



Number: 402/11

Date: 03.24.2011.

Ministry of Health and Social Protection

Attn / Minister, Mr. Ranko Škrbić

Subject - child support,

States Parties respect the right of every child to benefit from social protection, including social insurance, and undertake all measures necessary for full exercise of this right in accordance with national laws.

These benefits should take into account resources and circumstances of a child and persons responsible for support of the child, as well as all other important conditions significant for realization of this support¹.

The Law on Child Protection is based on the right of the child to life conditions that allow for its proper mental and physical development, the right and duty of parents to care for upbringing and education of their children and obligation of the state to make that possible.

The Constitutional Court of Republic of Srpska² by assessing the constitutionality of the Law on Child Protection, Articles 23. and 24. determines that constitutional principle does not guarantee absolute equality in the exercise of rights guaranteed by the Constitution, and thus also rights from the field of social protection and social care of children, but implies equality of citizens who are in the same legal situations. The court further notes that it is not competent for assessment of appropriateness of certain legislative decisions regarding their social justification.

¹ UN Convention on the Rights of the Child, Article 26.

² Constitutional Court of Republic of Srpska, Decision No. 4-53/07 from 05.27.2009.

Exactly starting from appropriateness of certain legal provisions and their social justification, amendments to the Law on Child Protection are necessary, which would create conditions that, from the existing resources of contributions, benefits which are provided from this source, are given in a manner that those who are in the same legal situation receive same support and benefit of the state. The existing legal provision relating the compensation of mothers are not known in even much richer countries, especially in the absence of any restrictions on the maximum amount of compensation, and it is paid from the same contribution.

According to data of the Public Fund for Child Protection, in total number of mothers, about 65% of them are not employed. According to the same source, about 35% of mothers on maternal leave that are employed are paid wages in full and without any restrictions related to maximum amount of compensation.

Such legal provision has consequence that the payment of compensation on monthly basis in some cases is significantly higher than annual compensation on the same basis.

Since the payment is made from the same contribution funds, the Public Fund, due to lack of funds, has reduced the payments to all beneficiaries that are paid from this contribution.

This consequently led to reduction of payment of child support from 45 km to 35 km.

In the total number of families that are eligible for child support, significant percentages are families who apart of funds for child support do not have other sources of funding.

For families who do not have other sources of funding, any reduction of child support payment is an additional problem in securing the subsistence minimum for a child.

Due to the above, amendments to the Law on Child Protection must be performed urgently, in order to create conditions that the payment of child support is performed in the amount as stipulated by Article 26. of the Law.

I expect that, in accordance with Article 9. of the Law on Ombudsman for Children /"Official Gazette of Republic of Srpska", No. 103/08 /, the Institution is informed on the measures taken.

Sincerely,

Ombudsman for Children of RS

Nada Grahovac LL.M