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SUPPRESSION OF CHILD LABOUR – BRIEF OVERVIEW OF INTERNATIONAL STANDARDS

Abstract

The notion of child labour is well determined by relevant international instruments and it can be said that it is theoretically unquestionable. In practice, however, there are various concerns about how to distinguish legal child work from illegal child labour. Sexual exploitation of children, as well as trafficking in children for further exploitation, are still reality in many countries of the world, although they are characterized as the worst forms of child abuse and incriminated as criminal offenses. In addition, a large share of child labour falls under labour in agriculture and household work – these are forms that are very difficult to perceive, and in some cultures and traditions are practically allowed, regardless of the existing legal prohibitions. There are also different strategies which countries are developing to approach the problem of child labour. The aim of the research is to show that the theoretical framework of the content of child labour is undisputed and that it allows clear distinction of child work from child labour. Also, by examining content and scope of basic legal institutes it can be concluded how an effective system for protecting children from labour exploitation and other forms of illicit engagement should potentially look like.

Keywords: *child work, child labour, child labour monitoring system, labour inspection, ILO standards, intersectoral cooperation, child exploitation.*

1. Introductory remarks

The concept of child labour is clearly defined by international instruments, primarily conventions of the International Labour Organisation (hereinafter: ILO). It is also further elaborated in the European framework

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for the prohibition of child labour, as well as in national legislation of the vast majority of countries.

Convention no. 182 on the worst forms of child labour¹ and the Recommendation 190 concerning the prohibition and immediate action for the elimination of the worst forms of child labour of the ILO provide the main international legal framework for the prohibition of child labour. Pursuant to Article 3 of the Convention No. 182, worst forms of child labour comprise different activities of prohibited engagement of children: slavery or practices similar to slavery, including forced or compulsory labour and compulsory recruitment of children; use of children for prostitution or production of pornography; use of children for performing illicit activities, in particular for the production and trafficking of narcotic; and any other work which, by its nature or circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Convention no. 138 concerning minimum age for admission to employment² sets the lower threshold for work ability to 15 years of age, and this limit can only exceptionally be moved to 14 years. In addition, the Convention envisages that national legislation may permit the work of children on light work which is not harmful to their health or development, and which do not prejudice their education, for persons 13 to 15 years of age.

Convention on the rights of the child³ does not contain specific prohibition of child labour. However, it contains a number of provisions that are important for eliminating the exploitation of children, especially when viewed in context with other international instruments:

- States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse (Article 19.1);
- States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (Article 27.1);
- States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be

¹ Convention No. 182 on the worst forms of child labour, *FRY Official Gazette – International Treaties*, no. 2/2003.

² Convention no. 138 concerning minimum age for admission to employment, *SFRY Official Gazette – International Treaties*, no. 14/82.

³ Convention on the rights of the child, *SFRY Official Gazette – International Treaties*, no. 15/90 and *FRY Official Gazette – International Treaties*, nos. 4/96 and 2/97.

- hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular: (a) Provide for a minimum age or minimum ages for admission to employment; (b) Provide for appropriate regulation of the hours and conditions of employment; (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article (Article 32);
- States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse (Article 34);
 - States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare (Article 36).

The Directive on the protection of young people at work⁴ expressly sets the minimum age for admission to work at 15 or at the end of a child's formal education. Children can by no means perform jobs that would constitute their exploitation and or would be likely to harm their safety, health or physical, mental, moral or social development or to jeopardize their education. The Directive, however, does not apply to domestic service in a private household, nor to the work regarded as not being harmful, damaging or dangerous to young people in a family undertaking. Both these exemptions are allowed only if such work is occasional or short-term (Article 2 of the Directive). Under certain conditions, children between 13 and 15 years of age may be engaged in certain jobs (Articles 4 and 5 of the Directive).

When it comes to the terminology used in the mentioned documents, the distinction between the concepts of legal "child work" and illegal "child labour" has been made. The concept of "child work" includes all varieties of permitted work for children, regardless of the age of the child and the existence of working ability (in the range of light household duties, over school obligations, to working tasks in the formal employment of children older than 15 (14) years).

In the above mentioned Directive, the term "child" means any young person of less than 15 years of age, whilst "adolescent" means a young person of at least 15 years of age but less than 18 years of age. However in ILO conventions, the term "child" has been used for any person below the age of 18.

⁴ Council Directive 94/33/EC on the protection of young people at work of 22.06.1994, *EU Official Journal* no. L216/12.

Research deals with different aspects and set standards of work engagement of children, as well as mechanisms established by the states for the prevention, detection and sanctioning of the of child labour. Child labour is a complex social problem, which must be addressed through the engagement of various state bodies, trade unions, employers and the civil sector. The complexity of the child labour phenomenon is reflected primarily in the fact that children can be (ab)used in the sphere of work in various ways. Sometimes the responsibility for their work engagement shall be borne by the employer, sometimes by the family or by other persons.

The research is based on several hypotheses, which have emerged as a product of the previous experience of the author in the field of suppression of child labour:

- The existing framework for the prohibition of labour exploitation of children provides enough opportunities for states to clearly distinguish between the permissible and recommended activities of children, and others which are to be considered inhuman treatment of the child, his/hers abuse and neglect.
- The gradual inclusion of the child on the labour market and in work processes should be under the special control of the state. Child labour cannot be equated with the work of adults, regardless of the specific type of work and work responsibilities given to the child, nor the economic need of the family for child labour.
- The effective suppression of the child labour, and in particular its worst forms, presupposes the existence of intersectoral cooperation between state services, authorities and institutions, as well as cooperation with other relevant entities involved in child's everyday activities (such as his/hers family, schools, employers). In order to be effective, this cooperation can take place at the local or national level, as well as at the regional and global level.

These questions, as well as some other, will be analysed in the following text. Firstly, attention will be focused on a deeper analysis of the notion of child labour. The basis for developing mechanisms of prevention, perception and suppression of child labour will also be critically considered in the main part of the research. Finally, a part of the research is dedicated to the situation in Serbia, where a lot of progress has been made in the normative sense over past couple of years, and where for the first time mechanisms of intersectoral cooperation have been established for solving existing problems of child labour. Based on such concept of the research, the author will try to answer whether the preliminary hypotheses are in line with normative reality and

practice, and whether it is possible to make additional efforts to address the problem of child labour at a global level more efficiently.

2. The notion of the child labour

Child labour is specific form of child abuse and neglect. Indicators of the various forms of child abuse and neglect were developed at the Consultation on Child Abuse Prevention at the World Health Organisation in Geneva in 1999:

Physical abuse of a child is that which results in actual or potential physical harm from an interaction or lack of an interaction, which is reasonably within the control of a parent or person in a position of responsibility, power or trust. There may be a single or repeated incidents.

Emotional abuse includes the failure to provide a developmentally appropriate, supportive environment, including the availability of a primary attachment figure, so that the child can develop a stable and full range of emotional and social competencies commensurate with her or his personal potentials and in the context of the society in which the child dwells. ...

Neglect is the failure to provide for the development of the child in all spheres: health, education, emotional development, nutrition, shelter, and safe living conditions, in the context of resources reasonably available to the family or caretakers and causes or has a high probability of causing harm to the child's health or physical, mental, spiritual, moral or social development. This includes the failure to properly supervise and protect children from harm as much as is feasible.

Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violate the laws or social taboos of society. ... This may include but is not limited to:

- The inducement or coercion of a child to engage in any unlawful sexual activity.
- The exploitative use of child in prostitution or other unlawful sexual practices.
- The exploitative use of children in pornographic performances and materials.

Commercial or other exploitation of a child refers to use of the child in work or other activities for the benefit of others. This includes, but is not limited to, child labour and child prostitution. These activities are to the detriment of the child's physical or mental health, education, or spiritual, moral or social-emotional development."⁵

⁵ Report on the Consultation on Child Abuse Prevention, p. 15-16, <http://apps.who.int/iris/handle/10665/65900>.

Child labour is therefore specific type of work exploitation of the child, which could encompass several mentioned modalities of child abuse and neglect. For instance, child trafficking for the purposes of sexual exploitation will simultaneously include physical, sexual and emotional abuse of the child. It will also represent child neglect and a type of commercial exploitation. Therefore, it is clear that child labour could come in many forms and should be perceived in different types of situations that lead to unlawful engagement of a child into work process.

ILO Convention 182 defines worst forms of child labour:

“For the purposes of this Convention, the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”⁶

Recommendation 190 further explains some of the forms of child work from the Convention 182:

“3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:

- (a) work which exposes children to physical, psychological or sexual abuse;
- (b) work underground, under water, at dangerous heights or in confined spaces;
- (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
- (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent au-

⁶ Convention 182, Article 3.

thority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.”⁷

It can be noticed that terms “worst forms of child labour” and “child labour” are separated primarily in the function of their gradation, not exclusion of certain practices. This seems to be properly understood in national legislations, which commonly recognize the worst forms of child labour through one or more criminal offenses, while their existence does not exclude other ways of labour exploitation of children. There is also a clear functional link between the prohibition of certain types of work engagement of children and their social development, education and psychological maturation. The prohibition of child labour does not rest only on the principle of the protection of life and physical integrity of children, but also on the realization of a complex set of preconditions for their proper upbringing.

In addition to the potential dilemma of what is child labour, one can also discuss what does not constitute forbidden children's practices. The need to protect children and their exclusion from some jobs and work processes does not mean their complete separation from activities that are common, even recommended for certain age groups. Thus, the notion of child labour will not imply to the activities that child will accomplish at school, through practical classes, or other extracurricular educational activities that serve to encourage and develop his/her talent, creativity and interests in certain professions and hobbies. It is understood that in these mentioned activities, the child cannot be in any way endangered, or exploited.

The work of a child at home and in a household must be perceived from the same viewpoint as work in a school, or with an employer. Although there are various traditional stereotypes in this area, it is important to realise that the safety, health, development and education of the child are equally endangered in situations where parents or other family members decide on his/her working tasks. There is also the problem of activation of gender stereotypes and the division of jobs into men's and women's from the earliest childhood, which can have negative impact on development of the child. Particular problems arise in agricultural households, where children from the earliest age are considered as helpful members of the group, whose work is implied.

⁷ Recommendation 190, Paragraphs 3 and 4.

It is of utmost importance that when determining which jobs are suitable for a child, the following facts are taken into account:

- certain jobs are absolutely prohibited for children;
- remaining jobs that may be considered permissible must be observed in relation to the particular child, since the individual development can be significantly different;
- it is necessary to ensure continuous monitoring of the work of the child.

If at least one of the above elements is missing, or one or more of these three conditions are not met, it is possible to talk about the potential existence of child labour.

3. Mechanisms of prevention and perception of child labour

Although the notion of child labour is relatively clear, there are numerous challenges that could stand between control body and employer, which affect perception of child labour and adequate reaction in order to stop it. Some of most common situation could be: employer refuses to cooperate and actively or passively prevents inspection of its premises; employer hides and withdraws, in an organised or unorganised manner, the children who are included in the labour process, immediately before control or at the time the control commences; employer is an unregistered entity and carries out the work process in various places, periodically changing the location; children who illegally participate in the work process are intimidated and hide from authorities; child labour is happening in a family household or in a farm household. In such situations, classical oversight mechanisms are not effective. This is why many countries in the last few decades, when creating a system of reaction to child labour; turn to complex intersectoral cooperation between a number of institutions and organizations.

According to the ILO guidelines, “Child labour monitoring (CLM) is the active process that ensures that such observation is put in place and is coordinated in an appropriate manner. Its overall objective is to ensure that as a consequence of monitoring children and young legally employed workers are safe from exploitation and hazards at work.”⁸ CLM mechanisms therefore have to provide enough information to the oversight body in order for it to provide conclusion whether any child’s activity can be considered as child labour. It also creates such environment which obliges and enables different actors that play active role in child’s

⁸ *Overview of Child Labour Monitoring*, ILO, Geneva 2005, 1.

life to observe his/her daily activities and react on the first indicators of potential exploitation. For example, if a child starts to drop out of school or there is a sudden decline in the quality of his/her results, the school will inform parents of the circumstances. However, if there is a suspicion that child has less interest in education because it has been engaged in some sort of working agreement (legal or illegal, written or oral) a step further in this process is that school alerts social services as well. Social workers could further alert labour inspection, or even police, if they suspect that child has been exploited in any of the worst forms of child labour, as described in the text above. Effective CLM mechanisms closely engage education institutions, social services and other organs and institutions.⁹ They of course work in order to protect the best interests of the child, but also to protect the family as a whole. Family is thus important component in the system which is involved in each of the stages of control over child work. CLM can also be used for education and prevention – it does not react only to illegal practices, but it also teaches both children and their parents on how to recognise and avoid falling into the trap of child exploitation.

Basic activities in CLM are: tracking, identification/assessment, dissemination and reaction/protection.¹⁰ Tracking of the child is possible through communication between his/her family and school, as well as with social services. If the child is legally engaged in some sort of work, both employer and trade union are relevant addresses for constant oversight. It can be done both by the school (for example, when it comes to practical teaching) and by the labour inspection (if the child has legal labour contract with the employer). Some industries are traditionally linked to child labour – oversight control over them will be more done more closely and more frequently. In some cases, the perception of child labour will be closely linked to the regular activities of supervisory authorities or the police – such as overseeing busy crossroads, public places, shopping malls, and the like. Raising awareness of the general public on the problem of child labour could also help to receive useful information on cases of unwanted treatment of child workers.

⁹ As it is stated in the ILO document, there are several ways of monitoring in order to perceive child work and potentially identify child labour: “School inspection by school inspectors, teachers and parents groups; Workplace monitoring by labour inspectors and/or independent monitoring teams; Community monitoring by local government, peoples’ organizations, local action groups and community vigilance committees; Social auditing, industry-specific labelling and certification schemes, voluntary self-monitoring, industry codes of conduct.” *Ibid.*, 2.

¹⁰ For more elaborate list of potential activities, see: *Ibid.*, 7.

Next step is assessment of the situation, during which usually comes to identification of the illegal child labour. This can sometimes be done by the parents, or teachers, but sometimes it had to be done by the professionals (most likely labour inspection or similar organ, sometimes by the trade union delegate). When child labour has been noted, dissemination of information to the competent authorities is of crucial importance. This kind of information is usually communicated to social services and labour inspection, sometimes to the police (especially if the child is endangered by the work process and there is a great chance of being injured, or a fatal outcome). Dissemination of information as the next phase actually means that a person, body or institution that has come to the knowledge of child labour will inform the competent services in the shortest time possible. Finally, there is reaction phase in which there are two main goals: to secure the child and remove him/her from the working process, and to determine the responsibility and sanction the employer who exploited the child. Securing the child does not necessarily means that he/she should be removed from the working process. If there was a minor offense – for example, the child worked at night, even though this was prohibited by national law, employer would be penalized with a misdemeanour sanction but the child could continue to work with it. However, if there was breach of child labour regulation which constituted criminal responsibility, child would be removed from the working process permanently. If there is potential responsibility of his/her parents (for example, parents were aware of the dangers at work and the illegality of the working conditions, or the child labour came as a result of the employer's agreement with the parents), child could potentially be removed from the family as well, placed with temporary caregivers until the procedure is completed.

It is clear that in order for this system to function, several preconditions have to be realised. It is usually being said that prevention of child labour starts on the level of general policies of the state. High employment and decent living standards would most certainly decrease number of young people searching for the work without looking for minimum working conditions standards. Legally speaking, state level is the one that whole legal framework is developed, although in different states decentralised government may lead to autonomous legal and policy regimes in different administrative units. Furthermore, it is of high importance to have one intersectoral overview body at the national level, that will draft necessary law and by-law framework, overview the system as a whole, and react to individual problems and situations that may occur (such as competence overlapping, urgent need to activate international cooperation mechanisms,

and similar). At the local level, all local self-government bodies and other institutions need to communicate between themselves in accordance with established protocols on joint monitoring and actions. These activities are much needed when it comes to reaction to child labour, but also for perception of child labour, identification of the employer and removal of the child from this unlawful position. Local authorities are key factor in the whole process, because local actors have much better understanding on children’s activities, needs, potential employers and potential exploitators.

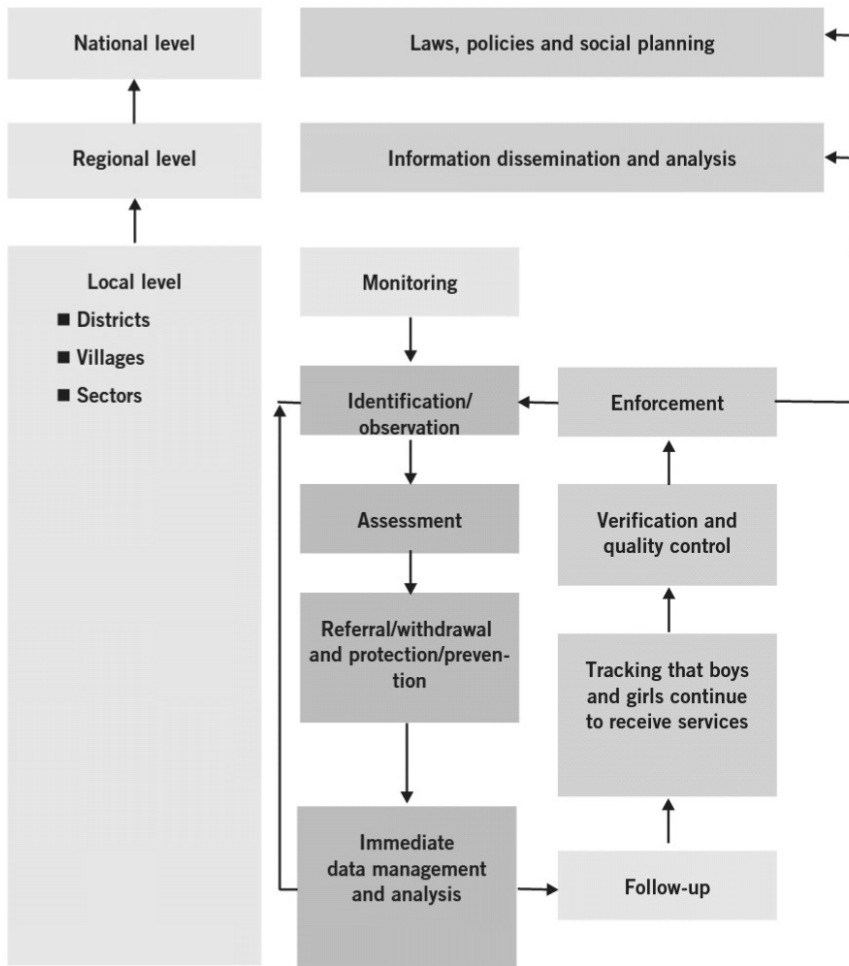


Figure 1: The CLM model¹¹

¹¹ Guidelines for Developing Child Labor Monitoring Processes, ILO, Geneva 2005, 8.

4. Recent development of the legal framework in Serbia

The Republic of Serbia has signed and ratified both Convention 138 and Convention 182. Furthermore, it has ratified Convention on the rights of the child, while the Directive on the protection of young people at work is not part of its legislation (since it is not EU member state) and domestic legal system has not yet been harmonised with its content. Legislative framework on child labour is nevertheless very detailed. In 2017, three significant steps were made towards full implementation of international standards in protection of children at work. Labour Inspectorate adopted checklist for inspection oversight on child work. This does not represent the extension of the competencies of the Inspectorate, but it will certainly contribute to more effective supervision and better perception of potential child labour cases. Minister of labour also adopted Special protocol of Labour Inspection for protecting children from child labour, which for the first time in Serbian legal system puts in focus intersectoral cooperation between labour inspectors and other institutions and organisations regarding suppression of the child labour. Finally, Regulation on determining hazardous work for children¹² has been adopted by the Government of Serbia, which was crucial step towards full harmonisation of Serbian legislation with the ILO Convention 182. In this way, the legal system is supplemented with important missing regulations and the way to the full cooperation of various state institutions and services in order to eradicate child labour was created.

Intersectoral cooperation is realised through exchange of information between labour inspection, social services and police and regulated in details in Special protocol.

In every office of the Labour Inspectorate at the district level there is a contact person who has gone through training on intersectoral cooperation and recognition of child labour, and whose task is to collect information on cases that have been initiated regarding the child labour on the territory of the district, and electronically archive in one place all records regarding the completed inspections in the field of protection of children from child labour. Each labour inspector that records child work or child labour, delivers information on that occurrence to the contact person at his/her district office of Labour Inspectorate. All information from the checklist for inspection oversight on child work or form for extraordinary inspection oversight over child labour has to be delivered,

¹² Regulation on determining hazardous work for children, *Official Gazette of RS*, no. 53/2017.

as well as the report on conducted oversight. Labour inspector is obliged to update contact person on any additional information and circumstances he/she learns, especially regarding intersectoral cooperation and his/her involvement in special procedures initiated before other institutions.

If the labour inspector finds during inspection that circumstances and facts have been established that require the activation of other bodies, labour inspector shall file an application to the police, the social service, the health care institution, other inspectorates and to other bodies and institutions competent for protecting the rights and interests of the child. The inspector shall inform the competent social service each time child labour has been identified. In cases when there is a need to react immediately, the labour inspector shall point out the need for urgent action. The labour inspector shall inform the competent social service of the existence of indications that child labour has taken place even in cases when the labour inspector is unable to perform the inspection due to the lack of competence.

If, during inspection, the labour inspector suspects that a criminal offence is being committed and that life, health or safety of a child are endangered, the labour inspector shall immediately inform the police in the manner he or she considers most efficient (e.g. by phone). In the event that a labour inspector suspects that child labour abuse is the result, or one of the forms, of trafficking of children, he or she shall promptly notify the Center for the protection of victims of trafficking, in order to perform expert assessment of whether it is human trafficking and undertake other appropriate steps to protect the child.

If, during inspection, the labour inspector learns of irregularities that are in the competence of another inspector, the labour inspector shall immediately inform the competent inspectorate thereof, in accordance with the Law on inspection oversight¹³.

The labour inspector shall ensure an intervention of a healthcare institution, that is, shall provide adequate medical assistance to the child, if he or she assesses that the child needs such help. This help is not restricted only to cases of work injuries, but covers the assessment of the entire physical and psychological condition of the child (e.g. the child is malnourished, weak, feverish, old injuries have been detected, the child is anxious and the like).

¹³ Law on inspection oversight, *Official Gazette of RS*, nos. 36/2015 and 44/2018 – other law.

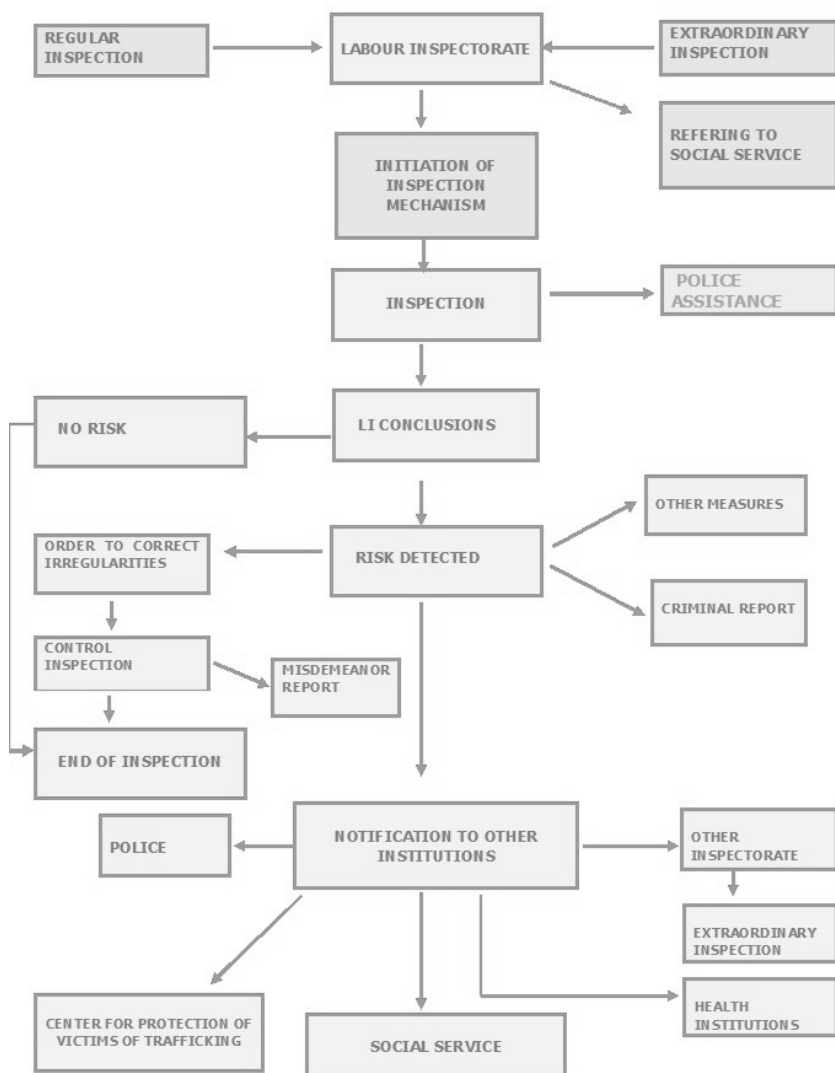


Figure 2: Intersectoral cooperation according to the Special Protocol

Contrary to these positive steps in order to suppress child labour, there is still some work to be done. The main disadvantages that continue to cause problems in the system are certainly the following:

- Child beggars are not within competencies of the labour inspector and police has limited means of suppressing this type of child exploitation. Cooperation and communication of these institutions with social

services has to be much more efficient and legal basis for sanctioning adults that accompany these children have to be more strict.

- Labour inspector is unable to control the work in a family household – this is where cooperation with social services has to be much more developed that it is currently;
- Labour inspector cannot control work in farm households that are nor registered in Serbian Business Registers Agency and do not have the capacity of an employer – again, this is the point where communication and cooperation with social services comes in place;
- Newly adopted Law on dual education¹⁴ has left vast space for child abuse and exploitation – it should be amended in order to provide at least basic safeguards for the children on dual education and its implementation oversight should be much more extensive and detailed.

In addition, it should be noted that the application of the Special Protocol will require additional training of both labour inspectors and other entities in the system with which labour inspectors will cooperate in its application.

5. Concluding remarks

It has to be noted that international instruments regarding child labour are fully developed and represent a coherent system of norms covering variety of dangers that may arise in the context of the exploitation of children. However, as it can be seen from the example of Serbia, some forms of child labour are still perceived as permitted, although this should not be the case. Also, some forms of labour exploitation of children are tolerated, or not perceived at all, although they are clearly prohibited by regulations – classic example of this ignorant behavior of the state can be seen in cases of the abuse of children for purposes of beggary. This problem is not always about institutional deficiencies. On the contrary, it seems that main deficiency lies in the fact that they do not implement rules on the protection of children consistently and completely (in order to encompass all potential threats to child's safety and security) which results in legal voids in areas that regulate very important issues of child engagement and potential exploitation. Therefore, further efforts are needed to bring national legal systems rounded up in relation to prohibitions that must be introduced in order to fully eradicate child labour – and this is particularly true for countries that are burdened with the traditional heritage of child engagement in ways that are unacceptable in the contemporary society.

¹⁴ Law on dual education, *Official Gazette of RS*, no. 101/2017.

Intersectoral cooperation is an excellent basis for creating a system that will be able to respond to the challenges of modern society and lead to effective monitoring of complex impacts on possible work engagement of the child. However, different factors can affect the insufficient cohesion of elements (institutions, services) in such system: lack of training; lack of awareness and knowledge of the existence of a system for cooperation; insufficient exchange of information or exchange of information that is not essential and executed mechanically only in order to fulfil the prescribed form; negative conflict of jurisdiction (competence) of institutions; indifference of individuals in the system to react; prejudices of individuals who judge whether any work is illegal; conflict of jurisdiction of local and national authorities; corruption; and other similar circumstances. Consequences of such anomalies in the system may be different but certainly lead to reduction in its effectiveness. Children who work in illicit conditions in certain sectors of the economy, agriculture, households, as well as those found in the worst forms of child labour incriminated by criminal laws, can often remain out of the reach of the legal system and state institutions. This is a type of systematic flaw that must be dealt with at the level of each individual state. It is also one of the fields countries perceive great attention in recent years, especially ones in which high levels of child labour were perceived in the past.

Countries have adopted different system of gradual inclusion of children into labour market. Common solutions contain a variety of child work restrictions, and can generally be divided into age-related restrictions, a work-related constraint, and a constraint that is associated with the child's working conditions. It is indicative that states have set an age limit in line with international standards and that in vast majority of countries, it is inconceivable that children under the age of 14 (15) years can be found working legally. However, the gray figure of child work which is not observed in official statistics and, as a rule, represents share of illegal child labour, clearly reveals that there is room for improvements in supervision systems over the application of regulations. There are also reasons to be worried about tendencies to legalize certain forms of child work that can easily be abused in countries with insufficient control of employers or high corruption levels, such as so-called "dual education". That is why children's labour is likely to remain an important and relevant issue in the coming years, and approach of individual countries to its solution will be surely guided primarily by economic, rather than by human motives.

References

- Report on the Consultation on Child Abuse Prevention, <http://apps.who.int/iris/handle/10665/65900>.
- Overview of Child Labour Monitoring*, ILO, Geneva 2005.
- Guidelines for Developing Child Labour Monitoring Processes*, ILO, Geneva 2005.

Legal sources

- Convention no. 182 on the worst forms of child labour, *FRY Official Gazette – International Treaties*, no. 2/2003.
- Convention no. 138 concerning minimum age for admission to employment, *SFRY Official Gazette – International Treaties*, no. 14/82.
- Convention on the rights of the child, *SFRY Official Gazette – International Treaties*, no. 15/90 and *FRY Official Gazette – International Treaties*, nos. 4/96 and 2/97.
- Council Directive 94/33/EC on the protection of young people at work of 22.06.1994, *EU Official Journal* no. L216/12.
- Regulation on determining hazardous work for children, *Official Gazette of RS*, no. 53/2017.
- Law on inspection oversight, *Official Gazette of RS*, nos. 36/2015 and 44/2018 – other law.
- Law on dual education, *Official Gazette of RS*, no. 101/2017.

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SUZBIJANJE ZLOUPOTREBE DEČIJEG RADA – KRATAK PREGLED MEĐUNARODNIH STANDARDA

Rezime

Pojam zloupotrebe dečijeg rada detaljno je uređen relevantnim međunarodnim instrumentima i može se reći da je njegova sadržina u teorijskom smislu neupitna. U praksi se međutim javljaju različiti problemi o tome kako načiniti razliku između dozvoljenog dečijeg rada i

nedozvoljene zloupotrebe dečijeg rada. Seksualna eksploatacija dece, kao i trgovina decom radi dalje eksploatacije, još uvek predstavljaju realnost u mnogim državama sveta, iako su označeni kao najgori oblici zlostavljanja dece i inkriminirani kao krivična dela. Dalje, veliki udeo zloupotrebe dečijeg rada sreće se u poljoprivredi i radu u okviru domaćinstva – ovo su oblici koje je veoma teško primetiti, a u nekim kulturama i tradicijama su praktično dozvoljeni bez obzira na postojeće formalnopravne zabrane. Takođe, postoje različite strategije kojima države pristupaju problemu zloupotrebe dečijeg rada. Cilj istraživanja je da pokaže da je teorijski okvir sadržine pojma zloupotrebe dečijeg rada nespornan i da omogućava jasno razlikovanje dozvoljenog dečijeg rada od zloupotrebe dečijeg rada. Takođe, kroz analizu sadržine i domašaja osnovnih pravnih instituta može se zaključiti kako bi jedan efektivan sistem zaštite dece od radne eksploatacije i drugih oblika nezakonitog angažovanja, potencijalno mogao da izgleda.

Ključne reči: dečiji rad, zloupotreba dečijeg rada, sistem nadzora nad dečijim radom, inspekcija rada, standardi MOR, međusektorska saradnja, eksploatacija dece.