembly Special Session on children, “A World Fit for Children”;

(b) Provide an adequate budget for its implementation; and

(c) Place all other action plans and programmes under the coordination of the Action Plan on Child Welfare in order to overcome a fragmented approach to the implementation of child rights.

#### **Independent Monitoring Structures**

14. The Committee welcomes the establishment of the post of Ombudsman for Children on 1 September 2000 and the comprehensive mandate extended to the Office. However, it is concerned that insufficient resources have been allocated in order to enable it to effectively carry out the mandate and monitor the implementation of the Convention throughout the country.

15. The Committee recommends that the State party, taking into account its general comment No. 2 (2002) on the role of independent human rights institutions (CRC/GC/2002/2), continue to strengthen its support to the Office of the Ombudsman for Children, including by providing sufficient human and financial resources to the Office to enable it to effectively carry out its mandate and monitor the implementation of the Convention throughout the country.

#### **Data collection**

18. The Committee welcomes efforts made by the State party with regard to data collection, including the List of Indicators of the Statistics on Children, but it regrets the lack of disaggregated data regarding the situation of children belonging to the most vulnerable groups, including minority groups, and children victims of trafficking.

19. The Committee recommends that the State party continue its efforts to develop a system for the comprehensive collection of data on children, and that these are disaggregated, inter alia, by age for all persons under 18 years, gender, urban and rural areas and by those groups of children who are in need of special protection, in order to allow detailed analysis of their living conditions and the implementation of their rights.

## **Moldova**

Population: about 4,3 million

Under 18 population: about 1 million

### **Local government organisation**

The Republic of Moldova adopted its Declaration of Sovereignty in 1990, while in 1991 the country proclaimed its independence. Historical ethnic difficulties have been exacerbated by economic problems. Gagauzia has obtained a highly autonomous statute and its regional authorities are subject to almost no central supervision, except as regards funding for self-government, which is barely distinguishable from funding for the regions. The region of Transnistria is completely exempt from any supervision by the central authorities: it is in a situation of de facto secession, and run by a de facto government.<sup>43</sup> As regards local government per se, a legal framework has been developed for local self-government through 10 regions, but the system is now back to the District structure with 35 Districts. Supervision of local authorities suffers from a range of shortcomings and there an administrative autonomy principle has been laid down for the municipalities.

### **Child rights monitoring in latest UN Committee documents**

#### **Legislation**

Adjusting the national legal framework to the Convention on the Rights of the Child was initiated in the Republic of Moldova through the drafting of a set of normative texts:

- Law No. 338-XII on Child Rights, of 12 December 1994;
- Law No. 499-XII on the State Social Pension for Certain Categories of Citizens, of 14 July 1999;
- Decisions of the Government of the Republic of Moldova:
  - No. 571, of 2 September 1992, approving a programme of measures with a view to improving the situation of women, and mother and child protection;
  - No. 749, of 29 November 1993, on the Committee for Adoption of the Republic of Moldova;
  - No. 764, of 8 December 1993, approving a programme for organizing the International Year of the Family in the Republic of Moldova;
  - No. 62, of 3 February 1994, on adoption of children by foreign citizens;

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<sup>43</sup> Council of Europe CM/MONITOR(2001)3 REVISED 2, 20 APRIL 2001, see: <http://www.loreg.coe.int>

- No. 679, of 6 October 1995, approving a State programme concerning the assurance of children's rights;
- No. 456, of 15 May 1997, on additional social protection measures for families with many children;
- No. 42, of 25 January 1999, modifying Government Decision No. 198 of April 1993;
- No. 395, of 21 April 2000, approving the programme of activity for the Year of the Child.

### **Monitoring body**

*The Parliamentary Advocate (Ombudsmen) and the National Council for Child Rights Protection:*

Setting up a national institution for human rights promotion and protection, which would support the activity of international forums in this field, was considered to be the subject of many measures of the UN. In this context, during 1995-1996, a special Mission of the United Nation Development Program (UNDP), the UN representative in the Republic of Moldova studied the situation in the field of human rights of the Republic of Moldova, reaching the conclusion that it was necessary and rational to found a national institution for human rights protection.

A similar conclusion was submitted to the Second International Conference of Ombudsmen Institutions and Human Rights held in Chisinau in spring 1996. Within this forum, in the context of international experience, the aspects of setting up an Ombudsman Institution in the Republic of Moldova were discussed.

On the basis of conclusions made by the mission of the United Nation Development Program that the Republic of Moldova has developed an adequate constitutional frame for protection of human rights and freedoms and because difficulties of transition period impeded its achievement, a draft document "Support to Democratic Initiatives in the Field of Human Rights in the Republic of Moldova" was developed. It aimed at providing methodical and financial assistance to the Parliament and the Government of the Republic of Moldova during 1997-2001 in elaboration of national legislation on independent national institution of human rights protection and its future creation and development.

In March 1997, the United Nation Office of High Commissioner and the Government of the Republic of Moldova signed a draft document "Support to Democratic Initiatives in the Field of Human Rights in the Republic of Moldova". The Ministry of External Affairs and Parliamentary Commission for Human Rights and National Minorities were the agencies that have implemented it in Moldova.

Since the conclusion of this document, the analysis, improvement, and modification of national legislation on the establishment of national institution of human rights protection - Parliamentary Advocate Institution have begun.

A Working group consisting of personnel from the implementation agencies took as an example the Swedish traditional (classical) institution and similar institutions, which have been set up in many countries after the Second World War, it took into account national traditions, development of democratization and reform process in the Republic.

The group's activity ended by submitting to the Parliament the draft Law on Parliamentary Advocates, adopted on October 17, 1997.

The Republic of Moldova was one of the first independent ex-Soviet states where the Ombudsman Institution was established, which has become an important element of the mechanism of protection citizens' constitutional rights and freedoms.

Taking into account the need of guaranteeing human rights and freedoms protection of citizens of the Republic of Moldova, the Parliament of the Republic of Moldova adopted on October 17, 1997 the Law No.1349-XII on Parliamentary Advocates, promulgated by Presidential Decree No.381-11 on November 28, 1997.

By adopting this Law, the Republic of Moldova created the Parliamentary Advocate Institution similar to European and international Ombudsmen Institution, and confirmed its accession to the Universal Declaration of Human Rights and other international conventions on human rights.

The Law on Parliamentary Advocates stipulates that their activity shall be aimed at guaranteeing the observance of constitutional human rights and freedoms by central and local public administration, institutions, organizations and enterprises, irrespective of their type of ownership, by public associations, as well as by officials at all levels.

According to provisions of the respective law, three Parliamentary Advocates shall be appointed for a five-year term and the Centre for Human Rights of Moldova shall be created residing in Chisinau Municipality.

An important role in the activity of Parliamentary Advocates has the Regulations of the Centre for Human Rights of Moldova approved on February 5, 1998 by Parliamentary Decision No.1484 XIII, which stipulates the Statute of the Centre for Human Rights of Moldova as a state-owned institution.

Being a new institution in socio-political system of the Republic of Moldova, the Parliamentary Advocate Institution has, according to national legislation, a moral authority and practical activity unforeseen in the Constitution, but instituted by organic law.

Thus, the Ombudsman fills in and extends the traditional parliamentary control functions of executive bodies. These prerogatives form the image of Ombudsman as a guarantor institution for protecting the citizen against abuses of the State.

The Centre for Human Rights of Moldova has paid special attention to the protection and promotion of children's rights. On the basis of petitions addressed to the Centre, materials published in the mass media, communications from lawyers, doctors, teachers, scientists, public officers, analysts and representatives of non-governmental organisations, the Ombudsmen have submitted concrete proposals for the improvement of the situation to the Parliament, the President and the Government.

As a result, a series of steps have been taken regarding the effective monitoring of national legislation and its adjustment to the requirements of the international legal instruments to which the Republic of Moldova is a party; the elaboration of State programmes and the adoption of normative documents referring to the satisfaction of children's vital needs, among which we can mention: the National Programme for Genetic-Medical Assistance Improvement, the National "Child Nourishment" Programme, the Programme for Education Development and a series of draft laws, such as on the minimum living requirements, on the State social facilities, on the State allowance for children and social assistance for invalid children, etc.

There is also another monitoring body into the Moldovan structure. Only this one is exclusively dedicated to children. By Decision No. 106 of the Government of the Republic of Moldova, of 30 January 1998, the National Council for Child Rights Protection was created. Its purpose is to monitor and ensure respect for the Convention on Rights of the Child and the implementation of the provisions of the Law of the Republic of Moldova on Child Rights.

The Council is a governmental body that contributes to the elaboration and application of the policy of promoting the major interests of the child in society. The Council is headed by the Vice-Prime Minister in charge of social problems. Representatives of central and local public administration authorities, and public officers, whose field of activity includes children's issues are members of the Council.<sup>44</sup>

The basic responsibilities of the Council are:

- To ensure integral respect of the provisions of the Convention on the Rights of the Child in the Republic of Moldova;
- To elaborate governmental policies with a view to the implementation of children's rights at the national level;
- To consolidate social cohesion in the field of child rights protection.

The Council contributes essentially to the accomplishment of State policy in the field of child protection, through the elaboration of governmental policies to improve the living conditions of children in the family and in the child protection institutions.<sup>45</sup>

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<sup>44</sup> *Second periodic report, CRC/C/28/Add.19, para.78-79*

<sup>45</sup> *Para.80-81*

On the basis of a decision of the National Council for Child Rights Protection, councils for child rights protection were created in the counties, which ensure respect for child rights at a local level. The county councils are direct mechanisms for the promotion of child policy at a high level.

### **Committee on the Rights of the Child Concluding Observations**

CRC/C/15/Add.192,31/October/2002

#### **Legislation**

8. The Committee recognizes the efforts made by the State party to ensure that its national legislation complies with the Convention, but remains concerned at the absence of strategies and resources to enforce these laws effectively.

9. The Committee recommends that the State party:

(a) Develop a comprehensive approach to children's issues and formulate an integrated long-term strategy;

(b) Enforce effectively the National Conception on the Protection of the Child and the Family, and implement the Law on Child Rights (1994) and the Law on Youth (1999), including by allocating the necessary human and financial resources;

(c) Establish a mechanism for the implementation of the National Plan of Action;

(d) Continue to address the compatibility of national legislation on children with the principles and provisions of the Convention;

(e) Continue seeking assistance from the United Nations Children's Fund (UNICEF) in this regard.

#### **Independent monitoring structures**

12. The Committee notes the existence of a National Human Rights Centre and the information that an ombudsperson for children is part of the National Council for Child Rights Protection, but it is concerned at the effectiveness of these monitoring bodies given the lack of a clear statutory mandate to deal with complaints of violations of children's rights and the lack of transparent and child-sensitive procedures for addressing such complaints.

13. The Committee recommends that the State party appoint, within the National Human Rights Centre or independently, an ombudsperson or commissioner to monitor the implementation of the Convention at the national and local levels, in compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (General Assembly resolution 48/134, annex) and taking into full account the Committee's General Comment No. 2 on the role of independent national human rights institutions in the promotion and protection of the rights of the child.

## **Romania**

Population: 21.7 million

Under 18 population: 4.5 million

### **Local government organisation**

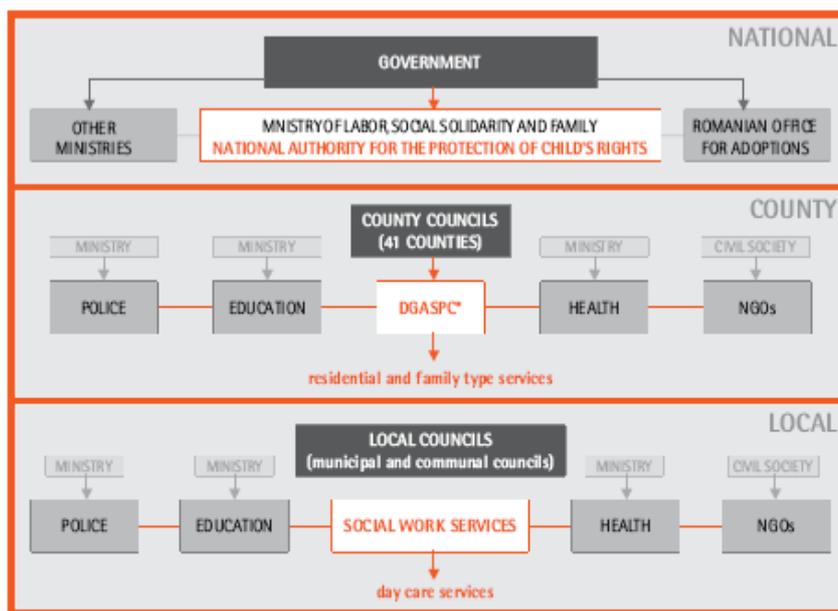
Romania has introduced the bulk of the legislative framework necessary for the introduction of local democracy. This establishes a unitary state in which the State retains responsibility for exercising those powers belonging to it at local level. Regionalisation has been launched on the basis of the existing local authorities: the regional development councils are an arm of the regional councils, towns and municipalities; these councils have decision-making powers on the regional development strategy and the use of regional development funds, pending the creation of a national support programme for regional development. This solution avoids the addition of an administrative level, but it is appropriate to query the legitimacy of a situation where each town or municipality is equally represented by a delegate on the regional development council. This weakens the position of towns within sizeable assemblies, which are difficult to run, which in turn ensures domination by the regions or, more certainly, by central government.

While State supervision is in principle limited to legality, the prefect need only introduce an appeal against an act for its execution to be suspended, whatever the reasons behind the appeal. Preparation of local budgets is placed under the supervision of decentralised departments of the Ministry of Finance, which examine the draft budgets as applications for finance; the draft budgets are then revised in light of the finances proposed by these services, to which they are again submitted. Although this procedure only concerns the resources allocated by the State, it seems barely compatible with the principle of financial autonomy for local government. Although Law 189/1998 has resulted in an increase in the resources of local authorities, its provisions leave them in an uncertain position with regard to important areas.<sup>46</sup>

The child protection system was reformed in 1997 through an emergency procedure. Several bodies have been established at local level: the Commissions for Child Protection, specialized bodies of the county councils presided over by the county secretary, as well as specialized public services for the protection of the rights of the child, placed under the authority of the commissions and acting as their executive body. Residential institutions (crèches and children's homes) have also been removed from the Ministry of Health and the Ministry of National Education and reorganized as part of the specialized county-level public services

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<sup>46</sup> Council of Europe CM/MONITOR(2001)3 REVISED 2, 20 APRIL 2001, see: <http://www.loreg.coe.int>



\*DGASPC: County Directorate for Social Assistance and Child Protection

The role of the National Authority for the Protection of Child's Rights is one of policy making and includes the coordination of national and internationally funded programmes. As part of the reform process, responsibility for delivering child protection services has been delegated to local government.

Source: NAPCR brochure "Child welfare in Romania, the story of a reform process"

## Child rights monitoring in latest UN Committee documents

### Legislation

In 2004, the Law on the Protection and Promotion of the Rights of the Child was adopted. This law contains provisions on a wide range of rights, including freedom of thought, conscience and religion, freedom of expression and association, the right to privacy, to an adequate standard of living, to social security and to rest and leisure.

Romania is an extreme example of how law and practice concerning international adoption has evolved since the advent of the CRC. The child care system was in a critical state when the Ceausescu regime collapsed in December 1989, after more than two decades in power. In a country with a population of 22 million, an estimated 100,000 children were confined in orphanages and institutions for the disabled, in very deficient conditions. The plight of institutionalized children was publicized internationally, leading to a surge of inter-country adoption; the economic crisis and weakness of institutional constraints during this period of transition led to widespread corruption in the adoption process. In 1991 the legislation on adoption was amended and a central adoption agency was established to restore order and prevent profiteering from adoption. In 1997 and 1998, a series of emergency ordinances and executive degrees were passed

recognizing certain principles derived from the CRC and other international standards, including the principle that institutionalization should be the last resort and the right of families receiving children in placement to financial support. The decrees also devolved responsibility for alternative care to local governments and redefining the responsibility of national authorities to emphasize policy setting, coordination and monitoring functions. The new structure and functions of the Romanian Committee for Adoption are stipulated in Government Decision No. 502/1997.

As a consequence of the new regulations, several bodies have been established: the Commissions for Child Protection, specialized bodies of the county councils presided over by the county secretary, as well as specialized public services for the protection of the rights of the child, placed under the authority of the commissions and acting as their executive body.

The Commission for Child Protection is a specialized body within the county council with decision-making powers in the field of special protection measures (only if parental consent exists). Also, the Commission attests levels of disability, decides on scholar orientation for disabled children, and testifies maternal assistant statute. It does not have a decision role regarding child adoption.

### **Monitoring body**

*Focal point at the Office of the General Ombudsman:*  
Second periodic report, CRC/C/65/Add.19

29. Article 55 of Romania's Constitution establishes the institution of the Ombudsman, whose function is to protect the rights and freedoms of the citizens. In his/her work, the Ombudsman is independent of all public authorities and exerts the functions assigned to that institution by the law either upon the notification of citizens whose rights have been violated by the authorities of the public administration by illegal administrative acts, or ex officio. In fulfilling its functions, the Ombudsman is entitled to conduct investigations, having access to all the information held by public authorities, secret documents included, while the recommendations issued cannot be subjected to either parliamentary or judicial control.

30. In response to the requirements formulated in Recommendation No. 1286/1996 on a European strategy for children, which encourages the States members of the Council of Europe to establish an ombudsman for children or any other structure that can offer guarantees of independence and the competence necessary for a real promotion of the condition of the child, and that is accessible to the general public mainly through local contacts, a specialized department for the protection of the rights of the child was established. Being a centrally organized institution, the role of local contacts can be assumed by non-governmental organization managing programmes for children, whose main object is to promote the rights of the child.

31. The Ombudsman intervenes upon notification either by children themselves, parents, or legal guardians, or it can take action ex officio upon finding out by any other means that the rights and freedoms of a child have been violated

(information in the print or electronic media, information coming from NGOs, other information or data acquired in the course of investigation). The first ex officio action taken by the Ombudsman had as an object the violation of the rights of the child, and the first notifications coming directly from children were recorded beginning in 1999.

32. From August 1998 (the time when the specialized department actually started work) to the moment when this report was drafted (July 1999), the Ombudsman intervened in 61 cases of violation of the rights of the child, out of which 13 were ex officio cases. The cases where the Ombudsman intervened refer to the violation of the rights of children to benefit from care and protection whenever they lack parental care, and to benefit from placement, the periodic assessment of the placement, a clear legal status, identification documents, material support, adequate treatment in the natural, extended, adoptive family, etc.

33. The interventions were targeted at municipalities (the tutelary authority), commissions for child protection, county councils, prosecutor's offices, the police, ministries and other specialized bodies of the Government, which usually responded within a brief interval. This allowed the Ombudsman to resolve 22 cases in a relatively short time. The situation brought to the attention of the Ombudsman was not confirmed in only 3 cases, while in 19 cases the solution was in favour of the children.

34. Having found that some administrative procedures are potential sources for the violation of the rights of the child, the Ombudsman initiated a systematic study of these procedures, with a focus on those referring to adoption. Over 300 files have been analysed so far where the courts have approved the adoption. The investigation referred exclusively to administrative acts, since the acts issued by the judicial authority are not the object of the Ombudsman's activity, the independence of the judiciary being one of the main constitutional principles of a rule of law State.

35. Some aspects of the way in which the rights of the child are violated by the authorities of the public administration, as well as some suggestion on the legislation, are to be found in the first Ombudsman's Report drafted and presented to the Parliament for debate. A report on the observance of the rights of the child is also nearing completion. It has been drafted from the perspective of the institution's general competence to monitor the activities of the public authorities to effectively support the observance of human rights.

36. Law No. 206/1998 approved the affiliation of the Ombudsman institution to the International Ombudsman Institute and the European Ombudsman Institute, which consolidated the capacity of that institution to improve its work by approaching from a scientific perspective the problems concerning human rights, the protection of civil rights, and the ombudsman institutions at a regional, national, European and international level.

37. On the other hand, with the same purpose of promoting and protecting the rights of the child, the Department for Child Protection proposes and supports the development of a community service of assistance to children in exerting

their right to unhindered expression of their opinions, within the specialized public service for child protection. This service of multidisciplinary counselling is going to offer children with a power of judgement the right to express their opinions freely and to have their opinions considered in any problem or procedures that concern them, covering to a large extent the functions and responsibilities of an ombudsman for children.

38. As part of the above-mentioned service, upon the initiative of the Department for Child Protection, action has been taken to establish a “Child Hotline”, which means that a three-figure phone number has been made available that children can call free of charge from anywhere in the country. It can be used by all children and teenagers wishing to express an opinion about the observance or violation of their rights in the family, at school or in society. The project is aimed at promoting and facilitating the connection between children in difficulty and the specialized personnel working within the social services made available to children.

### **Committee on the Rights of the Child Concluding Observations**

CRC/C/15/Add.199

#### **Legislation**

7. The Committee is encouraged by the new bills in preparation and enacted legislation which are listed in the written replies. However, it is concerned that insufficient effort has been made to ensure their effective implementation, including by the provision of adequate resources.

8. The Committee recommends that the State party strengthen the mechanisms for the implementation of all legislation relevant to the Convention, taking into account training needs, monitoring mechanisms and the provision of adequate resources.

#### **Independent monitoring structures**

11. The Committee notes the establishment of the Ombudsman in 1997 and the fact that he has dealt with cases of violations of children’s rights. It also notes that, according to the statement of President Iliescu at the United Nations General Assembly special session on children, held in 2002, the draft law on children’s rights includes the establishment of an ombudsperson for children.

12. The Committee recommends that the State party:

(a) Continue and complete, as soon as possible, its plans to establish an ombudsperson for children, taking into account the Committee’s General Comment No. 2 on the role of national human rights institutions in the implementation of the Convention;

(b) Provide this body with adequate human and other resources for the performance of its independent monitoring role;

(c) Ensure appropriate coordination of the activities of this institution with the Ombudsman.

**Data collection**

15. The Committee welcomes the recent initiatives related to a coordinated data collection system such as the Child Monitoring and Tracking Information System (CMTIS) for the planning and delivery of child welfare services. However, it expresses concern at the lack of an efficient, systematic and comprehensive compilation of data on all areas covered by the Convention for all persons under 18 years of age.

16. The Committee recommends that the State party strengthen CMTIS to ensure that disaggregated data is systematically collected for all areas covered by the Convention and covers all persons under 18 years of age, with specific emphasis on those who are in need of special protection. Such data should be used to monitor and evaluate progress achieved in the implementation of the Convention. The Committee recommends that the State party seek technical assistance from the United Nations Children's Fund (UNICEF) in this regard.

## Serbia

Population: about 7.5 million

Under 18 population: about 1.5 million

### Local government organisation

The Republic of Serbia is a parliamentary democracy. Local government is organized on the principle of local self-administration through municipal or city assemblies, government and administrative bodies. Territorial order is regulated by the 1991 Law on Territorial Organization and the 2002 Law on Local Self-Government. By its Enactment of [29 January 1992](#) the [government](#) defined the state administration affairs that shall be run by the competent Ministries out of their seats, within the districts as regional centres of state authority. The Republic of Serbia is divided into 29 districts, including the city district of Belgrade.

Significant changes occurred recently at the state level towards decentralisation of authority to municipal governments. A Ministry of State Administration and Local Self-government was created and A Work Programme for Better Local Government<sup>47</sup> was established by the Government and the Standing Conference of Towns and Municipalities within the framework of the CoE-Stability Pact 'Zagreb Process'. There are 166 [municipalities](#) in Serbia (excluding Kosovo): 120 in [Central Serbia](#) and 46 in the Autonomous Province of [Vojvodina](#). Of those, 29 are urban municipalities, which are parts of cities of [Belgrade](#) (17), [Kragujevac](#) (5), [Niš](#) (5) and [Novi Sad](#) (2). Municipalities are the basic entities of local self-government: they have assemblies elected on local elections held every 4 years, elected presidents (predsednici opština), local budget and property (including [public service](#) companies). Districts (okruzi) are administrative units of the central government, and have no assemblies or independent budget. In addition, three cities have a City Assembly, with additional prerogatives. City of Belgrade has a unique status, as a capital city. The current situation may change in a near future due to new Constitution of Republic of Serbia, which regulates territorial organisation and local self-government in slightly different ways.

Article 126 of the Law on Local Self-Government ("Official Gazette of RS", No. 9/2002, 33/2002, 33/2004, 135/2004)

“Units of local self-government may establish a civil defender (ombudsman) who will protect individual and collective rights and interests of citizens, by exercising general control of the work of the administration and public services.

On instances of illegal or irregular work in violation of the rights and interests of citizens, the civil defender shall inform the administration and public services, send them recommendations and comments and inform at the same time the assembly of the units of local self-government and the public.

The administration of the local self-government and public services shall be obliged to provide data and information to the civil defender, upon request, of importance for the exercise of his authority. The civil defender shall be appointed by the assembly of the unit of local self-government from the ranks of prominent and politically uncommitted persons, under the conditions stipulated by the statute and other gener act:”

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<sup>47</sup> See: *Joint programmes between the European Commission and the Council of Europe:* <http://www.jp.coe.int/>

## **Child rights monitoring in latest UN Committee documents**

The Republic of Serbia has not submitted yet its first report to the UN Committee on the Rights of the Child. The latest report to this treaty body concerning children living on the territory of Serbia was the 1994 report of the Federal Republic of Yugoslavia<sup>48</sup> examined in 1996. The initial state report of Serbia for the period from 1994 to 2005 has been finalised and is expected to be submitted to the UN Committee very soon.

The following information was collected in the course of the study. In addition, The State of Children in Serbia 2006 Report – Poor and Excluded Children,<sup>49</sup> produced jointly by the Republic Statistical Office in Serbia, the Council for Child Rights of the Republic of Serbia and UNICEF Belgrade Office, contains some information on child rights monitoring. It is in itself a comprehensive monitoring exercise based on information and statistics from the unpublished Research on Family Beliefs and Care Practices and Survey on Child Poverty, and includes the most recent indicators and data from the 2006 Multiple Indicator Cluster Survey (MICS).

### **Legislation and coordination**

The main coordinating body for CRC implementation is the Child Rights Council set up in 2002. However, the Council is not highly institutionalised and it only has an advisory role. A National Plan of Action for Children was adopted in February 2004. This document was not adopted by the Parliament but only by the Government, which limits its applicability. The Action Plan for the Harmonization of National Draft Laws with EU legislation for 2005 accelerated the adoption of laws and strategies of special interest for children and women: Family Law; Criminal and Juvenile Justice Codes; General Protocol on Protection of Children from Abuse and Neglect; International Code for Breast Milk Substitutes; Law on Health Care, New Law on Higher Education; Penal Reform Strategy; Social Policy Reform Strategy; and Policy and Strategy for Vocational Training. Recent changes in the Ministry of Education have apparently been an obstacle to reform processes. The capacities of the Republic Statistical Offices in Serbia have been increased to include better data provision on children, in collaboration with the Council for Children's Rights.

### **Monitoring bodies**

*The National Ombudsman on Human Rights:*

In September 2005, the Law on the Protector of Citizens was adopted by the National Assembly but the Ombudsman has not been appointed yet.

Article 6 states that the Ombudsman shall have four deputies, with special expertise in various areas, including children's rights. It does not specify, however, any division of labour and responsibilities between the deputies.

Article 25 is of particular importance to children's rights, since it states that "in case of violation of child's rights, the complaint referred to in paragraph 1 of this

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<sup>48</sup> CRC/C/8/Add.16, 17 November 1994.

<sup>49</sup> See on CRIN: <http://www.crin.org/resources/infoDetail.asp?ID=12517>

Article may be submitted by his/her parent, i.e. legal representative on behalf of the juvenile.”<sup>50</sup>

*The Provincial Ombudsman of Vojvodina and children's rights:*

The Ombudsman, who is elected by the Assembly of the Autonomous Province of Vojvodina, protects human rights and freedoms from violations committed by provincial and municipal bodies. The seat of the Ombudsman is in Novi Sad, with local offices in Subotica, and Pančevo. The Ombudsman has five Deputies, three of which deal respectively with the following areas: the rights of national minorities, the rights of children and gender equality. Deputies are elected at the proposal of the Ombudsman by the majority of the total number of the representatives in the Assembly. The election criteria guarantee their independence.

The reports<sup>51</sup> by the deputy ombudsman in charge of children's rights address elements of national relevance, such as the national legislation being insufficiently harmonized with the CRC and the “perception of the child” in the national culture (i.e. ambivalent perceptions in the family and invisibility of children in the media). They provide a general analysis of the situation of children in the family, education, social protection and health, with some examples from the region. But they do not address specifically the responsibility of the local government or administration. Her main activities so far have been the investigation of general issues, participation in the children's week at provincial level, visit of numerous homes, meeting with principals of most schools in the province, cooperation on sensitization to children's rights, participation in NGO and INGO projects (on refugees, on juvenile justice reform, etc.).

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<sup>50</sup> *Law on the Protector of Citizens, translated by OSCE mission in Serbia and Montenegro, Oct. 2005.*

<sup>51</sup> *This summary is based on the information integrated into the Annual Reports 2004 and 2005 of the Provincial Ombudsman of Vojvodina.*

**Article 16 of the Decision on the Provincial Ombudsman of the Assembly of the Province of Vojvodina, of 23 December 2002.** "The Official Gazette of AP Vojvodina", number 23/2002, 5/2004

Deputy Ombudsman responsible for the protection of the rights of children shall perform the following activities:

- monitor the implementation of international standards and laws on the rights of children,
- collect information regarding the implementation of laws and other regulations on the rights of children,
- monitor the practice and observe continually the realisation of the rights of children,
- monitor the process of adopting new regulations and amendments to the current regulations on the rights of children in all areas related to the exercise of these rights,
- give advice to competent authorities regarding the adoption, changes and amendments to the regulations relating to the protection of the rights of children as well as to the implementation of those regulations,
- produce the part of the annual report of the ombudsman on the exercise of the rights of children giving detailed account of cases where these rights have been violated,
- inform the relevant authorities and general public on the state of the rights of children,
- on his own initiative or at the request of individuals, issue reports and statements on the violation of the rights of children,
- receive and investigate complaints concerning the violation of the rights of children,
- cooperate with the relative social service institutions in peaceful settlement of disputes arising from the violation of the rights of children,
- mediate in peaceful settlement of disputes regarding the violation of the rights of children,
- initiate the commencement of criminal, disciplinary and other proceedings in cases of violation of the rights of children,
- organize and participate in organizing and preparing the consultations on the exercise and respect of the rights of children,
- organize and participate in organizing and preparing the campaigns for informing the public about the issues of importance and about the problems in realizing the rights of children,
- undertake activities directed towards raising awareness of the public regarding the problems in realisation of the rights of children and the ways in which the protection of these rights might be improved,
- initiate and promote the education regarding the respect of the rights of children,
- cooperate and exchange experiences with other ombudsmen and deputy ombudsmen at home and abroad with respect to the protection of the rights of children,
- perform other duties in accordance with the decision of the Ombudsman.

### **Local monitoring issues addressed in the 2004 and 2005 of the Provincial Ombudsman:**

The office became effective in 2004 and caught up with the case load accumulated in 2003. Subotica and Pancevo offices were established and the office's staff grew up to 19. Obtaining adequate premises and equipment was a challenge.

In early 2005, the Provincial Ombudsman conducted a survey in all municipalities in the province on the issue of civil defenders. The results of the survey indicated that only in 6 municipalities (out of 46) the statute envisaged the possibility of a civil defender. Decisions on civil defender were adopted in 6 municipalities, while elections were held only in Sombor, Zrenjanin and Backa Topola.

The Provincial Ombudsman concluded with these civil defenders a Protocol on cooperation in order to ensure a fuller and more efficient protection of human rights and freedoms, by transferring cases, avoiding conflict of competencies and harmonizing practice.

The Provincial Ombudsman also concluded a Protocol on Cooperation with the Director of the People's Office on 25 May 2006 in Novi Sad. Under the Protocol, the two sides agreed to cooperate concerning citizens' motions and conduct joint activities in promoting human rights.

The Provincial Ombudsman is receiving an important amount of complaints irrelevant to his mandate, in particular related to the judiciary or the republican administration. This shows that citizens are unaware of the division of competency between the national and the provincial authorities. The Ombudsman is therefore strongly in favour of the creation of a national Ombudsman, but he criticised the law presented to the parliament for not guaranteeing independence and impartiality.

Out of about 900 complaints received by the Ombudsman office in 2004-2005, 50 challenged centres for social care, having granted child custody or visiting rights against existing court decisions, especially in non-marital relationships. Few or no complaints appeared to have been submitted by children themselves. As a reaction to the nature of most complaints, the Ombudsman argued in favour of changes to the Law on Marriage and Family Relations, and intensified cooperation with social services.

**Extract of 2004 report of the Provincial Ombudsman of Vojvodina, p. 69**

Complaints to the work of administrative bodies show that a number of civil servants is not familiar with the jurisdiction of the Ombudsman, which leads to a “silent obstruction” of the implementation of the Ombudsman’s requests by ignoring them. The reform of the state administration is necessary in order to secure quicker and more efficient resolution of citizens’ requests. The aim is to create an administration which is less an authority and more a service for citizens and thus contribute to the respect and promotion of human rights.

The Ombudsman’s tasks in the upcoming period, especially in the institutions which have not established cooperation with him, is to explain the importance of human rights and their protection, as well as the importance and the role of the administration at all levels in the protection of citizens’ rights in relation to the state.

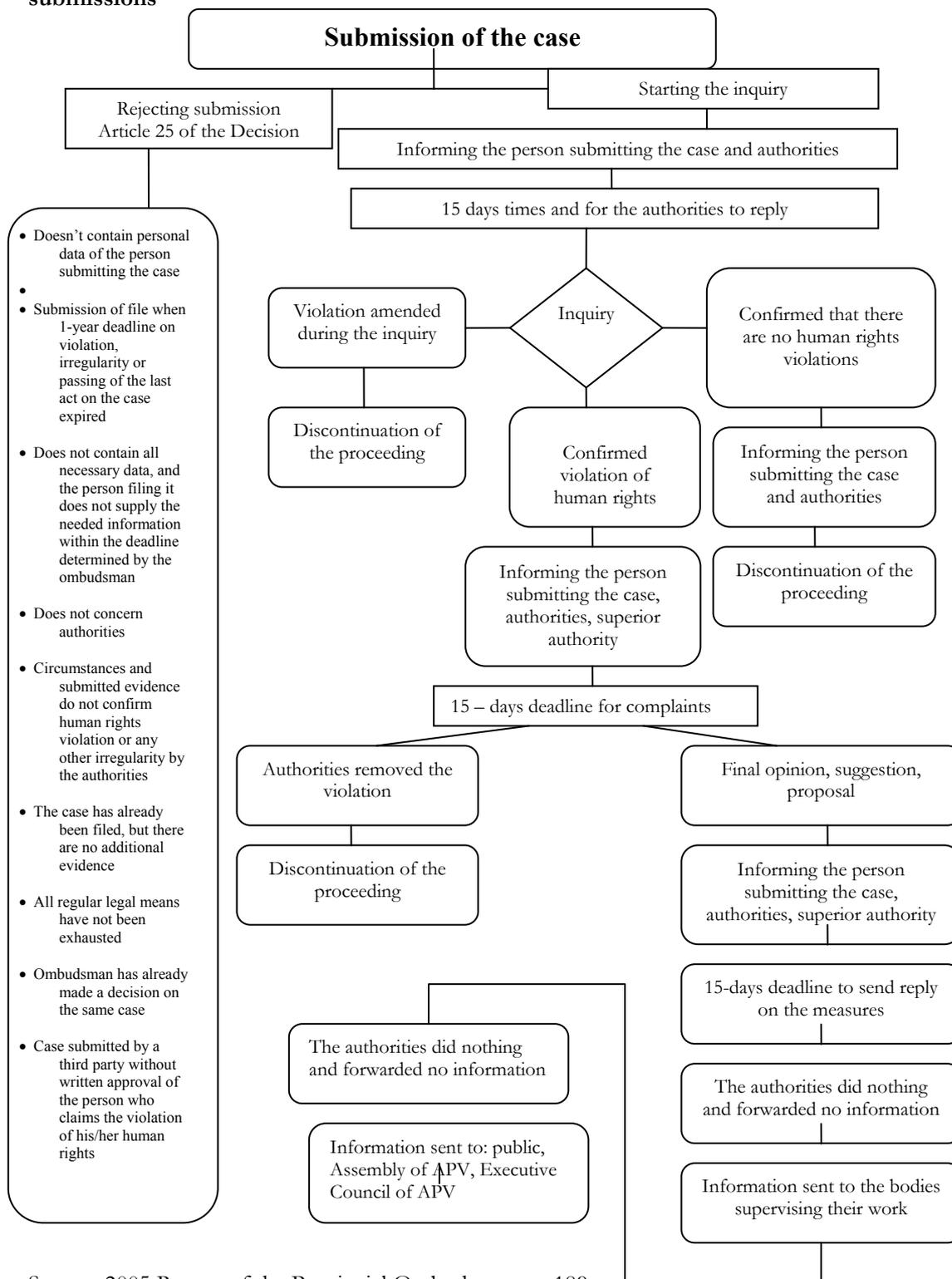
One of the ways of efficient information of the local administration is a direct education of employees in administrative bodies and other institutions founded by the provincial and municipal assemblies.

The providers of services to citizens will obtain more information about human rights of their clients through regular field work, that is, tours to the municipalities and direct receipt of complaints through talks both with citizens and representatives of the local self-government and administration.

The raising of awareness of the importance of human rights and the role of the ombudsman will contribute to the formation of local ombudsman’s offices and their linking into the network of ombudsmen in the territory of AP Vojvodina.

In 2004-2005, the Ombudsman focused a lot on prisons in the province. There are no correctional centres for minors on the territory of the province.

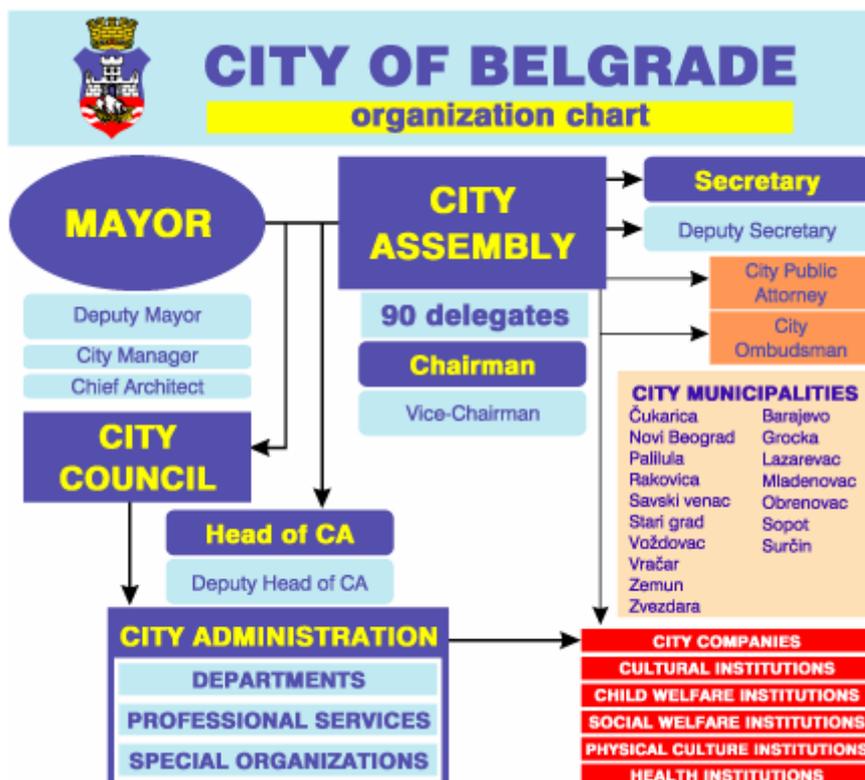
**Scheme of the procedures of the Provincial ombudsman on citizens' submissions**



Source: 2005 Report of the Provincial Ombudsman, p. 189

### The Belgrade City Ombudsman:

The City Ombudsman was appointed very recently.<sup>52</sup> Its mandate is territorial and it reports to the City Assembly. It has expressed a special interest in vulnerable groups, such as children and the elderly in particular.



### Towards a Children's Ombudsman in Serbia:

For several years, the Children's Cultural Centre of Belgrade has initiated activities that focus on promotion, realization and protection of children's rights. It developed advocacy for the creation of a Children's Ombudsman, notably through the organisation of a national round-table in cooperation with the Swedish Ombudsman for Children (June 2004), a consultation process with children and young people (Feb-April 2005) and an international conference (May 2005).<sup>53</sup> A Taskforce was formed to work on the preparation of a proposal of normative act on the institution of Children's Ombudsman in Serbia. The Draft Law on the Children's Ombudsman is now ready and awaiting adoption. Depending on political developments, the Law could be adopted in 2007.

<sup>52</sup> <http://www.beograd.org.yu/cms/view.php?id=1249186> Information in English is not available yet. Check <http://www.beograd.org.yu/> for up-dates.

<sup>53</sup> See: <http://www.dkcb.org.yu/eng/rightschild/conference.html>

#### **Local Plans of Action For Children (LPAs):<sup>54</sup>**

Local Plans of Action for Children are grounded in the National Action Plan for Children. In 2005, three municipalities in Serbia (Kragujevac, Sjenica and Pirot) adopted Local Plans of Action for Children. They allocated funds in their 2006 municipal budgets for the implementation of their plans, thus showing general understanding and commitment for the protection and promotion of children's rights, particularly on identifying and solving the problems of poor and excluded groups of children. In 2006, the Council for Child Rights signed contracts with 12 additional municipalities. In this context, partnerships with the Council for Child Rights of the Republic of Serbia, the Standing Conference of Towns and Municipalities (association of municipalities) and UNICEF were strengthened.

At the same time, there are also other parallel processes which might be relevant for monitoring child rights on a local level. Namely, the Social Welfare Development Strategy plans to encourage founding of local Councils for Social issues.

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<sup>54</sup> See for instance: *Mayors Protect Children's Rights, joint press release by UNICEF and the Council of Child Rights of the Government of the Republic of Serbia, 9 June 2006.*

## Sweden

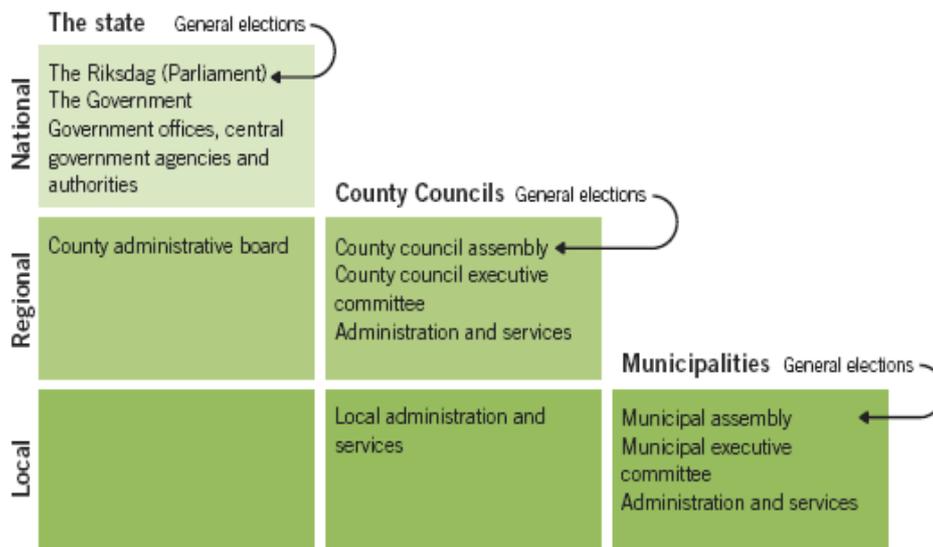
Population: about 9 million

Under 18 population: about 2 million

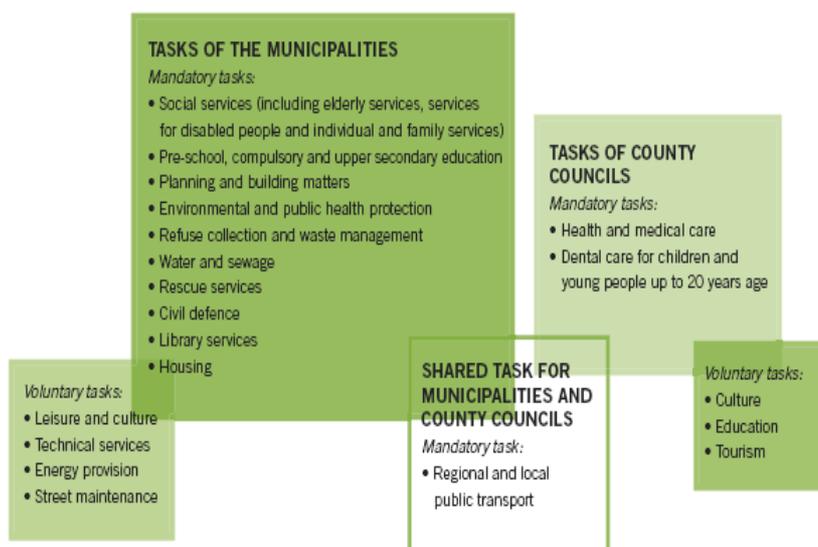
### Local government organisation

The Swedish public administration is heavily decentralized. There is a long tradition of local self-government in the country, enshrined in the Constitution since 1974 and regulated by the Local Government Act of 1992. The legal framework for local government activities is established by the national Parliament the Riksdag (laws) and the central government (regulations) and implemented by 20 county councils and 290 municipalities. There is no power hierarchy between county councils and municipalities, but complementary mandates and joint programmes, for example in regional development. The central government is represented at local level by county administrative boards to ensure that national policies are well implemented and articulated at local level. National agencies monitor and support local governments in their sectors. They can initiate judicial review, impose financial penalties and notify the government in case of problem. Local authority audits and control mechanisms are available to citizens.

Local government tasks are undertaken either by the local administration services or by locally mandated companies (housing, property management, and energy) or voluntary organisations and foundations (social services, etc.). Activities are financed through a mix of local government revenues (tax, fees for some services, interest incomes, and extraordinary incomes) and central government grants based, notably on the local government financial equalisation policy.<sup>55</sup>



<sup>55</sup> *Local government in Sweden*, Swedish Ministry of Finance, 2005



Source: Local government in Sweden, Swedish Ministry of Finance, 2005, p 4; p 11

Although no one challenges the unitary nature of the state, there are political and economic disparities between the south, which looks to Europe, and the more traditional north, although the social system has palliated them so far. According to some Council of Europe reports on decentralisation, “given the powers granted to municipalities, traditional supervision of such key sectors of local administration as education and health has been undermined. The regulation of the system is now based more on sectoral corporatist regulation, which probably strengthens the participatory techniques of users or customers”.<sup>56</sup>

## Child rights monitoring in latest UN Committee documents

### Legislation

Sweden initially believed that no changes in legislation were required to comply with the CRC. Gradually, however, there was growing recognition of the need to amend legislation in different areas in order to better protect rights and principles of children, and a considerable amount of new legislation has been adopted. However, no consideration has been given to the adoption of a comprehensive law on children or a bill of rights for children.

The cross-party parliamentary Committee on the Rights of the Child had been instructed to ascertain to what extent Swedish legislation and practice accorded with the intentions and provisions of the CRC. The report has not only been of considerable value in interpreting Sweden’s commitments under the CRC; it has also had a significant part to play in current legislative work.

<sup>56</sup> Council of Europe CM/MONITOR(2001)3 REVISED 2, 20 APRIL 2001, see: <http://www.loreg.coe.int>

## **Monitoring body**

*The Ombudsman for Children:*

Third periodic report, CRC/C/125/Add.1, 12/July/2004

The first model of a Children's Ombudsman was developed by a NGO –Rädda Barnen (Save the Children Sweden) – and promoted in the International Year of the Child (1979). The Office of the Children's Ombudsman was established by act of parliament (1993:335). Legislation has further clarified the role of the Office as inter alia a representative of the interests and guardian of the rights of children and young people on the basis of Sweden's commitments under the CRC. Another important change was the establishment of the Office's proactive role in connection with the national strategy for the implementation of the CRC in Sweden as a permanent, statutory responsibility.

In the spring of 2002, the Riksdag passed into law a government bill entitled A Stronger Children's Ombudsman (En förstärkt Barnombudsman). The bill, which forms part of a national strategy approved by the Riksdag for implementing the CRC, contained proposals for strengthening the Office of the Children's Ombudsman and further defining its functions. Although the Ombudsman will remain responsible to the Government, the measures adopted will give the Office a greater measure of independence. The amendments took effect on 1 July 2002.

The Children's Ombudsman has also been vested with certain legal powers in relation to other authorities and municipal and county councils. It has the right to request information on progress made by these authorities in implementing measures aimed at protecting and promoting the rights of children and young people.

Under the new legislation, the Ombudsman is further required to collect facts and figures on children's and young people's circumstances in Sweden. It is important in this connection to emphasize that the Ombudsman does not produce statistical data itself, but compiles material produced by other bodies. The authority is able to make competent choices in respect of the statistical material produced and included in its statistical publication *Up to 18* (Upp till 18) by virtue of the broad view it commands of the world of children and young people.

The Office of the Children's Ombudsman enjoys a considerable degree of independence. Since its inception, it has been free to criticize Government measures and engage in opinion building on issues and in areas of its own choosing. It can cooperate unhindered with voluntary and other organisations, and has done so more or less continuously since it was established. Its independence has been further defined and enhanced by the new provisions of the government bill, A Stronger Children's Ombudsman.

The Ombudsman has held conferences and organized a large number of information and training activities in municipalities and counties throughout Sweden. A reference group, composed of local authority representatives, has also been set up. In 2001 the Ombudsman published a more comprehensive version of its first handbook for municipal and county councils issued in 1998. The

Office has also commissioned studies of specific examples of municipal operations with a view to establishing the most effective approaches to CRC-related work and the best ways of reaching out the children themselves. The collaboration has been appreciated by local authorities who have regarded it as highly useful.

It also used questionnaires as a way of monitoring compliance with the CRC. The authority has conducted questionnaire-based surveys in all the country's municipalities since 1995. The latest survey for both municipal and county councils was carried out in 2001.<sup>57</sup>

The Ombudsman considers that implementation of the CRC at municipal level is still in the establishment and mobilization phase. Although there are a number of municipal and county councils for whom the CRC has yet to become an established instrument, there are signs that the next stage in the process, implementation and action, is approaching. On the other hand, few municipalities have reached the follow up and evaluation stage. Here, much remains to be done both in terms of methods development and knowledge acquisition. A central concern is of course to reach the individual child/young person in his/her daily life.

As in the case of the municipal and county councils, it is difficult to accurately identify the factors which have influenced central authorities in their approach to the work of implementing the CRC. However, awareness of the CRC and its significance is now more widespread among adults as well as among children and young people. Many authorities whose decisions define and determine conditions for children while they are growing up have acknowledged the CRC's potential value both as a set of objective and as an operational tool.

The Children's Ombudsman actively seeks to raise awareness of the CRC. It writes polemical articles for publication in the press, issues press releases, holds press conferences and meetings and gives, or takes part in, interviews. Although the Ombudsman employs many different types of media, it is particularly concerned to reach media that address children and young people.

The Ombudsman has set up a 14-member child and youth council in with a view to establishing broader and deeper contact with children and young people throughout the country.<sup>58</sup> The authority has intensified its efforts to communicate with children and young people through visits to schools, etc. in an effort to obtain background material for its work.

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<sup>57</sup> *Since the date of the third periodic report to the UN Committee, two additional surveys have been carried out in 2003 and 2005, as explained in the "Independent Monitoring mechanisms" section.*

<sup>58</sup> *Since the date of the third periodic report to the UN Committee, the Children's Ombudsman has developed several councils: one youth council and several child councils.*

### **Monitoring: Data collection**

Third periodic report, CRC/C/125/Add.1, 12/July/2004

32. Statistics Sweden has produced statistics on children since it was instructed to do so by the Government in 1998. It receives special funding for this task, whose initial purpose was to make available basic statistics on children and their families, an aim which has for the most part now been achieved. The agency has published three reports: Children and their Families 1998, 1999 and 2000. The most recent report, Children and their Families 2000, contains data on family structures, parental separation, residence, incomes, pre-school childcare and parental occupations.

33. The Government has instructed Statistics Sweden to continue to compile child statistics. One of the objectives in this connection is to provide the most balanced, comprehensive account possible of conditions for children in Sweden. To do so, the agency may make use of data produced by other bodies. It may be required to compile material showing how the different periods of a child's life interrelate. Interesting areas for continued work include schools, child health, children and the legal system and children and the social services.

34. The Government considers that the work of compiling data on children and young people must continue.

### **Committee on the Rights of the Child Concluding Observations**

CRC/C/15/Add.248, 30/March/2005

#### **Independent monitoring**

6. The Committee welcomes the enactment of the 2002 Bill reinforcing the role of the Children's Ombudsman and notes with appreciation the many activities undertaken by the Children's Ombudsman for the implementation of children's rights. It is, however, the view of the Committee that further improvements can be accomplished.

7. The Committee recommends that:

(a) The State party consider providing the Children's Ombudsman with the mandate to investigate individual complaints;

(b) The annual report of the Children's Ombudsman be presented to the Parliament, together with information about measures the Government intends to take to implement the recommendations of the Children's Ombudsman.

#### **Data collection**

10. The Committee notes with concern that:

(a) No data are available on the total number of children with disabilities;

(b) No data are available on child victims of abuse aged 15 to 18 years;

(c) The total number of children victims of sexual exploitation is not precise.

11. The Committee recommends that the State party establish coordinated approach between all entities collecting data on children and introduce a comprehensive system of data collection incorporating all the areas covered by the Convention. In particular, the Committee recommends that data on children:

(a) With disabilities be collected and disaggregated by type of disability;

(b) Victims of abuse be separated from that of adults;

(c) Victims of sexual exploitation be more precise.

## Annex 2

# Partners and interviews

### Partners organisations

Save the Children - Gelbėkit Vaikus, Lithuania

Save the Children - Salvați Copiii, Romania

The Child Rights Centre, Serbia

The Child Rights Information Centre, Moldova

The Estonian Union for Child Welfare, Estonia

### List of interviews by country

#### Estonia

Organisation / Agency	Date	Name	Professional Title
Estonian Union for Child Welfare	22.01.2007	Malle Hallimäe	Child Rights Advocacy Programme Manager
Ministry of Social Affairs	22.01.2007	Signe Kaplan Anniki Tikerpuu	Social Welfare Department Officers
Office of the Chancellor of Justice	23.01.2007	Kadri Soova Andres Aru	Advisers of the Social Affairs, Education and Culture Department
Tallinn City Social Welfare and Health Care Department	23.01.2007	Reet Raak Merle Leopard	Head Officers

#### Lithuania

Organisation / Agency	Date	Name	Professional Title
Lazdynų District Administration and Child Protection Inspection	24.01.2007	Irena-Stase Kuzmickiene Juozas Kieras	Municipality Deputy Head Child Protection Inspector
Vilnius City Child Municipal Government Administration, Health and Social Protection Department, Children's Rights Protection Division	24.01.2007	Gintaras Žandaravičius Rasa Uždavinytė	Head of Division Chief Officer
Ministry of Social Security and Labour	25.01.2007	Steponas Kulbauskas Odeta Tarvydienė Agne Sakalauskaite	Head of Department of Youth and Family Affairs Chief officers of the State Child Rights Protection and Adoption Service

Kaunas City Child Protection Agency and Association of Child Protection Agencies	26.01.2007	Birute Daugeliene	Head of the Kaunas City Child Protection Agency and Chair of the National Association of Child Protection Agencies
National Children's Ombudsman Office	26.01.2007	Rimante Šalaševičiūtė	Ombudsman

### Moldova

Organisation / Agency	Date	Name	Professional Title
District Council for Child Rights Protection	11.01.2007	Vera Stahi	District Child Rights Inspector
		Emilia Bradıştian	District School Inspector
Day-care centre for children with special needs, Speranza	11.10.2007	Alexadra Grajdian	Director
Criuleni District Youth Council	11.01.2007	Olesea Godorog (Dubăsarii Vechi), Alexandru Zlotea (Cimişeni), Moşu Maria (Oniţcani), Anastasia Mihailovschi (Criuleni), Liliana Ursu (Criuleni), Ana Rotaru (Dubăsarii Vechi), Gheorghe Pisarenco (Cimişeni)	Youth Council members
		Olga Lisenco	Coordinator (Criuleni)
National Council for Child Rights Protection	11.01.2007	Domnica Ganu	Secretariat Manager
Ministry of Health and Social Protection, Directorate for Equal Opportunities and Family Policies	11.01.2007	Ecaterina Berejan	Main Specialist
		Lida Pascal	Directorate Manager
Centre for Human Rights of Moldova	12.01.2007	Raisa Apolschi	Advocate and Director
		Iurie Perevoznic	Advocate
		Ivan Cucu	Advocate
Terre des Hommes	12.01.2007	Antonina Comerzan	Child Trafficking Programme Manager
National NGO Centre for Child Abuse Prevention	12.01.2007	Daniela Samboteanu	Director
Chisinau Municipal Department for Child Rights Protection	12.01.2007	Clara Caţ,	Vice Director

### Romania

Organisation / Agency	Date	Name	Professional Title
DAGSPC (General Directorate of Social Assistance and Child Protection), Bucharest 2nd District	9.01.2007	Alina Popa Alexe	Acting Director
High Level Group for Romanian Children	9.01.2007	Irina Cruceru	Consultant
National Authority for Child Protection	09.01.2007	Elena Tudor	Executive Officer
National Authority for People with Disabilities	9.01.2007	Paulian Sima Monica Stanciu	Executive Officers
People's Advocate Office	10.10.2007	Elena Camelia Goleanu	Counsellor
UNICEF Romania	10.01.2007	Voica Pop	Child Rights Programme Officer
Bucharest School Inspectorate	10.01.2007	Elena Stefan Cristiana Mateiciuc	Scholar Inspector for formal and informal education activities Scholar Inspector for international cooperation and European integration programmes
DAGSPC Bucharest 1st District	10.01.2007	Cristina Gju	Legal Department Officer

### Serbia

Organisation / Agency	Date	Name	Professional Title
Ministry of Labour, Employment and Social Policy	18.12.2006	Ljubomir Pejakovic Ranka Vujovic	Assistant Minister Inspection Manager
Ombudsman Office of the Vojvodina Province	18.12.2006	Petar Teofilović Marija Kordić	Ombudsman Deputy Ombudsman for the Protection of Children's Rights
Social Work Centre of the Stari Grad District of Belgrade City	19.12.2006	Mirjana Djokovic Vlada Jovanic	Social Worker and Centre Director Social Worker
The Child Rights Centre	19.12.2006	Vesna Dejanovic	Interim Director
Save the Children UK	19.12.2006	Raša Sekulović	Programme Manager, Child Protection
OSCE	20.12.2006	Nataša Novaković	Legal Advisor on Prison Reform, and Human Rights Institutions
City of Belgrade Ombudsman Office	21.12.2006	Duškanka Gaćeša	City Ombudsman
The Child Rights Council	21.12.2006	Veronika Ispanovic Radojkovic	Council Member

## Sweden

Organisation / Agency	Date	Name	Professional Title
Örebro municipality	4.12.2006	Johnny Andersson  Solvey Solleman	Former Chair of the Municipal Board on Youth and Social Affairs  Municipal Administration Officer
Save the Children	5.12.2006	Sven Winberg  Kalle Elafsson  Eva Geidenmark	Senior Advisor, Secretary General's Office  Program officer of the Swedish Domestic Program  Senior Advisor, Knowledge Management and Development Program
The Office of the Children's Ombudsman	5.12.2006	Kenneth Ljung  Henrik Ingrids  Sten Schramm	Project Officer  Officer  Officer
Botkyrka Children's Ombudsman Office	6.12.2006	Ewa Hollen	Ombudsman

## **Annex 3**

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## Annex 4

# Questionnaire

### Version for interviewees acting at central level

#### 1. What type of governmental child rights monitoring system exists in the country?

Central monitoring based on direct data collection

Central monitoring based on local data provision (by local administration, social services, etc.)

Centrally guided/supported local monitoring (eg. based on common indicators used by local monitoring mechanisms)

Autonomous local monitoring (with or without exchange of information and division of jurisdiction with central monitoring mechanisms)

Polycentric local monitoring (with cross intervention by monitoring mechanisms at various levels)

Other?.....

Please describe how this system works.

#### 2. Please fill in boxes to explain how/by which entity child rights monitoring functions are being performed in the country:

	At national level	At regional /provincial level	At local /municipal level
Central human rights monitoring mechanism addressing children's issues			
Central child rights monitoring mechanism (separated or integrated into a general office)			
Other thematic human rights monitoring mechanism (ex. on discrimination, or gender)			
Child rights focal point or Commission within the government or one ministry/Agency			
Child rights focused inspection services by sector (health, education, justice, child protection, etc.)			
Regional / Provincial child rights monitoring mechanism			
Local child rights monitoring mechanism			
Child rights NGOs			
Children's groups			
Professional groups (ex. teachers' associations, health professionals, etc.)			
Other interest groups with a focus on children's rights (ex. parents' groups, consumer associations, etc.)			
Other ?.....			

### 3. How close to children’s local realities is the central monitoring body?

Please name the main body responsible for child rights monitoring at national level (if there are several, please name them and answer the following questions for each):

What does the law establishing the mandate say about monitoring at local level?

Is capacity to work at local level a criteria in the selection/appointment of the mandate holder?

How does the team/office ensure systematic relations with all the regions?

What is the type of information received from each territory of the country, and how is it communicated?

from local agencies/authorities ?

from local NGOs ?

from children ?

How is direct information received from children:

Living in isolated areas?

Living in institutions?

Living on the street?

In conflict with the law?

At work?

On which occasions has the central monitoring body intervened on legislative issues or political matters concerning regional issues in the implementation of children’s rights?

Which specific child rights situations has the central body monitored at local/regional level:

Directly (visits, data collection, interventions, etc.)?

Indirectly (requesting reports of local entities, supporting specific local data collection, disseminating guidelines, etc.)

Why these ones?

In the past year, has the central child rights monitoring body participated in local/regional:

Public conferences	Yes	No	Meetings with children	Yes	No
Training	Yes	No	Sessions with local governments	Yes	No
Local TV, press or radio programmes	Yes	No	Meetings with local media	Yes	No
Dissemination of leaflets / Manuals	Yes	No	Public presentation of annual report	Yes	No

**4. What are the existing non-judiciary complaint mechanisms in the country, specifically adapted to victims of child rights' violations?**

Do local remedies have to be exhausted for a complaint to be presented at national level?

How do monitoring bodies ensure the support and protection of children who submit complaints?

***Version for interviewees acting at local level***

**1. What type of governmental child rights monitoring system exists in the country?**

Central monitoring based on direct data collection

Central monitoring based on local data provision (by local administration, social services, etc.)

Centrally guided/supported local monitoring (eg. based on common indicators used by local monitoring mechanisms)

Autonomous local monitoring (with or without exchange of information and division of jurisdiction with central monitoring mechanisms)

Polycentric local monitoring (with cross intervention by monitoring mechanisms at various levels)

Other?.....

Please describe how this system works.

**2. Please fill in boxes to explain how/by which entity child rights monitoring functions are being performed in the country**

	At national level	At regional /provincial level	At local /municipal level
Central human rights monitoring mechanism addressing children's issues			
Central child rights monitoring mechanism (separated or integrated into a general office)			
Other thematic human rights monitoring mechanism (ex. on discrimination, or gender)			
Child rights focal point or Commission within the government or one ministry/Agency			
Child rights focused inspection services by sector (health, education, justice, child protection, etc.)			
Regional / Provincial child rights monitoring mechanism			
Local child rights monitoring mechanism			
Child rights NGOs			
Children's groups			
Professional groups (ex. teachers' associations, health professionals, etc.)			
Other interest groups with a focus on children's rights (ex. parents' groups, consumer associations, etc.)			
Other ?.....			

**3. How do local entities monitor children's rights?**

Please name the main permanent governmental body responsible for child rights monitoring at local level (if several mechanisms exist, please, name them and answer the following questions for each type):

What is the legal or administrative basis for the work of this local monitoring body?

What is the appointment procedure, mandate and composition of this body/office?

Does it exist in all the other regions/municipalities?

How do children know that it exists? How do adults know that it exists?

In your region or a region/municipality that you would like to cite as an example: Please state which one:

What legal or policy changes/budgets have been obtained as result of this body's intervention at local level?

What legal or policy changes/budgets have been obtained as result of this body's intervention at national level?

To your knowledge, what areas or articles of the UN Convention on the Rights of the Child have been most addressed?

What type of consultation exists between this body and:

Local/regional stakeholders?

Civil society?

Children?

How does this body collaborate with:

National monitoring mechanisms?

Other regional/local monitoring mechanisms?

Is the annual report of this body presented to other regions? At national level? If so, how?

Are there indicators common to several/all regions used to report on the situation in the region?

What are the similarities and differences between how this body works and how similar entities work in other regions?

#### **4. What are the existing non-judiciary complaint mechanisms in the country, specifically adapted to victims of child rights' violations?**

Do local remedies have to be exhausted for a complaint to be presented at national/central level?

What would be your advice to a child willing to complain safely and efficiently about violations committed:

by the government/State ? (e.g. law, policy, etc)

by governmental services ? (e.g. school system, public hospital, etc.)

by a state agent ? (e.g. police, teacher, etc.)

by a private person ? (e.g. neighbour, other child)

at home?

in a closed institution/prison?

How can equal protection be ensured:

Whether the perpetrator is a central or a local government agent or entity?

Whether the case is dealt at local or at national level ?

How do monitoring bodies ensure the support and protection of children who submit complaints?