

CONTRIBUTION to the EU Enlargement Package 2018

To: European Commission
DG Neighbourhood and Enlargement Negotiations, Strategy and Turkey

Attn: **Ms. Myriam Ferran, Director**

Ref: Written **contribution** for the **2018 Enlargement Package** on **child protection and children rights** in Albania, Bosnia and Herzegovina, Kosovo, Republic of Serbia, Montenegro and the Former Yugoslav Republic of Macedonia

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**This contribution has been prepared and submitted by
ChildPact – the Regional Coalition for Child Protection,**

with the support of our members in

Albania – All Together for Holistic Care of Children (BKTF)

Bosnia and Herzegovina – Stronger Voices for Children (SVC)

Kosovo – Coalition of NGOs for Child Protection (KOMF)

Republic of Serbia – Network of Organizations for Children of Serbia (MODS)

and the support of our partners in

Montenegro – Centre for Children's Rights of Montenegro

Former Yugoslav Republic of Macedonia - First Children's Embassy in the World "Megjashi" –
Republic of Macedonia

ChildPact – the Regional Coalition for Child Protection is grateful for the opportunity to provide a written contribution to the preparation of the EU Enlargement Package 2018. The following contribution has been prepared jointly by ChildPact and its members and partners mentioned above.

Child protection and children rights are facing similar difficulties in the region, with some country particularities that will be highlighted in the country specific sections. Some of the main challenges in child protection and children rights across the region are:

- ➔ Changes in existing legal frameworks – several changes have occurred in many of the countries, some inspired from the existing models in the region (e.g. Romania). Some countries still need to reform their legal frameworks to comply with the EU guidelines on child protection and the United Nations Convention on the Rights of the Child (UNCRC) provisions. **All the countries face difficulties in ensuring proper implementation of the existing legal frameworks and in filling in the gaps between legislation, capacity and coordination.**
- ➔ The existing legal frameworks most of the times **lack adequate planning and funding provisions.** No clear roles and responsibilities are assigned as part of a detailed implementation plan and no

clear funding rules are established, thus endangering the proper implementation of the existing legal provisions.

- **De-institutionalization efforts need to be intensified and supported by the adequate development of alternative foster care, kinship care and community-based care services. While the institutions are still existing, efforts need to be made to ensure quality of care provided in such institutions and the elimination of all forms of abuse and neglect in the institutions.**
- **Access to education, health and other support services needs to be ensured for all children, without any discrimination and regardless of their socio-economic status and background, gender, race, nationality, language, origin, sexual orientation, age, ethnicity, religion, disability etc. Simplification of procedures and paper-work necessary to access rights of the children should be implemented.**
- **Recognize the role of NGOs as relevant and valuable partners in development, piloting and implementation of social services. Active participation of NGOs is crucial to ensure outreach of services and access for the most needy. For years NGOs in the region have been developing direct services and have been mobilizing foreign aid funds to support children and families in need. Their experience, good practices and tested models should be properly recognized and valued by the relevant authorities and adequate budgetary support should be ensured for them as service providers.**
- There is a **significant lack of adequate, reliable and updated data on the overall situation of child protection and children rights in the region. The data collection and management is a key factor for development, implementation and monitoring of relevant public policies for children. Therefore independent data collection mechanism should be developed and implemented by civil society in order to monitor the state of child rights in countries in the region.**
- The experience of countries in the region is extremely valuable as a learning point for the countries currently undergoing similar reform processes. ChildPact has strived to create opportunities for the national networks of child-focused NGOs to meet, exchange experiences and learn from each other. **More opportunities for exchange are needed to involve representatives of relevant authorities.** We recommend that exchanges between the countries from the region are embedded in the Enlargement Package 2018 as a tool to enable mutual learning at regional level that will have positive effects on the continuation of the reform process and will increase cooperation and solidarity at the regional level. **Both ChildPact – as the regional coalition for child protection – and its members, national coalitions for child protection and children rights, are positioned to provide support for the implementation of extensive regional exchanges to support reforms in child protection and children rights.**

In addition to this regional overview of the main challenges in child protection and children rights and supporting recommendations to improve the overall performance at the regional level, we include a **country based analysis** based on highlighting major progress in the field since September 2016, existing challenges and suggested solutions and recommendations. ChildPact and its members remain at your disposal for any further information required and future collaboration.

Sincerely,
Cristina Rigman
Secretary General of ChildPact

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ALBANIA has known several legislative changes that we can highlight with regard to the situation of child protection and children rights. While the positive changes are greatly appreciated, there are several observations that raise concerns over the successful and appropriate implementation of those changes:

- The **New Law 18/2017 on the rights and protection of the child** entered into force during 2017. The law introduces **new concepts** such as “protection measures”, “parental skills measures” or “positive parenting” and is accompanied by several bylaws supporting its implementation. Some of the shortcomings of the law are linked to the **general approach of very complex services**, such as the alternative care services, that do not find sufficient legal clarity for proper implementation. The law, however, is **not accompanied by appropriate financial measures**, thus its implementation being hampered from the very beginning.
- The administrative reform has decreased the number of local government units, giving new tasks to local governments with regard to social services provision. The ongoing governmental reform has been accompanied by significant staff turnover in the municipalities in all fields, including the child protection units. However, **there are missing bylaws in relation to the Law on Social Services** that need to be in place in order for the reformed units to be able to function properly and fulfil the extended responsibilities they have been assigned with regard to social services and protection. **Adequate funding packages are also needed to enable the new local government structures to fulfil their responsibilities.** The **revision of the standards on social protection services and child participation need to be finalized** in due time **and adequately funded** to produce the expected positive outcomes.
- The **new Juvenile Justice Code** has been approved in March 2017 and will enter into force in January 2018. While this is expected to result in removal of punitive approaches and promotion of alternative measures such as restorative justice, **there is a serious lack of adequate support services for children in conflict with the law** that questions the possibilities for proper implementation of these welcomed measures.
- **A new Agenda for Children has been approved** by the Council of Ministers, providing a clear road map in addressing main issues related to the child situation in the country, their rights and needs for protection, with focus on multi-sectorial cooperation, fight violence against children and child participation.
- **Children in street situation** are in the focus of the work of child protection structures at national and local level. A national action plan piloted in Tirana, has been spread and replicated in other hot spot municipalities as well, with a notable coordination and leading role of the State Agency on Protection of children’s rights. The action plan, however, relies significantly on the support and services provided by the NGOs. An **increased investment in capacity building of child protection workers is needed** and also **an increased support for the services and capacity building actions implemented by NGOs is needed** to ensure sustainability and appropriate outreach of such services, **all seconded by appropriate financial mechanisms including NGOs** as providers of direct services or capacity building actions.
- The **de-institutionalization continues to be high on the agenda** of the government, but there is **no clear view on the specific roles, responsibilities, actions and coordination measures** between all actors involved, thus questioning the potential success of the efforts targeting advancement of the de-institutionalization process. In addition, **greater emphasis should be placed on the development and availability of adequate support services for families** to facilitate successful (re)integration of children.

- The **decentralization of the budget and lack of coordination between involved institutions limits the access to services of children** that come to the attention of the social services providers outside of their residence area. The unaccompanied minors in migration are also victims of such limitations, **requiring urgent updates in the migration strategy.**
- All changes need to be translated adequately in the capacity of the involved organizational structures, both responsible public bodies and involved NGOs. **Existing good practices from the NGOs need to be considered and scaled by the government.** Capacity building for both professionals and support organizational structures needs to be funded constantly and appropriately, so that professionals and organizations are able to act in support of the newly adopted legal frameworks. Sustainable funding mechanisms **allowing NGOs to access dedicated funding from the government should be established.**
- Support for **access to education and free textbooks provided for Roma children** should be **extended** also to **the Egyptian families.**
- **Adequate data collection and management systems need to be implemented** so that services are developed and funded based on reliable data regarding the number of children, the type of needs and the situation of the family.

BOSNIA and HERZEGOVINA still needs to make efforts to protect vulnerable children. There is little evidence on the progress made in advancing child protection and children rights, but there are clear signals on the measures that need to be taken to improve the situation:

- The **current legal framework needs to include quality and financial standards for all the social protection and support services available for children and families and clear protocols on identification of children in need** and process of accessing their rights. **Better coordination between national and local level is needed and unified protocols and standards need to be implemented,** to avoid children are left without support or care when they come to the attention of the service providers outside of their residence area.
- The **existing reporting mechanisms** available to signal violence and abuse against children **need to be transformed to be child-friendly.** Many such services are operated and maintained by private entities, mostly NGOs, which depend on foreign aid funding to continue operating the services. **The state should take over the responsibility to provide funds to enable such services to operate permanently** at reasonable quality and accessibility standards. **Procedure for licensing service providers, both public and private, is needed to ensure quality of services and equal standards applicable throughout the entire territory.** There are no quality checks available to make sure that children in institutions, both public and private, are free of harmful practices, abuse and neglect.
- **Children with disabilities** remain an important category with **limited access to support and care.** Children with disabilities are **overrepresented in institutional care** (over 70% of the total number of children in institutions are children with disabilities). The real figure may actually be higher since there is no data available on the number of children in private operated care institutions. **Very few day care centres are operational** in order to support (re)integration of children with disabilities.
- The **access to education of the children with disability is very limited** due to many factors, among which the most important are the physical barriers of educational institutions, lack of adequate training for the teachers, and general opinion resisting their inclusion.
- **Increased capacities to collect recent and reliable data are needed.** Data bases need to be available at national level enabling the updating of data from the local level to make sure that no child is left out of the system and service providers and policy makers have access to reliable data that may feed appropriate policy measures and budgeting. **Data should allow not only for registration of**

children, but also for details of their situation, including reference to age, gender, residency, types of disability, family situation etc.

- The **development of alternative foster care, kinship care and community-based care services has to be intensified** in order to support the **advancement of the de-institutionalization** process. Such alternative services should be designed **based on quality and financial standards and operational protocols included in the legal framework**. Adequate budgeting should be implemented at national and local level to ensure proper service delivery and support available to children and their families. **Institutionalization is not a measure of last resort in the current legal framework, thus breaching the EU guidelines and the UNCRC provisions.**
- The situation of **street children and child labour** are very serious as **there is a significant lack of data on the number of such children**. There is no registration system available for the children in these situations. Many times the children also lack legal status, not having access to basic health care, social support or educational services. Recovery and reintegration services for children in situation of labour are very limited. There are virtually no follow-up support measures available for children facing these situations.

KOSOVO has continued the efforts of improving the situation of child protection and children rights in the past year. Several shortcomings can still be identified and efforts to support needed changes are still required in several fields:

- The **Draft Law on Child Protection has been approved in 2016** and it is facing now the challenges of implementation. **Adequate budgeting needs to be put in place** at all levels to enable the actors holding responsibilities in the frame of the law to properly fulfil their duties. **Transparent and participatory budgeting processes still need to be implemented**, allowing for consultation of citizens and children with regard to the budgetary allocations. **The establishment of the specific grant for social services in the Law on Local Government Finance needs to be properly implemented** and monitored to produce the expected results. **Existing legal provisions are limiting the access to certain social assistance benefits to the families with children under the age of 5**. The situation needs to be corrected urgently as children over 5 are expected to attend schools and thus are in need of greater attention and investment in order to access education. **Constant increase of the value of social assistance schemes is required** to ensure that families in risk of poverty are supported adequately to keep children in the family and to ensure proper nutrition and support for the development of the children.
- **Data collection and management remains a challenge with regard to child labour and other issues related to children**. No adequate data collection and update mechanisms are in place to allow for development of policies, services and budgets based on recent and real evidence on the numbers and situation of the target groups. The existing Local Committees for the Prevention and Elimination of Child Labour should be able to determine the needs and intervene locally to prevent or sanction child labour. **No provisions are targeting street children and limited capacities exist to cover urgent assistance needs and ensure protection of children victims.**
- Persons involved in services provision and public institutions holding responsibilities in interacting with children need adequate training and awareness raising to diminish alleged violence and abuse against children. **The rehabilitation and (re)integration services for children victims of violence and abuse should be fully funded by the state**. Currently the services are depending on foreign aid funding.

- **Alternative services, such as foster care, are available only in some municipalities** and need to be extended to all the municipalities across Kosovo. **Revision of financial allocations for foster care is needed** to ensure tailoring of funding to the age and specific needs of the child.
- The **amendment of the Juvenile Justice Code** has brought some positive changes with regard to the length of the detention period. However, the juvenile justice practices need to be revised to avoid placement of female minors in the same unit with female adults. **The opening of a new Educational-Correctional centre in 2017 is expected to lead to correction of some of these problems.** Adequate monitoring of progress is required to ensure that the expected positive changes in the juvenile justice practices actually take place.
- The issue of children with disabilities is also of great importance in Kosovo, as in other countries in the region. **Children with disabilities face several limitations of their rights**, especially access to education and access to adequate intervention services. There are **differences between children with permanent disability and children with partial disability which need to be corrected.** The overall **procedure of accessing the support available for children with disabilities needs to be simplified** to enable parents to access the rights of their children. The **existence and functioning of day care rehabilitation services for children with disabilities should be maintained and supported financially by the state.** Municipalities must develop community based services. We recommend that **good practices and successful intervention models implemented by NGOs are considered and scaled up.**
- Early identification of disability is a very important issue that needs to be tackled properly, especially with regard to children in risk of poverty or children in rural areas. Early identification will enable early intervention and thus increase the positive effects on the child and the family. **Standardized protocols for screening and identification of disabilities of various kinds are required** to enable early diagnosis and intervention.
- All **institutions should work to eliminate the physical barriers** that are significantly limiting the access of disabled children, especially educational institutions. Access to education remains limited mostly among children coming from poor families, minority background, or rural areas. **Early childhood support service remains limited across the country.**
- Access to adequate health services for all children is essential for them to fulfil their full potential. Limited confidence in the health system and limited availability of essential medication for difficult illnesses leads to serious risks for the families that cannot afford to access health services outside of the country. **Immunization** of children is very low among the Roma, Ashkali and Egepyrian communities, increased efforts to bring this service as close to the families as possible being required urgently.

REPUBLIC of SERBIA has taken some steps towards improving the situation on child protection and children rights. Several concerns still question the capacity of all stakeholders to adequately implement the existing legal provisions and to successfully tackle existing challenges in the field:

- The **Council for the Rights of the Child has been updated in 2017** to include also a representative of the ChildPact member in Serbia, MODS, who have also managed to successfully push on the agenda of the new Government several issues related to child protection and children rights, including the strengthening of the role of this Council to become a leading cross-cutting coordination mechanism with core competences in child protection. However, Republic of Serbia still **misses several key concepts and legal acts** that would enable a significant betterment of the situation of children. The legal system of Serbia needs to **urgently include the legal definition of the “child” as rights holder, adopt a Law on Child Rights** and adequate plans for implementation, **ratify the Third Optional Protocol** of UNCRC and **draft the new Action Plan for Children** after the expiration, in 2015, of the

previous plan. The work on further harmonization of the national legislation with the UNCRC and the EU guidelines on child protection need to be intensified in the coming years in the Republic of Serbia.

- The **Government is about to adopt the National Strategy for the Prevention and protection of Children from Violence**, drafted by a working group. The strategy needs a **concrete action plan** for its implementation **and a dedicated budget** to achieve the expected results, among which the improvement of the general protocols for the protection of children from neglect, abuse and violence so that they are better aligned with the EU guidelines and best practices.
- There are several **vulnerability situations affecting large numbers of children** in Serbia, among which **risks of poverty, disability, and/or violence** that are not properly tackled in the existing social and support services. Children in Serbia still face **early forced marriages** (especially in the Roma community), **child labour and new and complex forms of violence** (gender based, peer, digital, in the family setting) affecting especially the already vulnerable children, such as children with disability, unaccompanied children, children from ethnic minority backgrounds etc. **An increased investment in addressing issues of vulnerability of children is required.** Some options could include increase of the coverage and adequacy of financial social benefits, changed budgeting system to better reflect the needs of children, increase of the direct transfers to the families with children, improve the earmarked transfer mechanism, or develop the support services to families with children facing the risk of poverty, children with disabilities and families in risk of separation of their children.
- **De-institutionalization** faces several challenges in Serbia and is strongly linked with the issues of disability. **Children with disability are overrepresented in institutional care**, over 80% of children in institutions being children with disabilities in 2016. The **institutions are not respecting the standards** in maximum numbers of children in residential care (set to 50), are mixing children and adults in the same institution and are still placing in institutions children under the age of 3. There is a **significant shortage of foster families trained and available to care for children with disabilities**, thus making the de-institutionalization process even more difficult. There is **no coordinated and planned process for advancing de-institutionalization** in Serbia, **the available funds are insufficient and the alternative services are lacking or are very limited. No adequate measures are taken to prevent institutionalization.** Currently there are no clear estimates on existing investments and efforts to develop alternative services for children and families to prevent institutionalization and facilitate (re)integration of children. **Support for children and youth leaving the care system remains limited. Immediate action is required to ensure** that the Rulebook on Prohibited Practices of the Employees in Social Protection is enforced to ensure **that children in institutions are free from all forms of abuse or neglect.**
- Serious investment and attention needs to be directed towards **development of community-based alternative services** aimed at supporting families with children in risk of poverty, families with children with disability or Roma families, in order to prevent institutionalization of children. **Several good practices and alternative care models are available in the neighbouring countries and also in the NGO sector in Serbia.** Such models need to be considered by the relevant authorities and supported to be scaled up in support of transformation of residential care systems.
- **Inequities in education are still at worrying quotas**, affecting mostly Roma children, children from poor families, children from rural areas, migrant and refugee children. Systemic intervention is required so that access to education is provided to all children and adequate support services are available for children facing vulnerable situations and their families. **Improved early childhood support services are essential** to address these issues and increase the chances that children remain in their families.
- The **NGOs are recognized as providers of social services** by the Law on Social Services and Serbia has recently sought to gain access to the EU program on Rights, Equality and Citizenship. However, **the**

overall efforts of the NGOs to protect children and provide adequate support and social services are marked by the general lack of standards (quality standards for services and financial standards for services), lack of dedicated funding at the local and national level.

MONTENEGRO still faces significant challenges in meeting the EU guidelines on child protection and UNCRC provisions, despite some progress in the legal framework reforming and establishing responsible bodies for policy making and implementation in the area of child protection and children rights:

- Efforts to harmonize the legal framework with the EU aquis have continued in the past year in several fields. **The Family Law has been amended in 2016 to outlaw corporal punishment. Strengthening the administrative capacity to actually implement the new regulations remains a significant challenge.** In the field of child protection and children rights the Institute for Social and Child Protection has become operational in 2015, but it still lacks the capacity to fulfil the expectations of providing research and professional advice and activities in the area of social and child protection.
- Another public body with responsibilities in the area of child protection and children rights is **the Inter-Ministerial Child Rights Council that has met regularly during the past year, but has not achieved the recognition as a leading body in child rights in Montenegro, due mostly to limited administrative capacities, changes in the ministerial staff involved, and lack of adequate supporting structures.**
- **Access of minority background families, especially Roma and Egyptian families, to social services remains very limited.** The amount of the social support does not cover the needs of such extended families, while the available services do not necessarily match the actual needs of the children and their families. **The risk of child labour among the Roma and Egyptian families remains significant.** Early childhood development support is below the set targets and is still missing an integrated approach.
- The **de-institutionalization process has to continue and needs to be supported by the appropriate development of the alternative services** such as foster care, kinship care and community-based care. Several **good practices** can be identified in this area, especially the **development of a significant number of day care centres for children with disabilities**, and should be funded and scaled appropriately.
- The **NGOs have been the most significant providers of social services** between 2012 and 2013. Although there are no recent data available, the involvement of the NGOs in service provision is likely to have remained at significant levels. However, the **NGOs are lacking several support mechanisms that would enable them to extend the outreach of their services, diversify the services they provide and increase the number of beneficiaries.** Among the necessary support mechanisms that NGOs would welcome from the government would be: **regular and institutionalized consultation channels** that would allow NGOs to take part in the policy making processes, **increased transparency** from the relevant authorities with regard to policy processes and funding allocations, **sustainable funding mechanisms** for the social services provided by the NGOs, and a **legal framework for volunteering and philanthropy** that would stimulate participation by the citizens. **We strongly recommend that such mechanisms are included in the funding priorities of the EU, which should also provide resources for increased capacity building for NGOs to collaborate and participate in national and regional networks and advocate** for better policies and implementation mechanisms for the benefit of the children.

FORMER YUGOSLAV REPUBLIC OF MACEDONIA is facing similar challenges with regard to child protection and children rights as other countries in the region. More action is needed on the improvement of the existing legal frameworks and also on the improvement of the administrative capacities to serve the children:

- The **Ombudsman office** has been actively involved in **conducting research** on topics of relevance for the child protection and children rights, such as the access to education of children with special needs or the situation of respect and realizations of the children right to participate in decision making in the school system. **The National Commission for Children Rights**, established in 2007 by the Government in order to monitor the child rights situation in Macedonia does not take place systematically in recent years. **The National Action Plan for Children has expired in 2015** and the calendar for the development of the new action plan is still not publicly announced. A Program for child protection activities is adopted in October 2016, with the main goal to ensure protection of children during 2017 and improved conditions for optimum coverage of children by the system of children's rights protection, including an increased access of preschool children to the available care and education services. **Ratification of the Third Optional Protocol of the UNCRC is expected by the NGOs active in the field. The principle of the best interest of the child should be more prominently considered in the design of policies and services dedicated to children and families.**
- The **need for support services for disabled children is still significant**, as the family needs to have access to adequate, continued and flexible services. The development of services should be based on the individual needs of children, a system of choice of necessary services being best suited for the families with disabled children.
- The **children in the educational system face several challenges**, some of them difficult to overcome due to significant lack of cooperation between several authorities that could improve the overall situation, such as police, social workers, parents and NGOs active in the field. **The integration of children with special needs in the mass education system should be supported** by means of training the teachers on how to work with children with special needs, educating the overall public, the other children and their parents on the specificities of the children with special needs so that they are easily accepted and integrated, improvement of access to speech therapy in schools, support for families facing difficulties starting from the kindergarten etc.
- The **development of alternative care services such as foster care, kinship care and community-based care needs to be strengthened to support further advancement of de-institutionalization efforts.**
- **Data collection tools and mechanisms need to be improved** allowing for access to recent and reliable data that can be updated in real time and include relevant information on the situation of the children, to properly inform the policy processes and the development of adequate and necessary social and support services.