



SERBIA

Protection of the child deprived of, or at risk of being deprived of, the family of origin

COUNTRY SITUATION

June 2009

SUMMARY

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A. ISS/IRC ANALYSIS OF THE SITUATION

General situation

Serbia is located in South-eastern Europe, between Macedonia and Hungary. The current borders were established after the Second World War, when Serbia became a federal unit within the Socialist Federal Republic of Yugoslavia. Serbia became an independent state in 2006, after Montenegro left the Serbia and Montenegro union. A new Serbian constitution was approved in October 2006 and entered into force in November 2006. On 17 February 2008, through negotiations mediated by the US, the EU and Russia, the province of Kosovo declared itself independent of Serbia although this is not recognised globally.

The Serbian population is estimated to be over 10 million including Kosovo, of which over 2.2 million are under the age of 18 years, and 610 thousand are under the age of 5. According to UNICEF statistics in 2006, the infant mortality rate was 7‰, over 600 thousand children affected by poverty and with 6 thousand children living with a disability.

In 2007 UNICEF published a study about the Roma population showing that South East Europe is believed to be the greatest home to this people in the world with about 3.7 million

in number of which about 1.7 million are children). In Serbia the total Roma population is estimated to be 450-500 thousand of which there are approximately 37 000 children, most of whom live in the six hundred Roma settlements half of which are considered to be unsanitary slums.

Source: UNICEF, Info by country www.unicef.org/infobycountry/serbia_background.html; UNICEF *State of the world's children 2009* (www.unicef.org/sowc09/docs/SOWC09_Table_6.pdf); UNICEF, Breaking the cycle of exclusion, Roma children in South East Europe, February 2007 (www.unicef.org/ceecis/070305-Subregional_Study_Roma_Children.pdf), CIA *World Fact* www.cia.gov/library/publications/the-world-factbook/geos/rb.html; The State of Children in Serbia, Poor and excluded children, 2006 (www.unicef.org/ceecis/SOSC-2006_en.pdf).

Children deprived of their family and current responses

According to the Republic Statistical Office in 2005 there were 6 214 children living without parental care for the following reasons: abandonment (45%), deprivation of parental rights (27.7%); death of the parents (20.3%); inadequate parental care (5.94%) and unknown parents (1.09%). In 2005, there were 2 127 foster families with 3 145 of children living in foster care. Over the years, there has been an increase in the number of children in foster care receiving stable financing from the central level of the Government as well as foster care allowances augmenting. The Government has also made it a priority to develop community based services (eg: day care centers, home care, shelters).

In accordance with statistics provided by EveryChild there was an estimated 6 thousand children living inside institutional care in Serbia in 2002. Children are in institutions because family conditions can obstruct the child's development or they are without parental care. The Government have been successful in reducing the number of children living in institutions as confirmed by TransMONEE statistics which show that the rate of children living in institutions in the year 2006 was 4.9 in 1 000 which is an improvement from the years 2003-2005 where the rate was of 5.1.

Source: EveryChild Family matters: A study of institutional childcare in Central and Eastern Europe and the former Soviet Union, 2005. www.everychild.org.uk/media/documents/Family_Matters_full.doc; UNICEF Serbia Website, www.unicef.org/serbia/media_8894.html; CRC Committee State Report, 31 August 2007, www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.SRB.1.pdf; UNICEF, Child Care System Reform In South East Europe Taking Stock and Accelerating Action Consultation Report 2007, www.ceecis.org/child_protection/consultation_report.pdf; TransMONEE 2008 DataBase http://www.unicef-irc.org/databases/transmonee/2008/Country_profiles.xls, UNCRC Concluding Observations 2008 in www2.ohchr.org/english/bodies/crc/docs/co/CRC.C.SRB.CO.1.pdf

ISS/IRC Comments:

ISS/IRC believes that Serbia has started to demonstrate the will to change the current status of children living in institutions through the initiative “*Measures for removing irregularities in accommodation of children and youth in social protection institutions*” launched in 2006. Through this action minimum conditions for institutional care were placed on the political agenda. Progress included legal reforms, implementation of services for young adults leaving institutions as well as the placement of children in foster care instead of institutions. Despite these developments, Serbia still needs to strengthen its de-institutionalization efforts as echoed by the UNCRC Committee in its Concluding Observations in 2008 where they recommended to the Government that it strengthen social assistance to support families to enable them to take care of their children at home avoiding the placement of children inside

residential care due to economic reasons. The ISS/IRC also recommends that Serbia create programs to support families in order to avoid child abandonment as well as particular policies to address the living conditions of the Roma.

Adoption

<p>Central Adoption Authorities</p>	<p>Ministry of Labor, Employment and Social Policy Family and Children Security Department. Nemanjina 22-26 11000 Belgrade Phone: +381 11 3631448 Website: www.minrzs.sr.gov.yu</p> <p>The Guardian Administration operates within the above Ministry and is an administrative body independent of the judiciary responsible for handling both domestic and intercountry adoption cases. The Guardianship Administration has regional offices across Serbia and makes the final adoption decision.</p>
<p>Principle of subsidiarity</p>	<p>A foreign national can adopt a child under the following conditions:</p> <ul style="list-style-type: none"> ▪ when an adopter cannot be found amongst domestic nationals after being placed on the united personal adoption registry for at least one year AND ▪ when the Minister for family welfare consents with the adoption. <p>An exception to this one year period exists if the adoption is in the best interest of the child. Notably, Serbian emigrants are not considered foreigners, while couples of mixed nationalities (i.e., with one non-Serbian partner) are considered a foreign couple (*).</p> <p><i>Source:</i> Art. 103, (1), (2), (3), Family Act. * Information provided by ISS former correspondent in Serbia</p>
<p>Types of adoption</p>	<p>Full adoption exists in Serbia where parental rights of the biological parents cease to exist with the exception of where the adoptee is adopted by the spouse or partner of the child's parent. The duties and rights of the relatives of the biological family no longer exist. There is no information about simple adoption in the country.</p> <p><i>Source:</i> Arts. 104 and 105, Family Act.</p>
<p>Adoptability</p>	<p>A child is <u>adoptable domestically</u> if:</p> <ul style="list-style-type: none"> ▪ the child has no living parents; unknown parents or parents with unknown residence; parents that were completely deprived of parental rights or deprived of managing rights and child that has parents who gave their consent for adoption and ▪ It is in the child's best interest and ▪ The child is under 18 years of age but older than three months <p><u>Intercountry adoption</u> is an option available to the child if:</p> <ul style="list-style-type: none"> ▪ In addition to the above criteria, an adopter cannot be found amongst domestic nationals after being placed on the united personal adoption registry for at least one year <p><i>Source:</i> Arts. 90, 91, 103, (1), (2), (3), Family Act.</p>

<p style="text-align: center;">Consent</p>	<p><u>Consent of the adoptee:</u> A child who is at least 10 and is capable to express his opinion must give his consent to be adopted. <i>Source:</i> Art. 98, Family Act.</p> <p><u>Consent of guardian</u> For children living under guardianship the consent is given by the guardian. <i>Source:</i> Art. 97, Family Act.</p> <p><u>Consent of biological parents</u> The child can be adopted only with the consent of his/her parents. As part of this consent the biological parent may choose who the adoptive parent is in the case of a direct adoption without the intervention of a third party. The consent cannot be given by the birth parents before the child is two months of age. However prospective adoptive parents must wait until the child is 3 months before the child can be adopted. <i>Source:</i> Art. 95, Family Act.</p> <p><u>Revocation of consent:</u> The consent can be revoked by the biological parents within 30 days after giving consent and this right can be used only once. <i>Source:</i> Art. 95, Family Act.</p> <p><u>Consent of the parents not required:</u> The consent is not necessary when the parents are</p> <ul style="list-style-type: none"> ▪ completely deprived of parental rights or ▪ deprived of managing rights or ▪ deprived of the rights to decide on issues that significantly influence the life of the child. <p><i>Sources:</i> Art. 96, Family Act.</p>
<p>Adoption by the guardian</p>	<p>The law recommends that the guardian does not adopt his/her ward. <i>Source:</i> Art. 94, Family Act.</p>
<p>Adoption by blood Kinship</p>	<p>Ancestor and descendant relatives may not be adopted which includes lateral kinship relations such as a brother and a sister, as well as a half brother and a half sister. <i>Source:</i> Art. 92, Family Act.</p>
<p>Application made by the biological parents or guardian for their child to be adopted</p>	<p>The biological parent/guardian will send a written application for the child to be adopted to the closest guardian administration to the child's residence. The application should include the child's birth certificate and a proof that the child is suitable to be adopted. After the receipt of the application, the guardian administration must ensure that the biological parent/guardian of the child has undertaken compulsory psycho-social counselling. After counselling the guardian administration will invite the parents/guardian and the child who is aged at least 10 years to their office, to give their consent to the adoption in written form. After the written consent is obtained a temporary guardian is appointed and will represent the child in the adoption proceeding.</p> <p>The guardian administration can reject the written application if the child is considered not suitable to adopt. If the applicants do not accept this decision, an appeal can be submitted to the Ministry authorized for family welfare no later than 15 days since the receipt of the decision. <i>Source:</i> Arts. 313, 315, (3), Family Act.</p>

<p>Eligibility requirements for Prospective Adoptive Parents</p>	<p><u>For domestic and intercountry adoptions:</u></p> <ul style="list-style-type: none"> ▪ The age difference between the adopters and the adoptee may not be less than 18 years and not more than 45 years. This age requirement can be modified through the authorization of the Minister for Family Welfare where it is in the best interest of the child. ▪ The PAP's must be persons with established personal characteristics. The PAP's are not eligible to adopt if they are deprived of parental rights or deprived of managing rights; if the person suffers from illness that can negatively influence the adoptee and if the person has been sentenced for a criminal act against the marriage, the family, life or body. ▪ Married PAP's must adopt together. The Minister for family welfare can authorize the adoption by a single person based on a justified reason. <p>The guardian administration can reject the PAPS application if they are considered not suitable to adopt. The PAP can appeal this decision to the Ministry authorized for family welfare no later than 15 days since the receipt of the decision.</p> <p><i>Source: Arts. 99-101, and 315 (3), Family Act.</i></p>
<p>Preparation of the adopters</p>	<p><u>Domestic and intercountry adoption</u></p> <p>Only PAPS who have been undergone the adoption preparation course may adopt a child, except in the case when the spouse or illegitimate partner of the child is adopting. The program for preparation for adoption is prescribed by the Minister for family welfare.</p> <p><i>Source: Art. 102, Family Act.</i></p>
<p>File of the PAP's</p>	<p><u>Domestic Adoption</u></p> <ol style="list-style-type: none"> 1. Written application submitted to the guardianship administration closest to the residence of the PAP 2. Birth certificate of each applicant 3. Proof of their general suitability to adopt <p><i>Source: 312, Family Act.</i></p> <p><u>Intercountry Adoption</u></p> <p>The foreign PAP must submit their application to the Ministry authorised for Family Welfare, which includes the following documents:</p> <ol style="list-style-type: none"> 1. Short biography 2. Assessment of suitability from the authorized institution where the PAP resides. (Applicants should provide a proof that such an institution is authorized for the said assessment) 3. Proof that applicants are eligible for adoption according to the applicable laws in domicile country 4. Birth certificates 5. Marriage certificate 6. Proof that there is no criminal file and that there is no ongoing criminal investigation 7. Proof that applicant has not been convicted for criminal charges 8. Physician's assessment on general health condition 9. Proof of employment, income, property and housing conditions 10. Proof of citizenship 11. Photos <p>In addition to the documents mentioned above, foreign citizens are obliged to provide a 'permission to adopt a child' issued by the Competent Authority of the country they come from to the Guardianship Administration</p>

	<p>The guardian administration can reject the application by the PAPS if they are considered not suitable to adopt. The PAP can appeal this decision to the Ministry authorized for family welfare no later than 15 days since the receipt of the decision.</p> <p>Sources: Arts. 99, 100, 312(2) and 315(3) Family Act and Embassy of the Republic of Serbia in U.S. www.serbiaembusa.org/consularservicestext.php?subaction=showfull&id=1196863692&archive=&start_from=&ucat=17&</p>
Registry of adoption	<p>After the guardian administration evaluates the PAP's as suitable to adopt or decides that adoption is a suitable option for the child, this body registers their suitability in a unique adoption register for future adopters and adoptable children. This adoption register is kept within the Ministry for family welfare. It is compulsory for both domestic and foreign PAPS to be on this register.</p> <p>Source: Art. 316, Family Act.</p>
Matching	<p><u>Domestic Adoption</u></p> <p>The guardian administration selects the future adopters from the data available in the unique adoption register. It will evaluate the suitability of the adopters and the child in the unique adoption register based on the opinions of the psychologist, pedagogues, social worker, lawyer and a medical doctor. The guardian administration can also rely upon the opinion of family experts, counselling agencies or other institutions specialized for mediation in family relations, as well as medical institutions.</p> <ul style="list-style-type: none"> ▪ There is no selection of the future adopters when the child is going to be adopted by the spouse or the illegitimate partner of the child's parents. ▪ There is also no selection of future adopters when the adopter and the parent of the child or the guardian have an agreement. This agreement is evaluated by the guardian administration and analyzed to see if it is made in the best interest of the child. <p><u>Intercountry Adoption</u></p> <p>After a year from the registration of the foreign adopters in the unique register of adoption the future adopters will be able to adopt a child from Serbia. This period of one year can be reduced by the Minister authorized for family welfare if the adoption is in the best interest of the child. The guardian administration undertakes the matching process based on the same criteria for domestic adoptions.</p> <p>Source: Arts. 103, 312, 317 and 320, Family Act</p>
Period of Adaptation	<p><u>Domestic Adoption</u></p> <p>After the matching, the guardian authority places the child with the future adopters for a period of adaptation which cannot last more than six months. The period of adaptation is before the adoption decision and is compulsory.</p> <p>Source: Art. 318, Family Act.</p> <p><u>Intercountry Adoption</u></p> <p>For ICA, there is no period of adaptation. The child can leave the country immediately after the adoption decision.</p> <p>Source: Art. 318, Family Act.</p>

<p>Adoption Decision</p>	<p>After the matching and adaptation period (if applicable), the guardian administration makes the final adoption decision and this is confidential. The guardian administration is an administrative body independent of the judicial power.</p> <p><i>Source: Arts. 88, 323, Family Act.</i></p>
<p>After the decision by the guardian administration</p>	<p><u>Domestic and intercountry adoption</u> After the adoption decision, the officer of the guardian administration will talk in confidence with the adopters about its legal consequences. The officer, can provide the child with details regarding the adoption according to his age and maturity.</p> <p>The officer will recommend to the future adopters that they tell the child the truth about his origin as soon as possible. The officer is also obliged to recommend the use of psychosocial counselling provided by the guardian authority or a family advising agency or another institution specialized for mediation in family relations.</p> <p><i>Source: Arts. 321,322, Family Act.</i></p>
<p>Cessation of Adoption</p>	<p>There can be a cessation of the adoption by annulling it or by contesting it. The request for the cessation of the adoption can be submitted by the adopters, the adoptee, parents or guardian of the adoptee, as well as the public attorney. The adoption is annulled if the conditions for its validity, prescribed by the law have not been respected. Reasons for contesting an adoption include when the adoption has been given by force or misrepresentation. After the cessation of the adoption, the guardianship authority makes a decision about the custody of the child.</p> <p><i>Source: Arts. 106, 107,108,109, 275, Family Act.</i></p>
<p>Registration and access to information</p>	<p>The guardian administration is in charge of the new birth registration of the adoptee. The adoption decision will cancel the previous birth registration. Before allowing the child to access the birth register, the registrar must encourage the child to go to psychosocial advising agency, family advising agency or another institution specialized for mediation in family relations. A child who is 15 years old or has the capacity to reason may access the birth registration book as well as at the other documents concerning his origin.</p> <p><i>Source: Arts. 59, 325, 326, Family Act.</i></p>
<p>Statistics on intercountry adoption</p>	<p><u>Domestic Adoption</u> The statistics provided by Serbia in 2007 to the UNCRC revealed that in 1995 there were 357 children adopted nationally and in 2001, there were 170 children.</p> <p><u>Intercountry Adoption</u> In the year 2007 the total of intercountry adoption was 7 , 31 in 2006 and 47 in 2005. The major receiving countries are France, Germany, Iceland, Italy, Sweden and United Kingdom.</p> <p><i>Source: Australian Intercountry Adoption Network (AICAN), www.aican.org/statistics.php.</i></p>
<p>Accredited bodies</p>	<p>There is no information about the requirements for accredited bodies to handle ICA cases in Serbia.</p>

ISS/IRC Comments:

The ISS/IRC welcomes the progress made by Serbia with the implementation of a unique adoption register of adoption. The centralization of information in one unique system, with data of suitable PAP's and adoptable children facilitates the matching phase and can be an important tool to reduce the number of children awaiting adoption. In addition the time limit of 3 months before a child can be adopted can be considered a measure of protection by preventing in this manner the separation of the mother and child during early childhood. Serbia has also made progress in the compulsory counselling offered to biological parents and guardians when giving their consent which is a prudent way of them about the future consequences of an adoption.

In terms of areas for improvement, adoption is not a common measure of protection developed in the country. In 2001, there were 170 adoptions and in 2006 there were only 31 international adoptions whilst there are 6 000 children living in institutions. The ISS/IRC recommends that the country implements a policy in trying to identify the children where adoption would be a suitable option as well as promote adoption as a permanent protective measure. Another area that needs improvement in Serbia is data collection of disaggregated statistics for children deprived of parental care or in risk of being (eg: number of domestic adoptions, their age, gender as well as whether they have special needs etc). Other areas of concern include the practice of private adoptions which can be lead to unethical practices as well as the fact that there are no rules providing guidance for foreign accredited bodies.

Sources: [Coalition of NGOs in Serbia under the coordination of the Child Rights Center](#), December 2007, http://www.crin.org/docs/Serbia_Coalition_NGO_Report.doc; Australian Intercountry Adoption Network, Intercountry Adoption Statistics, www.aican.org/statistics.php.

B. LEGISLATION: ISS/IRC BASIC SUMMARY

INTERNATIONAL AND REGIONAL INSTRUMENTS	Signature (s) Ratification (r) Accession (a)	Web sites
The Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption (1993)	Not ratified	http://www.hcch.net/index_en.php?act=conventions.status&cid=69
UN Convention on the Rights of the Child (1989)	12 March 2001 (succession)	http://www2.ohchr.org/english/bodies/ratification/11.htm
Optional Protocol to the CRC, on the Sale of Children, Child Prostitution and Child Pornography (2000)	10 October 2002(r) 08 October 2001 (s)	http://www2.ohchr.org/english/bodies/ratification/11_c.htm
The Hague Convention on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children (1996)	Not ratified	http://www.hcch.net/index_en.php?act=conventions.status&cid=70

COUNTRY LEGISLATION	Available at ISS/IRC Hard copy (h) Electronic version (e)	Web sites
Constitution of the Republic of Serbia Entry into force 1990	English (e) (h)	http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan019071.pdf
Family Act Entry into force February 2005	English (h) (e)	
Law on Marriage and Family Relations (ZBPO) Entry into force 1980	Not available at ISS/IRC	
Law on Adoption Entry into force May 1976	Serbian-Croatian (h) French (h)	
Modifications on the law on adoption March 1965	French (h)	

C. PROTAGONISTS

Authorities responsible for processing adoption

Ministry of Labor, Employment and Social Policy
Family and Children Security Department (Sektor za zastitu porodice i dece)
Nemanjina 22-26
11000 Belgrade Phone: 381 11 3631448
www.minrzs.sr.gov.yu

D. APPENDICES

▶ Documents of the Committee on the Rights of the Child

Initial Report

- ▶ Concluding Observations/Comments, CRC/C/SRB/CO/1, 20 June 2008, [E](#) | [F](#) | [S](#)
- ▶ List of Issues, CRC/C/SRB/Q/1, 14 February 2008, [E](#) | [F](#) | [S](#)

2. State Report to the Committee on the Rights of the Child

Initial Report

- ▶ State Report, CRC/C/OPSC/SRB/1, Period 2003-2007, March 2008, [E](#) | [F](#) | [S](#)
- ▶ State Party Report, CRC/C/SRB/1, 31 August 2007, [E](#) | [F](#) | [S](#)
- ▶ Written Replies, CRC/C/SRB/Q/1/Add.1, 20 June 2008, [E](#) | [S](#)

3. Alternative Reports

- ▶ [Coalition of NGOs in Serbia under the coordination of the Child Rights Center](http://www.crin.org/docs/Serbia_Coalition_NGO_Report.doc), December 2007, http://www.crin.org/docs/Serbia_Coalition_NGO_Report.doc
- ▶ [The Children's Coalition for Reporting on Child Rights in Serbia](http://www.crin.org/docs/Serbia_Children_NGO_Report.doc), December 2007, http://www.crin.org/docs/Serbia_Children_NGO_Report.doc
- ▶ [Child Helpline International](http://www.crin.org/docs/Serbia_CHI_NGO_Report.doc) http://www.crin.org/docs/Serbia_CHI_NGO_Report.doc, January 2008.
- ▶ [Global Initiative to End All Corporal Punishment of Children](http://www.crin.org/docs/Serbia_GI_NGO_Report.doc), February 2008, http://www.crin.org/docs/Serbia_GI_NGO_Report.doc

4. Other sources of information

▶ UNICEF

<http://www.unicef.org/serbia/>

General information on children and UNICEF's activities in the country.

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