

Unfinished business

– EU enlargement and child rights



About Save the Children Sweden and its Partners

Save the Children Sweden is a non-governmental organisation working to enhance adherence to the rights of the child, as expressed in the UN Convention on the Rights of the Child (CRC). Save the Children Sweden combines advocacy for the rights of the child with concrete programme work in Sweden, Central and Eastern Europe and in some 20 countries throughout the world. Save the Children Sweden is a popular movement with about 85,000 members throughout Sweden.

In the current work to put the rights of the child on the political agenda of the EU in general, and specifically regarding the negotiation processes between the candidate and existing members, Save the Children Sweden has co-operated with partners in Central and Eastern Europe, namely, Lastekaitse Liit in Estonia, Gelbekit Vaikus in Lithuania, Salvati Copiii in Romania and Partners Bulgaria. Save the Children Sweden has been in contact with NGOs in several of the other candidate countries, as well. Save the Children Sweden values the collaboration with these organisations and is thankful for the contributions they have made.

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Foreword

The EU enlargement process presents a historic opportunity in many respects, not least an opportunity to put child rights onto the EU agenda.

The European Commission has acknowledged the rights of the child as one element of human rights, which constitutes a component of the criteria requirements for membership of the EU. By including the rights of the child in the accession process, sustainable improvement of the conditions under which children live becomes attainable.

This report is an attempt to survey the situation of children in Central and Eastern European candidate countries in relation to the rights of the child. However, the report clearly cannot include all problems facing children. It is not comparative – we do not seek to single out which country has the most severe problems in the area of the rights of the child. The report is based on information from several sources, primarily the UN Committee on the Rights of the Child, NGOs, and the EU Commission. Again, the issues highlighted in this paper are just the beginning – the first step.

The information and arguments presented here demonstrate that the situation of children and the realisation of their rights is far from satisfactory in the Central and Eastern European countries. There are, unfortunately, also problems related to the rights of the child in the EU Member States, but these must be addressed in a different way and are not the focus of this report.

The report is initiated and written by Save the Children Sweden for our European conference Build children's Europe! – make child rights real in the enlargement process, in Nyköping, 3–4 May 2001, during the Swedish presidency of the EU. It is a tool for the work in advocating the rights of the child in the enlargement process, which is promoted by Save the Children Alliance, EURO-NET and our partners in Central and Eastern Europe.

The time has now come for all parties involved to fully realise that the numerous decisions made within the EU have an impact on children, both directly and indirectly, and that children are individuals with rights of their own. Thus, it is time to “Build Children's Europe – make child rights real”!

Stockholm, February 2001

Görel Thurdin
Chair

1. Introduction

The Idea and the Outlines of this paper

Save the Children Sweden promotes the idea of closely linking the rights of the child to the enlargement process overall and especially with the bilateral accession negotiations between the candidate countries and the EU Member States. We believe this to be an effective and concrete way of realising the rights of the child by long-term improvement of the conditions for those children living in extremely difficult circumstances in the candidate countries.

The ten countries in Central and Eastern Europe – which are the special concern of this paper – already negotiating with the EU are:

Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.

It has to be emphasised in particular that the scope of this paper is limited. The areas of concern, regarding the rights of the child, which are proposed in this paper for the Central and Eastern Europe candidate countries, should only be regarded as provisional. After an in-depth discussion regarding the rights of the child in the candidate countries, it might well be that other areas of concern are considered to be more relevant. Save the Children Sweden aims at starting a debate which underpins the relevance of the rights of the child in relation to EU enlargement.

The rights of the child is a holistic concept, as expressed in the UN Convention on the Rights of the Child (CRC). Nonetheless, we believe that in order to make children's rights more concrete, it can be helpful to point out actual areas where improvement is needed. This report consequently focuses on specific problems.

This paper firstly outlines the context and framework in which the accession negotiations take place. Then, examples where the rights of the child have been invoked in the negotiation process are given. Finally, an attempt is made to identify crucial issues for children, relating to the rights of the child, that need speedy attention in each one of the ten Central and Eastern European countries in the pipeline for membership in the European Union.

Why is this report called for, and to whom is it addressed?

The overall aim of this paper is to influence politicians and governments to bring the rights of the child into the enlargement process, which is already in progress, to a greater extent than what has been done up till now. To some extent, the rights of the child are already considered by the EU in the enlargement, but this needs to be done in an even more consistent and systematic way and, to start with, the most acute issues must be looked into more closely. In this

way the enforcement of the rights of the child – as expressed in the UN Convention on the Rights of the Child – may be enhanced in Europe.

Politicians and civil servants comprise the first target group for this report. It is hoped that the report will promote the awareness of how the rights of the child can be highlighted in the negotiation process, among governments and national politicians, politicians in the EU, and civil servants, and consequently that the political will regarding the rights of the child will be manifested. (Chapter 2, which is about the context in which the enlargement takes place, is probably too elementary for this category of readers, in which case please skip that chapter and move on to chapter 3.)

NGOs and child rights advocates comprise the second target group for this report. It is an ambition that this paper can serve as a source of information and inspiration for NGOs regarding how advocacy in this area can be carried out, and that it accordingly can be one step in the process of putting the rights of the child onto the agenda of EU enlargement. Media can also play a major role in contributing to bringing the issue into focus. It is our conviction that it is possible to influence the enlargement process, and examples will be given where such endeavours have had an impact.

Regarding the crucial issues identified in each country, it is hoped that these could provide useful information for politicians as well as for NGOs. Having said this, it has to be borne in mind that the issues drawn up in this paper are not at all set or definite. National NGOs may have a different understanding of which problems should be combated. In our opinion, it is not where to start that is decisive, but the only vital issue is to actually start to promote the rights of the child in the process of enlargement.

Sweden's Presidency of the European Union

The timing of the promotion of the idea of linking the rights of the child to EU enlargement goes well with the Swedish Presidency of the EU (January - June 2001). According to the official Programme, one of the priority issues of Sweden's Presidency is enlargement. It is considered that during the Swedish Presidency there will be a break-through in the negotiations, and that the really difficult issues will start to be discussed during this period.

Save the Children Sweden is, of course, eager to make Governments embrace, in practice, the child-rights perspective in relation to enlargement during the Swedish Presidency. The executive board of Save the Children Sweden has given directions to promote this idea.

The relation to the UN Convention on the Rights of the Child

Save the Children Sweden's view is that it is extremely important that the linkage of the rights of the child to the enlargement process has a child-rights perspective, focusing on universal rights, as expressed in the UN Convention on the Rights of the Child (CRC). As is well known, the CRC entered into force in 1990, and has now been ratified by all countries in the world, except for Soma-

lia and USA. By ratifying the CRC, the State Party is under the obligation to implement the CRC in the country.

The child-rights perspective means, according to Save the Children Sweden, that children are seen as full members of a democratic society and bearers of their own rights. Recognising children as such leads to empowerment of children. Moreover, the child-rights perspective implies a long-term and sustainable improvement of children's living conditions. A condition for such a development is adherence in particular to the general principles of the CRC¹, namely, the principle of non-discrimination (art. 2), the notion of the best interests of the child as a primary consideration (art. 3), the right to life, survival and development (art. 6), the right to express his or her views freely, and to have these views taken into account (art. 12). Given these general principles, one must at the same time never lose sight of the fact that the CRC embraces a "holistic perspective of children's rights: that they are indivisible and interrelated, and that equal importance should be attached to each and every right recognised therein."²

A monitoring treaty body, the UN Committee on the Rights of the Child, is established under the CRC. The purpose of the Committee is to examine the progress made by States Parties in achieving the realisation of the obligations under the CRC. The Committee consists of ten experts of high moral standing and recognised competence. The members serve only in their personal capacity. The Committee holds several sessions every year in Geneva, and the Committee has its own procedures for dialogue and fact-finding. After each State Party is assessed, the Committee issues "Concluding observations", which present a picture of the positive aspects and the shortcomings regarding the rights of the child in that specific country. The Committee is the highest international authority on the interpretation of the CRC.

1 See, General guidelines regarding the form and contents of initial reports to be submitted by States Parties, under article 44, paragraph 1 (a), of the Convention, (CRC/C/5, 15 October 1991, para 13).

2 General guidelines regarding the form and contents of periodic report to be submitted by States Parties under article 44, paragraph 1 (b), of the Convention, (CRC/C/58, 20 November 1996, para 9).

2. *Linking the rights of the child to EU-membership*

The context in which the enlargement takes place

At the Copenhagen European Council in 1993, it was agreed upon that accession would take place when the applicants were able to meet certain economic and political conditions. These conditions for membership are referred to as the Copenhagen Criteria.

According to these, membership requires that the candidate country has achieved:

- stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities;
- existence of a functioning market economy as well as the capacity to cope with competitive pressures and market forces within the Union;
- the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.³

In July 1997, the European Commission published its Opinions on each candidate country. The European Commission has thereafter submitted Regular Reports on the progress which each country has achieved. This was done in November 1998, as well as in October 1999 and November 2000.

One element of the so-called pre-accession strategy is the Accession Partnership. For each of the ten Central and Eastern European countries the Commission has drawn up Accession Partnerships, which state the priority areas in which progress is needed in order to obtain membership. The Accession Partnerships are based upon the Opinions and the Regular Reports and are considered to be “a key element of the accession process”,⁴ and they have the objective to provide the basis for a number of policy instruments which will be used to prepare the candidate States for membership.⁵

Accession negotiations were formally opened with Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia in 1998. The Helsinki European Council decided in December 1999 to endorse the proposals by the Commission, based on the Regular Reports, confirming that negotiations should be ope-

3 Another precondition for EU membership is, according to Art. 49 of the Treaty of European Union (TEU), that only a European State “which respects the principles set out in Article 6(1) may apply to become a member state of the Union”. (Article 6(1) relates to the principles of liberty, democracy, respect for human rights and fundamental freedoms...).

4 According to “Europe’s Agenda 2000 Strengthening and widening the European Union”, booklet published by the European Communities, 1999, ISBN 92-828-7888-0.

5 All these “Key documents” referred to in this paragraph can be found on the DG Enlargement web-site: <http://europa.eu.int/comm/enlargement/docs/index.htm>

ned with all candidate countries that fulfilled the Copenhagen Political Criteria, and have proved to be ready to take the necessary measures to comply with the Economic Criteria. Negotiations were formally opened with Bulgaria, Latvia, Lithuania, Malta, Romania and Slovakia in February 2000. Regarding Bulgaria and Romania, however, the Commission recommended that certain conditions be met before starting the negotiations. The opening of negotiations with Romania should be conditional on the confirmation of effective action being taken by the Romanian authorities to provide adequate budgetary resources and to implement structural reform of childcare institutions before the end of 1999.⁶

The negotiation process has a differentiated approach, which means that each country should be assessed according to its progress, and the accession process can thus be quicker for some countries than others. Turkey is considered to be a candidate country, but the negotiations cannot be opened until the Political Criteria are met.⁷

The focus of the negotiation is that the applicants will adopt, implement and enforce the *acquis*. There are 31 negotiation chapters on different issues. Regarding the six countries which started the negotiations in 1998 (first-wave candidates), all the 31 chapters had been opened by the end of the Portuguese Presidency in June 2000. During the French Presidency, second half of 2000, several chapters were opened for the six countries which only started the negotiations during the spring of 2000. Some chapters have already been provisionally closed, but even so, if it is found necessary, the EU can return to these issues. Chapter 24, "Co-operation in the fields of justice and home affairs", is said to include, among other things, human rights.⁸

It is not only the candidate countries that have to prepare for the enlargement. The EU is itself engaged in preparations in order to be able to meet the new situation which a vast enlargement will present. The Intergovernmental Conference on Institutional Reform was scheduled to be concluded by December 2000 in Nice and, according to the plans, the necessary reforms should be ratified by the national parliaments by the end of 2002.⁹ In Nice, the Intergovernmental Conference completed its task on institutional reform. Moreover, the European Council endorsed a strategy on enlargement, with an indicative road map for the next 18 months. There has been much speculation about timetables for membership, but the Commission has been quite reluctant to set any dates of this kind for specific countries, but the EU should now be able to welcome new members from the end of 2002.¹⁰

6 See, Regular Report from the Commission on Progress towards Accession by each of the candidate countries. October 13, 1999 (IP/99/751), to be found at: http://europa.eu.int/comm/enlargement/report_10_99/intro/index.htm

7 See, Helsinki European Council 10 and 11 December 1999, Presidency Conclusions, para 12.

8 For a clear overview of the Enlargement process see: "European Union enlargement – A historic opportunity", booklet by European Commission, Brussels, Sep 2000.

9 See, *supra* n 7, para 5.

10 See, Nice European Council Meeting, 7, 8 and 9 December 2000, Presidency Conclusions, paras 5–6.

Interpreting the Copenhagen Political Criteria

Consequently, the Political Criteria encompass the issue of human rights, and constitute a legal base to build on. This is where the rights of the child come into the picture. In the case of Romania, the rights of the child have been – and still are – a crucial issue in terms of accession to the EU. This is distinctly spelled out in the Regular Report on Romania from October 1999:

“The issue of child protection is a matter of human rights under the political criteria of Copenhagen.”

The Commission continues: *“Living conditions in all child care institutions have very seriously deteriorated in 1999 as a result of financial and administrative reasons ... It is now of crucial importance that the Government, as it has been repeatedly requested by the Commission, gives top priority to child protection and accepts that it has primary responsibility for the well-being of all children in care.”*¹¹

Political will is needed on both sides of the negotiation table

The “unprecedented enlargement” – as it often has been called – does form a unique opportunity to place the rights of the child on the political agenda. However, this cannot be done without a political will from both sides.

Save the Children Sweden knows, through NGO-partners in Central and Eastern Europe, that in some of the candidate countries such a political will is to be found among high-ranking national politicians. However, the situation for the politicians is not black and white, as the economic and political transition has created a craving demand for improvements on the part of many groups within society. This means that in some cases there are internal conflicts concerning where allocation of resources are most needed.

There are examples of politicians mentioning certain children’s rights and political will in relation to the enlargement process. However, this seems to have almost solely been done with regard to the situation of children in Romania. Some examples of such statements are given below:

The Swedish Minister for Foreign Affairs, Ms Anna Lindh, was asked a question by a member of the Swedish Parliament (the Riksdag) on how Sweden, in relation to the enlargement process, would pay attention to children living in the streets in Romania. The Foreign Minister responded that the enlargement process itself, being one of the priority issues under the Swedish Presidency of EU, comprising substantive efforts to stimulate economic growth as well as social reforms, will in time provide a base for improving the situation of people in difficult circumstances in the future member states, including the children living in the streets.¹²

11 1999 Regular Report from the Commission on Romania’s Progress towards Accession, 13/10/99, under section 1.2 at 15–16.

12 Answer to question 1999/2000:538, on March 2, 2000.

At a special meeting of the European Parliament in April 2000, Baroness Emma Nicholson of Winterbourne, Member of European Parliament (MEP), stated that:

*“The Helsinki Conference has afforded a rare window of opportunity to make significant progress in helping Romania’s neediest children through the acceleration of the country’s EU accession process. When this opportunity is matched with the Romanian Government’s extensive reform programme for all aspects of child welfare, clear timetables can now be drawn up to meet the Copenhagen criteria with regard to children, and common goals achieved.”*¹³

In the 1999 European Parliament Annual Report on International Human Rights and European Union Human Rights Policy, there is a proposal in more general terms, which nevertheless could have substantial impact in relation to the rights of the child – if acknowledged. As regards to the EU Enlargement the European Parliament:

*“Calls on the Council and Commission to convene a further conference to review the effectiveness of EU support for the efforts of candidate states to achieve the political criteria established at Copenhagen; this conference should also address the extent to which candidate countries have implemented the obligations they have accepted under international and regional human rights instruments, such as the European Convention on human rights and the Convention on the Rights of the Child, including what action has been taken to deal with child trafficking and child pornography;”*¹⁴

The Political Criteria also include “respect for and protection of minorities”. Minority rights are generally considered to be part of human rights, and the rights of the child to be one element of human rights. Save the Children Sweden would like to stress that when the EU considers minority rights, it ought to view this concept also from a child-rights perspective, as the situation of minority children differs in many respects from the situations of the adults.

Allocation of resources, and financial assistance

The ultimate proof of taking the rights of the child seriously is the allocation of special budget resources towards children.

It is not disputed that the countries in Central and Eastern Europe find themselves in a very difficult situation due to the transition to a market-oriented economy and that this has had a serious impact, in particular on all groups in difficult circumstances, including children. However, it is argued here that more resources ought to be devoted to children in order to improve the implementation of their rights in a concrete way, and thus enhance their conditions of life. This can, to some extent, be done through assistance from, for example, the EU. The overall budget of the EU concerning assistance to the candidate countries amounts to 3,120 million Euro per annum during the period 2000 to 2006.¹⁵

13 “Romania’s Children: A Window of Opportunity”, speech given by Baroness Nicholson of Winterbourne, Vice-chair of the Committee on Foreign Affairs and Rapporteur on Romania, 4 April 2000, at a special meeting of the European Parliament.

14 European Parliament, Annual Report on International Human Rights and European Union Human Rights Policy, 1999, 29 February 2000, Rapporteur: Cecilia Malmström, Final A5-0060/2000, para 23. The report was adopted by the European Parliament on 16 March 2000.

15 See, *supra* n 4, at 21.

Financial assistance from the EU to the candidate countries in 2000–2006 will be provided through three instruments: the Phare Programme, ISPA, and SAPARD.¹⁶ Phare is the major financial instrument of the pre-accession strategy. “The overall objective of the Phare Programme is to help the candidate countries to prepare to join the European Union. The programme is thus “accession-driven”, concentrating support on priorities which help the candidate countries to fulfil the Copenhagen Criteria. To achieve this, Phare support focuses on the priority areas for action identified in the Accession Partnerships.”¹⁷

The first priority of Phare is “Institutional Building”, which focuses on measures assisting implementation of the *acquis communautaire* and to fulfil the first Copenhagen criterion (political), which, for example, includes guaranteeing human rights and respect for and protection of minorities. The main instrument for this is “Twinning”, which means interaction between officials and practitioners from a Member State institution and the corresponding officials in a candidate country.

The second aim, “investment”, is about helping the candidate countries to get their industries and major infrastructure up to Community standards. Phare support will in this context be concentrated on, for example, economic and social cohesion.

The European Commission is ultimately responsible for the funds, but the implementation will be carried out under a decentralised system. The monitoring of the programme is conducted by the candidate countries and the European Commission, through a Joint Monitoring Committee in each country, according to the guidelines. Evaluation will be made of all the work carried out within Phare, and these reports are to be published.¹⁸

As we shall see below, the Phare Programme is also to some extent involved in political reforms concerning children. Save the Children Sweden’s point is, however, that it ought to focus much more on children’s rights issues, as a part of the first Copenhagen criterion, and thereby enhance the conditions of children who find themselves in especially difficult circumstances.

Development – European Commission’s Regular Reports 2000

It is argued that the rights of the child have played a major role in the negotiation process in relation to Romania. The section on “child protection” covers nearly one and a half pages of the Regular Reports, and it includes a background and an analysis of the problems in question. In the Regular Reports from 2000, the issue of child protection is referred to as “the key area”.

There is clear evidence that there are also severe problems in relation to the rights of the child elsewhere in Central and Eastern Europe. It is claimed that

16 ISPA and SAPARD are concerned with the areas of transport, environment and agriculture.

17 Guidelines for Phare Programme implementation in candidate countries for the period 2000-2006 in application of article 8 of Regulation 3906/89, November 1999, under 1.1 Overall objective for Phare. To be found at: http://europa.eu.int/comm/enlargement/pas/phare/implementation/guidelines/guidel_2000_en.htm

18 See, *ibid.* See, also: Phare 2000 Review, Communication from Mr Verheugen, C(2000)3103/2, 27.10.2000.

Useful information of Phare can be found on:

<http://europa.eu.int/comm/enlargement/pas/phare/publications/publist.htm>

the child rights perspective in relation to enlargement, at least until November 2000, has been rather *ad hoc*.¹⁹ Indeed, there were comments on the situation of children already in the Regular Reports from 1999, regarding nine countries out of ten, under the section “Human rights and the protection of minorities”, but they were all (except for Romania) quite fragmented and short. The comments were mostly made more or less in passing, and again, except for Romania, not one whole paragraph was dedicated to the situation of children.

It is noted with appreciation that the Regular Reports from November 2000 shows encouraging signs of improvements with regard to the rights of the child. In five of the reports (not counting the Romanian report) the information on children stretches over one or two whole paragraphs. Moreover, the concepts “the rights of the Child” or the “Convention on the Rights of the Child” are used in connection with five countries. (In the 1999 Report it is only used in connection with one country.) Save the Children Sweden believes that it would be better and more powerful – if not even revolutionary – to speak about the concept of the rights of the child, as this manifests the child-rights perspective referred to in the beginning of this paper:

Focusing on children as human individuals with independent rights; although in need of protection, children must be regarded as competent persons, able to influence decisions of importance to their lives.

The development by the Report from 2000 is indeed promising, and Save the Children Sweden considers that it is now fair to say that the rights of the child are seen as an integrated part of the enlargement. The question is not any longer if the rights of the child should be brought into the process, but how it will be discussed, and what importance it will be attributed in the political negotiations. That has yet to be seen, and Save the Children Sweden hopes that this discourse will take concrete form during the Swedish Presidency.

When considering the rights of the child in the ten countries, in chapter 3 below, the comments relating to children in the Regular Reports of the EU Commission from 1999 and 2000 are considered.

The example of Romania

The rights of the child have continued to be a “hot” issue in terms of accession for Romania. (However, the concept “the rights of the child” is not used by the EU in relation to Romania. Instead the issue is referred to as “child protection”.) In 1999 the Government of Romania had a funding crisis and 10 million Euro, originally dedicated in the 1998 Phare Programme for the child-welfare reform process, had to be spent on an emergency humanitarian aid programme.²⁰ 25 million Euro has been set aside through the Phare Programme in 2000 for tackling Romania’s orphanage problem.²¹

19 This is also argued in for example, Micklewright, J, and Stewart K, “Child Well-being in the EU and Enlargement to the East”, Innocenti Working Papers no. 75, UNICEF, Florence, February 2000, at 3.

20 *Supra* n 13.

21 Enlargement Weekly, Newsletter of the week 12/04/2000, to be found at:
http://europa.eu.int/comm/enlargement/docs/weekly_arch.htm

On 4 April 2000, there was a meeting of the European Parliament on the initiative of the Delegation to EU-Romania Joint Parliamentary Committee, entitled: "Romania – Its Children's Future". Besides MEPs, members of the Romanian Parliament, the Director General for Enlargement with the European Commission and NGOs participated in this meeting. The main objective of the meeting was to define and decide upon a clear strategy for the future of children, starting with the evaluation of the present situation.

The Romanian Government spoke about its strategy for child welfare in Romania and, according to internal notes from the meeting, the determination of the Romanian Government to translate its political will into concrete action was noted on the positive side. A "Framework for the Future" – with steps that had to be taken in the short and medium term – was also outlined at the meeting.

At the meeting referred to above, the Director General for Enlargement, Mr Landaburu, pointed out a very important point of view – embraced by Save the Children Sweden – by saying that the Commission would only support political reforms to addressing child abandonment and not humanitarian aid.²² This clearly confirms that children's rights are not about humanitarian aid, but about political changes in society.

Such an initiative as this – with a whole spectrum of actors – does indeed form a very good platform for further endeavours. Save the Children Sweden encourages these kinds of encounters and hopes that they will also be initiated regarding other candidate countries.

When the Director General for Enlargement visited Romania in July 2000, a follow-up on the problem of children was conducted. When meeting Ministers and the Chief Negotiator, Mr Landaburu stressed the need for the Governments to implement "complete reform, including consolidation of increased budgetary resources for institutionalised children".²³

A "National Strategy for the reform of the childcare system" for the period 2000-2003 was approved by the Romanian Government in July 2000.²⁴

As mentioned above, there is a strong political will regarding the rights of the child in Romania. This is, for example, manifested by the initiative of MEP Baroness Emma Nicholson of Winterbourne to establish a "High level group" consisting of, for example, the Prime Minister of Romania and the EU Commissioner for Enlargement, Mr Günter Verheugen, with the aim of providing a sustainable child care and protection policy in Romania.

This example regarding Romania shows that the urge to become a member of the EU is so strong that a government is willing to initiate political changes concerning a very sensitive area for the sake of obtaining the membership. Real improvement can be the outcome, especially when this pressure is combined with financial assistance.

Save the Children Sweden knows that there have been attempts by national NGOs in Romania, for quite a long time, pressing for a dialogue with national

22 See, *ibid.*

23 Press Release from the European Commission, Bucharest, 5 July 2000.

24 "Progres (sic) on the reform of the childcare system in Romania", paper from the Ministry of Foreign Affairs of Romania, September 2000.

parliamentarians and other politicians about the issue of the rights of the child, but the essential political will has not been obtained. It would be almost impossible to state which forces were the ones finally putting the rights of the child on the agenda. What one could say about this is, however, that it includes a group of people – national politicians, EU-politicians and civil servants, as well as NGOs – with a strong commitment to the issue. Moreover, it has to be said that media paved the way to some extent by reporting on the appalling conditions under which certain groups of children live in Romania, such as children in institutions and children living on the streets.

Other ventures – Round-table discussions

As mentioned above, Save the Children Sweden has, for some time, collaborated with NGOs in four of the candidate countries, namely, Bulgaria, Estonia, Lithuania and Romania. Together, these NGOs have launched the idea of bringing national Parliamentarians together with children's NGOs to discuss specific children's issues in their country. Our partners have frequently pointed out that this is not an easy task as there does not exist a tradition of a dialogue between the Government, Members of Parliament, and NGOs in the Central and Eastern European countries. Nonetheless, such dialogues have been carried out by national NGOs in co-operation with Save the Children Sweden.

An example of this is a round-table meeting held in October 2000 in Sofia, Bulgaria. It was a meeting where many NGOs, civil servants from different ministries, a representative from the Parliament, as well as from the European Commission delegation in Sofia, among several others, took part. The aim was to provide a forum for the discussion on the opportunity to put children's issues and the protection of child rights onto the agenda for Bulgaria's negotiations with the EU, with the objective of developing concrete programmes and measures for substantial and sustainable improvement of the living conditions of Bulgarian children. It proved to be true – as foreseen by the NGOs – that these persons were not accustomed to taking part in the same meeting and sharing information with each other on children's rights. However, it was a positive atmosphere, and there are serious plans to have a follow-up during the spring 2001, where specific problems relating to the rights of the child in Bulgaria will be discussed. A round-table discussion was also held in the Lithuanian Parliament, 26 March 2001. In Romania the discussions already taking place are continuing.

It is vital to involve EU-politicians and national negotiators in the round-table discussions. Members of the European Parliament, especially members of the Delegation to the Joint Parliamentary Committee on each country, and the Commission, in particular the staff from the Directorate General for Enlargement, are, of course, very important in this respect.

Save the Children Sweden, in collaboration with its partners, wrote a letter to the Commissioner for Enlargement, Mr Günter Verheugen, during the summer of 2000 where we sought to draw his attention to the rights of the child in the Eastern and Central European countries in relation to the negotiation process.

Save the Children Sweden regards his reply as very promising and, as long as serious violations can be proved, we have the word of the Commissioner that the problems will be tackled:

"In cases where serious violations of the rights of the child have occurred, the Commission has drawn attention to this problem in its Regular Report, and it has made remedial action a priority in the Accession Partnership for the country concerned. The Commission showed its determination to tackle such problems in the case of Romania, and we will continue to look closely and systematically at these issues in the future."

With the Swedish Presidency of the EU coming up in January 2001, Save the Children Sweden had a meeting with several Swedish MEPs in September 2000, as well as meetings with the Minister for Foreign Affairs, the Minister for Development Co-operation, Migration and Asylum Policy, the Minister for Social Security, and with national parliamentarians, in order to press for a clearer child-rights perspective in the enlargement process. Save the Children Sweden is planning a conference on the subject of the rights of the child in the enlargement process in May 2001. The Swedish Minister for Foreign Affairs, Ms Anna Lindh, said at a meeting with Save the Children Sweden in January 2001, that she was positive to the planned conference, and she expressed her interest in participating. However, this has not yet been confirmed.

3. Country-specific Children's issues

Which information has been used and how?

The method used here for identifying specific children's issues has mainly been to review official sources from the United Nations (UN). The idea is thus to benefit from the work of identification already carried out by, in particular, the UN Committee on the Rights of the Child (Committee).²⁵ Not all of the ten countries in question have, however, been considered by the Committee; Estonia is still missing. Furthermore, information from other UN Treaty Bodies has been used when this has considered matters related to the rights of the child.

Some might argue that there is a risk that the State Party reports do not reflect reality, and therefore the Concluding observations of the Committee are based on inadequate information, and do not constitute a reliable source. However, the scrutinising-process under the CRC encompasses, besides specific written questions to the State Party, in-depth oral meetings where additional information to the State report is asked for and taken into account. Moreover, further information is obtained by the parallel reports from NGOs and other competent bodies.²⁶

Others might say that, as regards some of the countries, several years have passed since the Committee examined the State Party report in question. Nevertheless, Save the Children Sweden believes that the Concluding observations are still useful in tracing specific current problems and we have also tried to attain more up-to-date views on children's rights from NGOs in some of the countries.

A matter of graver concern is the method used here for finding the most severe problems in each country. The Concluding observations by the Committee are extensive, and therefore it has proved necessary to choose those concerns for each country that appear to be the most relevant. One must not lose sight of the fact that it is very difficult for someone who has not taken part in the actual examination of the State report to fully comprehend the meaning of what is being said, but yet an attempt to single out acute problems has been made. In order to trace these various problems, the actual wording used by the Committee, for example, emphasised or strong wording, and the amount of time which the Committee seems to have devoted to a certain issue during the oral sessions have been considered. This clearly includes many subjective elements, but nevertheless it is believed that the problems put forward can be agreed upon to be some of the more acute in the countries in question. It is hoped that consensus can be established that these problems (or indeed possibly others) need to be addressed in the negotiations within the EU.

One drawback of using this method is, of course, that if something does not come up on the agenda for the discussions with the Committee, it will neither be a part of the Concluding observations nor covered here. In this context it could be pointed out that the rights of children with disabilities is a topic which,

²⁵ The documents from the CRC can be found at <http://www.unhchr.ch/html/menu2/6/crc.htm>

²⁶ Several of the NGO-reports referred to in the coming can be found at <http://www.crin.org/ngogroupforcrc>

by some, is viewed as an issue that is not paid due attention to in the examination process.²⁷

Shortcomings related to basically organisational matters, such as insufficient co-ordination regarding children's issues, absence of national fora for monitoring children's rights or inadequate statistics are not dealt with here. These are indeed prerequisites to attain a large-scale implementation of the CRC, but we believe that focusing on these would lead to a too general approach. Generally speaking, it can be said that in several of the countries involved the monitoring mechanisms of the rights of the child are inadequate.

Moreover, the economic, social and political challenges in the era of transition to a market economy are not explored in depth here. That the transition to a market economy has led to several problems for different groups, and especially for children, is considered to be a fact. This is also something which the Committee acknowledges, in each of the Concluding observations regarding the countries in question, as a factor impeding the implementation of the CRC. Thus the deep economic crisis in several of the countries will not be singled out as a problem related to the rights of the child, as such.

In this paper we try to focus on children's problems *per se* which constitute areas of grave concern, as we understand them. A section on each of the ten countries is given below in alphabetical order: *Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia*. The opinions of various sources will be reviewed. In order to obtain an idea of what issues the EU has observed with respect to children, the Commission's Regular Reports will also be referred to. At the end of each section, Save the Children Sweden makes some comments on what seems to be the most significant problems.

Of course, nothing is solved by merely recognising the existence of problems. Further discussions and analyses must take place. It is our ambition that NGOs, as well as governments and various fora involved in the negotiation process, will take on these tasks.

Bulgaria

The Committee on the Rights of the Child

The topic of discrimination of children belonging to minority groups, especially Roma, was discussed at length by the Committee and the Bulgarian delegation during the assessment conducted in January 1997. The Committee came back to the issue several times in relation to various topics, for example, the right to education and juvenile justice. It was explained that there were no legislative measures providing for affirmative action towards children from minority groups. The Bulgarian delegation said that: "Bulgarian public opinion continued to be very hostile to any form of 'positive discrimination' in favour of specific

²⁷ "The Rights of Children with Disabilities – How is Progress Monitored?", report by Save the Children Sweden, Stockholm 1996.

groups...”²⁸ The Committee expressed its particular concern – as it often does – that the general principles in the CRC are not being fully applied. It stated that sufficient measures to prevent discrimination against Roma children, disabled children and children born out of wedlock had not been taken.²⁹

In the State Report it was mentioned that there had been serious conflicts between youths in correctional institutions and the staff.³⁰ One NGO report highlights the cases of ill-treatment by law enforcement personnel,³¹ and the Committee declared that this is a “very grave matter of concern, even if they are isolated cases.”³²

“The recent rise in child prostitution”, seems to be a negative trend in Bulgaria, and the Committee continued by declaring that the fact that there is no legislation to prevent sexual exploitation “is a serious concern to the Committee.”³³

The school dropout rate and the right to education were also major subjects of discussion during the oral sessions. The Committee also mentioned this in the Concluding observations.³⁴

As a conclusion at the end of the oral session, one member of the Committee expressed his view that the situation of children in Bulgaria appeared to be getting worse.³⁵

National NGOs

At the time of writing this paper, four years have elapsed since the Committee’s assessment of Bulgaria. Unfortunately, not many areas seem to have been improved, according to a study co-ordinated by Save the Children Fund, UK, titled “Child Rights Situation in Bulgaria”, which was completed in March 2000.³⁶ This report contains a comprehensive description of the situation of children in Bulgaria on the basis of the articles of the CRC. Some illustrations from this report are given in the following.

It is claimed that there is still a long way to go regarding the implementation of the general principles of the CRC. For example, it is argued that professionals working with children “are not trained to think from the point of view of the best interest of the child”.³⁷ Furthermore, it is maintained that: “There is no holistic approach to prevent discrimination practised in a hidden way against disabled children, Roma children and other disadvantaged groups.” The report presents figures talking their own language: Roma children are 9.7 per cent of

28 Summary record regarding Bulgaria CRC/C/SR.346, at 8, para 45.

29 See, Concluding observations regarding Bulgaria CRC/C/15/Add.66, at 3, para 12.

30 See, State Report from Bulgaria CRC/C/8/Add.29, at 57, para 259.

31 See, “Children of Bulgaria - Police Violence and Arbitrary Confinement”. A report prepared for the United Nations Committee on the Rights of the Child, by Human Rights Watch Children’s Rights Project and Human Rights Watch/Helsinki.

32 *Supra* n 29, at 3, para 14.

33 *Ibid.*

34 See, *ibid.*, at 3, para 17.

35 See, Summary record regarding Bulgaria, CRC/C/SR.347, at 9, para 41.

36 The project was coordinated by Ms Tanja Kovacheva, and the main contributors are Dr Daniela Kolarova, Partners Bulgaria Foundation; Maria Petkova, Open Society Fund; and Dr Velina Todorova, Bulgarian Association of Women with Legal Profession.

37 Child Rights Situation in Bulgaria, March 2000, at 8.

the pupils in mainstream schools; 32.1 per cent in “auxiliary” schools for children with impaired mental development; 21.6 per cent in vocational schools for juvenile delinquents, and 29 per cent in schools for children “inclined to crime or antisocial behaviour.”³⁸

With regard to the high rate of school dropouts, some measures have been taken, but there are still many problems. According to official data, the total number of dropouts has increased twice for the period 1989–1997, and has now reached four per cent.³⁹ Nor should it be forgotten that the problems of dropping out and inadequate education are even more severe among the Roma children.

Save the Children Sweden has co-operated with the Partners Bulgaria Foundation, in this project. This NGO has confirmed that Roma children and other minority children, for example, the Turkish, find themselves in a very precarious situation, which needs to be attended to. The high rate of school dropouts is also regarded as one of the major problems, because this frequently very soon draws children into prostitution and criminal behaviour. Bulgaria Foundation, as many others working with the rights of the child, is very clear on the point that what is needed is not a long row of temporary projects but changes in opinions and attitudes among the politicians, professionals and the public, which lead to children’s inclusion in society.

European Commission – Regular Reports

In the 1999 Regular Report it was mentioned that: “Problems persist concerning the placing of juvenile offenders in educational boarding schools and in particular their rights to defence.” As regards minority rights, it was observed that: “A disproportionate number of Roma children are sent to special schools for the mentally handicapped.”⁴⁰ The Roma minority represents about five per cent of the population. About nine per cent of the population belong to the Turkish minority, which is said to be integrated in the Bulgarian society.

The same issues relating to children were mentioned in the Regular Report from 2000. It should also be mentioned that it is stated that a Child Protection Act has been adopted during 2000.⁴¹

Save the Children Sweden’s comments

After this brief exposé, it is claimed here that there are two matters of deep concern in relation to children in Bulgaria.

The principle of non-discrimination of children is a cornerstone in the CRC; children shall enjoy all their rights without discrimination of any kind. A great measure of political will is needed when discrimination is to be combated. There

38 See, *ibid.*, at 15.

39 See, *ibid.*, at 10–11.

40 Regular Report from the Commission on Bulgaria’s progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 13/10/99.

41 See, Regular Report from the Commission on Bulgaria’s progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 8/11/2000.

is a concordance upon that children belonging to minorities, i.e. Roma and Turkish, are discriminated against in various ways in Bulgaria, and that this constitutes a major problem. This discrimination is, for example, manifested by insufficient access to education. Sometimes the discrimination is practised openly, but sometimes it is basically hidden.

The second problem, which is highlighted both by the Committee on the Rights of the Child and our NGO partner, is the problem of children dropping out of school. This issue is also related to the first, as the rate of school dropouts is especially severe among Roma children.

Czech Republic

The Committee on the Rights of the Child

Again, a considerable amount of time for the assessment by the Committee in October 1997, of the Initial Report of the Czech Republic, was spent on the question of discrimination of minority children, especially Roma children. The topic was discussed in relation to health, education, juvenile justice and citizenship.⁴² As many as 80 per cent of Roma children were said to be dropping out of compulsory school. The Committee on the Rights of the Child spells out the problem clearly in its Concluding observations, while saying that “no adequate measures have been taken to prevent and combat all forms of discriminatory practices against children belonging to minorities, including Roma children, and to ensure their full access to health, education and other social services.”⁴³

The Czech delegation admitted that child prostitution had increased, but it was generally only found in border areas, and the rise was claimed to be due to the increase of western tourists.⁴⁴ With a reference to the report of the Special Rapporteur on the sale of children, child prostitution and child pornography, the Committee expressed its concern that the “State Party may serve as a transit country for the trafficking of children.”⁴⁵

The 1993 law on Czech citizenship, adopted after the split with Slovakia, has been criticised for its discriminatory effects. After an amendment in 1996, foreign children living in institutions could be entitled to Czech citizenship. However, the Committee has pointed out that it “remains concerned at the fact that children and care takers in such situations are not sufficiently informed about the procedures for applying for citizenship.”⁴⁶

42 See, Summary records regarding the Czech Republic, CRC/C/SR.412, for example paras 24, 29, 30, 31, 38, 29 and 40, and CRC/C/SR.413, para 43.

43 Concluding observations regarding the Czech Republic, CRC/C/15/Add.81, at 3, para 15.

44 See, Summary record regarding the Czech Republic, CRC/C/SR.413, at 5 paras 23, and 25.

45 *Supra*, n 43, at 4, para 22.

46 *Supra*, n 43, at 3, para 16.

Other UN Monitoring Treaty Bodies

The situation of a large number of Roma children being placed in special schools, leading to racial segregation, has also been a concern for the Committee on the Elimination of Racial Discrimination in March 1998, which classified this as “marginalisation of the Roma community in the field of education”.⁴⁷

When the Committee on the Elimination of Racial Discrimination considered two reports by the Czech Republic, the question of addressing Czech citizenship to certain groups, including minors, and orphans in children’s homes, many of whom are of Roma origin, had still not been satisfactorily addressed, according to this Committee.⁴⁸

National NGOs

The discrimination of Roma children with regard to education is confirmed by a report of the Czech Helsinki Committee, from March 1997. Official data from the Ministry of Education reveals that 2-3 per cent of the population is Roma, whereas Roma children make up 60 per cent or more of pupils placed in “special schools” for those who are said to suffer from mental or social disabilities.⁴⁹

International NGOs

The citizenship status of orphans is of particular concern, according to a NGO report by Human Rights Watch. The children who live in orphanages or foster homes are often Roma. “Once released from state institutions at age eighteen, they face possible deportation, even though they were born and spent their entire lives in the Czech Republic.” According to a survey carried out by the NGO, there were in 1997 possibly as many as 1,400 stateless children in institutions. Another result is that many non-citizens, for example 10,000 Roma, do not get a permanent residence status, which is needed in order to receive social welfare benefits.⁵⁰

In a report from 2000 by the International Helsinki Federation for Human Rights (IHF),⁵¹ it is stated that the tradition of placing Roma children in “special schools” is persistent. About 70 per cent of the pupils in these schools are said to be of Roma origin, and such a high number suggests “the deliberate and racially motivated segregation of school children”.⁵²

47 See, Concluding observations regarding Czech Republic, CERD/C/304/Add.47, at 3, para 13.

48 See, *ibid.*, para 14.

49 See, “Additional Information to the Initial Report of the Czech Republic on the Implementation of the Convention on the Rights of the Child in 1993–1994”, March 1997, at 6, submitted by the Czech Helsinki Committee.

50 “Children harmed by Czech Citizenship Law” – A report prepared for the United Nations Committee on the Rights of the Child, by Human Rights Watch Children’s Rights Project and Human Rights Watch/Helsinki.

51 “Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America” Report 2000 (Events of 1999), by International Helsinki Federation for Human Rights (IHF).

The chapter on the Czech Republic is based on the Annual Report of the Czech Helsinki Committee.

52 See, *ibid.*, at 129.

In the same report it is said that there has been another amendment, in 1999, to the citizenship law, but there are still some loopholes and difficulties for certain groups to obtain citizenship. For example, some persons, mostly Roma, have experienced difficulties in meeting the condition to prove that they have lived permanently in the Czech Republic at least since the split of the Federation, as they have not been officially registered as residents.⁵³

European Commission – Regular Reports

In the 1999 Regular Report it has been observed that the “Czech Republic is a transit and destination country for traffickers of women”. This does not specifically refer to children, but nevertheless it is mentioned here. The report also contains the figure about 70 per cent of children in special schools for mentally handicapped being Roma.⁵⁴

The Regular Report from 2000, however, explicitly mentions that the problem of trafficking in women *and children* is persistent, and that there is room for improvement in this area. Moreover, the Aliens Act, passed in 2000, was said to violate especially the Convention on the Rights of the Child. However, in order to remedy this an amendment has been proposed. With regard to education and Roma children, an action plan has been set up, and resources have been allocated, but nonetheless the Roma children still make up about 70 per cent of children in special schools.⁵⁵

Save the Children Sweden’s comments

To conclude, it is claimed that three areas of problems in relation to children have to be continuously monitored in relation to the Czech republic. It should also be pointed out that there seem to be a consensus on these issues.

The discrimination of minority children, especially Roma children, is acknowledged to be widespread also in the Czech Republic, and there is also here a practice of placing Roma children in special schools for mentally disabled.

Several of the above mentioned sources have pointed out that the Czech Republic is a transit country for trafficking in children. The reason for this is probably partly to be found in the country’s geographical position. Additionally, it is stated that child prostitution has risen.⁵⁶

It is also suggested here – even though recent data on the issue is lacking – that the right to a nationality, according to article 7 of the CRC, might not be guaranteed for every child in the Czech republic. This needs to be looked into further.

53 See, *ibid.*, at 129–130.

54 See, Regular Report from the Commission on Czech Republic’s progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 13/10/99.

55 See, Regular Report from the Commission on Czech Republic’s progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 8/11/2000.

56 In this context it is worth mentioning “The Second World Congress against Commercial Sexual Exploitation of Children”, which will take place in Yokohama, Japan, 17–20 December 2001 (arranged by Japan, UNICEF, ECPAT and NGO Group for the CRC).

Estonia

The Committee on the Rights of the Child

The State Report of Estonia has not yet been assessed by the Committee, and it is not decided when it will be considered. Estonia's initial report was due in 1993. By March 2000, the State Party had received five reminders.⁵⁷ During the summer of 2000, the Government finished its Initial Report, and representatives for some NGOs have had an opportunity to take part in the work and actually write some parts of the report (for example the section on street children and abuse).

One third of the persons preparing the State Report were from NGOs, for which reason our partner in Estonia has stated that NGOs had the opportunity to actively take part in the work. The comments from Lastekaitse Liit on the report, after it was made public, mainly concerned education of disabled children, juvenile delinquency, and sexual crimes against minors, as it was felt that the report dealt with these issues in an inadequate manner.

Other UN Monitoring Treaty Bodies

UN Committee on the Elimination of Racial Discrimination evaluated periodic reports from Estonia in March 2000. With regard to children, it commented with concern that children to stateless persons are automatically born stateless.⁵⁸ According to the country rapporteur, there were nearly 200,000 stateless persons living in Estonia.⁵⁹ (These are mainly Russians born in Estonia. For comparison, Estonia has around 1.4 million inhabitants.)

International NGOs

In 1999 minorities made up nearly 37 per cent of Estonia's total population, approximately 29 per cent of which was of Russian origin. According to official sources there were more than 50,000 former permanent residents of Russian origin who stayed in the country illegally. Only about 100,000 persons of the 29 per cent of Russians had been naturalised.⁶⁰

It has transpired that there have been difficulties for families to live legally together, because spouses and children of legal Estonian residents (i.e. persons legally residing as Estonian citizens, stateless or third country nationals) had difficulties in obtaining residence permits, as this was part of a very limited quota system. However, there has been an amendment of the quota system regarding close relatives, but even so, some problems remain regarding family reunifica-

⁵⁷ See, CRC/C/95, March 2000.

⁵⁸ See, Concluding observations of the Committee on the Elimination of Racial Discrimination, Estonia CERD/C/56/Misc.40/Rev.3., para 10.

⁵⁹ See, for example, Committee on the Elimination of Racial Discrimination CERD/C/SR.1387, para 18.

⁶⁰ See, Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America, Report 2000. (Events of 1999), by International Helsinki Federation for Human Rights (IHF), at 133.

tion.⁶¹ If the authorities detect persons staying illegally in Estonia, they could be subjected to orders to leave the country or deported.

National NGOs

Lastekaitse Liit regards the dropout from basic schools as a problem with serious implications, both immediate and in the long run. One of the reasons for children dropping out of school is said to be the lack of flexibility in the school system, which is built upon success, and does not suit all children. Another problem is the increasing drug abuse among children.

There is a network of about 60 NGOs in Estonia working mostly with street children. A national co-ordinator for the network operates from Tallinn Child Support Centre. According to the co-ordinator, the most serious social problems in Estonia today that childcare workers experience are:

- homeless and vagrant children
- family-problems
- dropout from school
- rise in juvenile crimes.

The phenomenon of the so-called street children in Estonia is new. The number of street children is approximately 100–200, but it is estimated that 4,000–5,000 children spend most of their time wandering around the streets. Because of different definitions, the estimated figures tend to vary. The Government does not acknowledge that the number is quite so high. The national co-ordinator declares that even if the exact number is not known, street children do exist. Many children live in dumping areas and they are said to be mostly of Russian nationality. Many of the children living illegally in the country are supposed to live in the streets.

The proportion of children not attending compulsory school is about five per cent, i.e. around 5,000 children.

In a report by the Secretary General of an NGO named Estonian Institute of Human Rights, it is stated that the number of children using drugs has increased explosively.⁶²

With regard to the question of citizenship and permanent residence, the same NGO has made some various remarks. The report shows that obtaining Estonian citizenship can be discriminatory in some ways. One example of this is that disabled children who wish to obtain Estonian citizenship by naturalisation are faced with problems, as they might not have the adequate schooling to pass the exams, which is a condition for obtaining citizenship. (As indicated below, however, there was a change to this in 2000, which lifted this condition for some categories of persons with disabilities.)

⁶¹ See, *ibid.*, at 135.

⁶² "Analysis on the compliances of the Estonian legal acts with the UN Convention on the Rights of the Child and the implementation of these acts", 2000, by Merle Haruoja, secretary general of the Estonian Institute of Human Rights.

Furthermore, it is stated that all children, even those without valid documents, have the right to attend school. However, the number of children who do not attend school is difficult to know, as there is no register of inhabitants at state level.

There are, as mentioned above, children who are residents in the country, but still illegal residents, and these have no rights to child's subsidies or subsidies for disabled children (though both are very low). The NGO infers that this rule violates the CRC.

European Commission – Regular Reports

The Regular Report 1999 relates to basically the same figures as the report by the International Helsinki Federation for Human Rights, with one exception, namely that the number of illegal residents is given as around 30,000. To obtain a permanent residence permit, there are rules about minimum incomes. (For a temporary residence permit, there is no condition regarding minimum income, but it is a bureaucratic process to obtain such a permit.)

The Commission comments that the naturalisation process is still, in some ways, slow and that the bureaucratic delays and Estonian language requirement continue to be the main obstacles. The amendments to the Citizenship Act, and a step forward, will grant non-citizen children born in Estonia after February 1992 Estonian citizenship upon application.⁶³

The number of non-Estonians is said to be 35 per cent of the population in the Regular Report from 2000. The requirement of language test in order to receive citizenship has, for example, been lifted for persons with disabilities. Improvements have been made regarding the quota system for residence permits, facilitating for family reunification (see above), but these efforts still need to continue, according to the report. Moreover, after the amendments regarding stateless children, only 427 applications have been introduced, according to the Regular Report.⁶⁴

Save the Children Sweden's comments

Save the Children Sweden argues that the child perspective of the delicate issue of citizenship in Estonia does not seem to have been analysed in depth. Consequently, the following section is quite extensive.

The matter of stateless persons in Estonia is very sensitive, but as we understand it, though it is very difficult to get information on this issue, it seems that children belonging to minorities, and especially stateless children, are discriminated against in several ways. The actual position of a child being stateless must, *per se*, be regarded as a breach of article 7 of the CRC (the right to nationality). The Government has initiated some measures to improve the procedure for

⁶³ See, Regular Report from the Commission on Estonia's progress towards accession, under section 1.2 "Human rights and the protection of minorities", 13/10/99.

⁶⁴ See, Regular Report from the Commission on Estonia's progress towards accession, under section 1.2. "Human rights and the protection of minorities", 8/11/2000.

obtaining citizenship for stateless children, but the process is still very slow. One could argue that the Government has taken steps, but at the same time it is not acceptable, according to Save the Children Sweden, that stateless children should be dependent on the application of their parents in order to obtain a citizenship. There would also potentially be cases in which the amendment to the Citizenship Act would not be applicable. The rule is that an application could be made if both parents are stateless, but have been legally residing in Estonia for five years. This means that if one of the parents is staying illegally in Estonia, the conditions for Estonian citizenship of their child cannot be met for many years, even if that parent becomes a legal resident.

The quota system continues in some cases to be an obstacle for families to live together, as the quota system is only lifted for those families where one of the spouses is Estonian citizen and they have children together. Consequently, the amendments leave out all other legal residents and their spouses and children. In the opinion of Save the Children Sweden, the regulation in this area is not in line with articles 2, 9 and 10 of the CRC.

Considering that there is said to be as many as 50,000 illegal residents (persons without residence permits), and that these might face deportation and are therefore unwilling to have contact with the authorities, one might ask to what extent these children can exercise their rights. It is argued here that these people do not have any rights under the national laws. Thus, the children will neither, for example, receive medical treatment as they do not hold any medical card, nor receive any kind of social benefits. It is said, though, that these children sometimes *de facto* attend schools. However, they are not entitled to receive education, but because of the goodwill of a headmaster, they can be admitted to a school.

To conclude, it is gratifying that stateless children born after 1992 have been provided with easier access to Estonia, but the stateless children residing illegally in Estonia cannot benefit from this amendment as their parents cannot prove five years' legal residence in Estonia, which is one of the Criteria. In terms of the rights of the child, the situation for the children residing illegally in Estonia seems to be very awkward.

The issue of street children is, as mentioned by the national co-ordinator, to some extent related to children of minorities, and Save the Children believes that the issue of street children might be one of the most severe problems of today's Estonia. This matter is not something that EU has yet commented on.

Hungary

The Committee on the Rights of the Child

The assessment of the Hungarian State report took place in May 1998. Once again it has to be mentioned that the Committee spoke about rights of Roma children to a great extent.⁶⁵ In this case it was, however, noted with appreciation

⁶⁵ See, for example, Summary record regarding Hungary CRC/C/SR.456, paras 11–12, 15–16, 20, 71, and 457, paras 19 and 45.

that the Government had initiated several measures “to improve the living standards of the Roma population”, but nevertheless the Committee “remains concerned about the persistence of discriminatory practices against this minority group.”⁶⁶ Additionally, the chairperson enunciated that: “There could be no genuine democratisation unless the problem of the Roma was resolved once and for all and they were involved in the process.”⁶⁷

The ill-treatment of children in the family and institutions, including sexual abuse, was a topic that was given a great amount of attention during the oral sessions.⁶⁸ The tone was quite harsh when the chairperson objected to a comment by a Government representative who argued that domestic violence was more difficult to fight in Hungary than in countries with higher levels of economic and social development. The chairperson emphasised that “it was dangerous to attribute domestic violence to poverty”.⁶⁹ The Committee used strong wording in the Concluding observations while saying that “cases of ill-treatment by law enforcement personnel in or outside detention centres are also a matter of deep concern”,⁷⁰ and that the Committee “strongly recommends that the State party take all appropriate measures to prevent and combat ill-treatment of children...”⁷¹

International NGOs

A NGO report prepared for the Committee, titled: “Rights Denied: – Roma Children in Hungary”, proclaims that there is an increasing marginalisation of Roma – Hungary’s largest minority. The report acknowledges that there have been “several potentially important political initiatives by the government” but that these “have produced no concrete programs or results”. Among several examples of discrimination of Roma children described in the report, a statement by an interviewed teacher is related: “Although they are half-Gypsy, their skin is very light and they are so well-behaved and clever that you would almost think they were Hungarians.”⁷²

Another NGO report submitted to the Committee before the assessment in 1998 has been prepared by the World Organisation Against Torture (OMCT).⁷³ This report also highlights the discrimination against Roma Children. Of the population, amounting to 10.2 million, there were between 500,000 and 700,000 Roma. Around 40 per cent of Roma children are said to complete primary school, and only 0.01 per cent get a university degree, and the cultural gap only is consequently widening.

66 Concluding observations regarding Hungary CRC/C/15/Add.87, at 3, para 14.

67 Summary record regarding Hungary CRC/C/SR.457, at 10, para 45.

68 See, for example, Summary record regarding Hungary CRC/C/SR.456, paras 33-35, 40, 44-45 and 53-58.

69 Ibid., paras 44-45.

70 *Supra* n 66, at 3, para 16.

71 *Supra* n 66, at 5, para 32.

72 “Rights Denied: – Roma Children in Hungary”, issued by Human Rights Watch Children’s Rights Project and Human Rights Watch/Helsinki, at 1–2. To be found at: see n 26.

73 “Rights of the Child in Hungary”, The World Organisation Against Torture (OMCT), 1998, see <http://www.omct.org>

The scale of sexual trafficking of children is said to be increasing. The report from OMCT refers to figures from ECPAT saying that the number of children exposed to prostitution in Hungary has trebled since 1989. Allegedly more than 500 young girls are working as prostitutes in the capital, and the number of girls working along the road from Vienna to Budapest is unknown.⁷⁴

European Commission – Regular Reports

The discrimination in access to education for the Roma minority (which is said to be between 400,000 and 600,000) is acknowledged in the Regular Report from 1999.⁷⁵

The issue is explored a little more in the Report from 2000, where it is said that the majority of Roma children are placed in special schools. In the north-east of Hungary, this proportion amounts to 94 per cent, and this is considered to be a sign of institutional prejudice and a failure of the public school system. However, it is noted that the Government claims – in contradiction to the NGOs – that these special schools are designed to help disadvantaged children. An action programme has been launched in the area to support the Roma minority, in particular considering education, but the concrete results have not yet been seen.

The number of people seeking asylum in Hungary is growing, according to the report, and their rights are said to have been violated on a regular basis. Asylum-seekers without documents are, for example, transferred to transit zones, which are considered to be extraterritorial.⁷⁶

Save the Children Sweden's comments

There appears to be a consensus that the Roma children are exposed to discriminatory practises. For example, the tradition of placing Roma children in special schools is widespread and in some areas almost an absolute rule.

According to NGO-sources, there is also a growing problem with child prostitution. This is a phenomenon which appears especially along the transit roads from Eastern and Central Europe to the EU countries.

Save the Children Sweden suggests that ill-treatment of children within and outside the family is also a serious problem in Hungary, which needs to be addressed.

With regard to the statement in the Commission's Regular Reports from 2000, that the rights of persons seeking asylum are regularly violated, Save the Children Sweden would like to draw attention to the situation of children in this group. It must be examined further, whether these children have any chance of exercising their rights, for example, the right to education.

⁷⁴ See, *ibid.*, at 13.

⁷⁵ See, Regular Report from the Commission on Hungary's progress towards accession, under section 1.2 "Human rights and the protection of minorities", 13/10/99.

⁷⁶ See, Regular Report from the Commission on Hungary's progress towards accession, under section 1.2 "Human rights and the protection of minorities", 8/11/2000.

Latvia

The Committee on the Rights of the Child

The Committee considered the State Report of Latvia in January 2001. One member of the Committee opened by saying that the State Report from 1998 refers frequently to the relevant laws, but it is not very comprehensive regarding the actual implementation of the laws.⁷⁷

With regard to citizenship, the Latvian delegation stated that there is a difference between the definitions of “Latvian non-citizens” and stateless persons. Latvian non-citizens enjoy the same economic, social, political and cultural rights as Latvian citizens, but they cannot vote. Unlike stateless persons, they enjoy the full protection of the State. The number of non-citizens was still rather high, but the State’s opinion was not to enforce naturalisation.⁷⁸ However, this does not seem to have convinced the Committee, as it was found that the Committee was deeply concerned that, although all children born in Latvia after 1991 were entitled to citizenship, there was still a high rate of children without Latvian nationality, and that the pace of the naturalisation was slow.⁷⁹

One member of the Committee observed that the number of children in institutional care had risen from 3,289 to 3,637 between 1997 and 1999.⁸⁰ In the Concluding observations issued after the session, the Committee expressed its concern at the high number of children living in institutions.⁸¹

A quite strong remark was made by one of the members as regards children being kept in pre-trial detention for very long time, for up to two or three years. The member announced that this was a “gross violation of the rights of the child”, and that Latvia should consider a rule stipulating that children who have been kept in pre-trial detention for more than three months would automatically be freed.⁸²

Other UN Monitoring Treaty Bodies

The Committee on the Elimination of Racial Discrimination considered state reports from Latvia in 1999. With regard to citizenship, it was noted that 25 per cent of the resident population have to apply for citizenship, and they are therefore in a discriminatory position, and although the naturalisation process has been made more accessible for children, the naturalisation process remains slow.⁸³

⁷⁷ See, *Compte rendu analytique*, CRC/C/SR.671, para 6.

⁷⁸ See, Summary record regarding Latvia, CRC/C/SR.672, paras 4–6.

⁷⁹ See, Concluding observations regarding Latvia, CRC/C/15/Add.142, para 23 (unedited version).

⁸⁰ See, *supra* n 78, para 26.

⁸¹ See, *supra* n 79, para 27.

⁸² See, *supra* n 78, para 33.

⁸³ See, A/54/18, para 395.

National NGOs

An alternative report was prepared *Glābiet bērns* in 1998.⁸⁴ In this it is stated that the situation for children in Latvia has worsened since the independence. The report points out that there are many problems regarding the rights of the child. However, we select only a few topics here:

- The number of children not attending schools is rising. The official number for 1996, according to the NGO, is around 2,500 children. However, *Glābiet bērns* estimates that the number is 10,000–12,000. The main reason for this is said to be poverty.
- In recent years juvenile crime, alcoholism and drug abuse among children, and prostitution among the young, have risen sharply.
- Children are kept in detention for months pending trial.

The National Committee for UNICEF in Latvia, which is considered to be a national NGO, has contributed with data for this report. The main objections which the National Committee for UNICEF has towards the State Report of Latvia is that the report does not always reflect the actual situation of children. The national laws are often compatible with the CRC, but they are not thoroughly implemented. An example of this is related to education, which should be free of charge. However, according to the National Committee, in many schools the pupils have to buy their books, which many parents cannot afford.

According to the National Committee for UNICEF, the number of children who do not attend school is increasing, and approximately 5–15 per cent do not attend. Regarding health care, there are tendencies indicating that children's health is deteriorating. The use of drugs is increasing among children, and there is also a correlation between dropping out of school and the use of drugs.

The data by *Glābiet bērns* about detention is confirmed, and there are identified cases where children in detention have been waiting for a trial for as long as 1–2 years (1998).

The citizen issue is a very sensitive matter in Latvia. According to the national Committee for UNICEF, non-citizen children from 0–15 years comprise around 64,500 children (out of a total population of 2.5 million). The rights of the non-citizen children are said to be equal to the rights of the Latvian children, in terms of social welfare and education, for example. However, when travelling the non-citizen children will need a visa for some countries.

⁸⁴ Alternative Report to the United Nations on situation in area of protection on the rights of the child in Latvia 1992–1997, by *Glābiet bērns*, 1998. (An additional report from the same NGO was issued in 2000, and this basically confirms the information given in the 1998 report.)

International NGOs

In the International Helsinki Federation report 2000, which is based on data from a national NGO, it is stated that in May 1999 there were 43 minors in detention who had been held for more than a year.⁸⁵

European Commission – Regular Reports

The long pre-trial detention of juveniles is observed in the 1999 Regular Report. A new law from 1998 gives an opportunity for stateless children born after 1991 to apply for citizenship, and practically all non-citizen residents in Latvia are entitled to apply for citizenship, according to the report. The total population was about 2.43 million and about 600,000 persons were non-citizens.⁸⁶

In the Regular Report from 2000, the number of non-citizens has dropped to 570,000 people. The number of applications from non-citizen children is low. This is said to be due to parents wishing to naturalise at the same time as their children. The particularly serious situation of young people in pre-detention is referred to again. Moreover, a comment is made that prostitution and trafficking in women and children for prostitution abroad are increasing.⁸⁷

Save the Children Sweden's comments

The cases of extremely long detention of children before their trial are alarming. It is worth recalling that one of the members of the Committee called this a gross violation of the rights of the child, which is indeed an appropriate expression.

The term non-citizen is supposed to be a compromise with regard to the delicate issue of citizenship in Latvia. In other countries, these non-citizen residents (if they have no other citizenship) would be called stateless, and therefore certain parts of international law would be applied. This is not the case in Latvia, as the Government claims that their rights are fully protected. Save the Children Sweden is of the opinion that the low number of children whose parents have applied for citizenship is worrying from the children's perspective, as children, according to the CRC have a right to nationality (article 7). It is true that the Government has taken measures to get children access to citizenship, but it is nevertheless unsatisfactory that children are not assured a citizenship.

The increase of children not attending school, which is recognised by many, must be regarded as a serious problem. It should also be noted that there is a great discrepancy between the official number and the estimates by the NGOs.

Finally, it is worthwhile to note the comment by the Committee on the rise in numbers of children in institutions due to children living in vulnerable families or families with very low incomes.

85 See, "Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America" Report 2000 (Events of 1999), by International Helsinki Federation for Human Rights (IHF), at 240. Based on the Latvian Center for Human Rights and Ethnic Studies Human Rights in Latvia in 1999.

86 See, Regular Report from the Commission on Latvia's progress towards accession, under section 1.2 "Human rights and the protection of minorities", 13/10/99.

87 See, Regular Report from the Commission on Latvia's progress towards accession, under section 1.2 "Human rights and the protection of minorities", 8/11/2000.

Lithuania

The Committee on the Rights of the Child

The State Report of Lithuania was considered at the 26th session of the Committee, in January 2001.

The Committee noted with concern in its Concluding observations that children of stateless persons with no permanent residence in Lithuania cannot obtain Lithuanian citizenship.⁸⁸

During the meeting the problems of prostitution and trafficking of children were discussed, and considered as serious, though it was difficult to ascertain the extent of the phenomena. The State delegation made it clear that the new Penal Code contained separate articles on trafficking. (There was previously no liability under the law for trafficking.) Prostitution was considered to be an administrative offence, which included no provisions for special care of the child in question. However, the delegation undertook to ensure that an amendment of the Code was introduced in this respect.⁸⁹

One member of the Committee noted that the number of children dropping out of school was a serious concern. The number given was estimated at 20,000 children.⁹⁰ The State delegation felt that the statistics were not very reliable, and the topic was discussed at some length.⁹¹

In the Concluding observations, the Committee expressed concern at the widespread use of corporal punishment within the family and in institutions, and recommended appropriate legislative measures to be implemented, as well as measures to promote alternative methods of discipline.⁹²

Other UN Monitoring Treaty Bodies

In 1997 the Human Rights Committee issued its Concluding observations on Lithuania. In this document it is said, in relation to women being victims of violence and forced prostitution, that the Committee is concerned about the problems of child abuse, including sexual abuse, and that women and children have a right to personal security.

National NGOs

According to Save the Children's partner in Lithuania, Gelbekit Vaikus, one of the most severe problems relating to the rights of the child is that about 20,000 children do not attend school, and therefore their right to education is not upheld. Another problem is that many children live in institutions. Every year, 3,000 children from socially disadvantaged families are placed in institutions, according to Gelbekit Vaikus.

88 See, Concluding observations regarding Lithuania, CRC/C/15/Add.146, para 23 (unedited version).

89 See, Summary record regarding Lithuania, CRC/C/SR.684, paras 12, 52 and 58.

90 See, *ibid.*, para 19.

91 See, *ibid.*, paras 64–70.

92 See, *supra* n 88, paras 25–26.

An NGO report was sent to the Committee during the autumn of 2000 by the Lithuanian National Committee of UNICEF. Comments on almost all the articles of the CRC and the situation in Lithuania are made. Here we only select some: Reference is made to official data stating that the number of reports on kidnapped children and children involved in the sex industry has increased. There are some proposed amendments of the Penal Code relating to sexual exploitation, but these are not yet in force. It is pointed out that no research has been made in order to establish the spread of trafficking in children. Nor are there any programmes for rehabilitation.⁹³ The “rapidly expanding consumption of drugs” is said to be a major problem affecting the health of children.⁹⁴

Moreover, it is observed that some laws improving the integration of children with disabilities have been passed, but their implementation is slow. Half of all children with disabilities in Lithuania live in state institutions, and their access to education is limited.⁹⁵

European Commission – Regular Reports

With regard to children’s rights, the Regular Report from 2000 mentions that a National Programme against commercial sexual abuse and sexual violence against children has been set up by the Government. Still, there is no specific criminal provision regarding sex tourism.⁹⁶

Save the Children Sweden’s comments

In this case Save the Children Sweden wants to point out the issue of placing children in institutions, as our partner in Lithuania has done. Many children are still placed in institutions in Lithuania, often due to inadequate support to “socially disadvantaged families”. Among children in institutions are also children with disabilities. The Committee has expressed its concern on these issues.

There also appear to be problems in this Baltic State relating to the right to acquire nationality or citizenship, as children of stateless persons cannot gain Lithuanian citizenship. The extent of this problem is not known to Save the Children Sweden, but nevertheless, we want to put the issue forward here.

On the basis of the opinions given, Save the Children Sweden recognises that the high rates of dropout from school needs to be addressed, as does the spread of corporal punishment.

93 See, “NGO Comment on the Report of the Government of the Republic of Lithuania”, by Lithuanian National Committee of UNICEF, 2000, at 2, 8, and 18.

94 See, *ibid.*, at 15.

95 See, *ibid.*, at 13.

96 See, Regular Report from the Commission on Lithuania’s progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 8/11/2000.

Poland

The Committee on the Rights of the Child

In this case it has to be said that it is more difficult to detect a problem which is particularly prominent. However, the representatives and the Committee agreed that there were in Poland in 1995 – at least – “traditional attitudes” towards children, which, for example, were perceived by the strongly parent-oriented family prevailing in Poland. Both the representatives and the Committee were of the opinion that these attitudes needed to be changed as they, in many aspects, impeded the implementation of the CRC.⁹⁷

One of the members of the Committee pointed out that Poland – like many other countries – “suffered from a high level of domestic violence”.⁹⁸ The topic of corporal punishment within the family and the school was something which the Committee came back to during the oral sessions.⁹⁹ It seems as if the two concepts – traditional attitudes and ill-treatment of children – in some respects are woven together by the Committee. One member remarked that it appears that parents’ authority takes precedence over the best interests of the child, and that the child is not protected until the child is abused or neglected in an extreme way. Thus children’s rights are jeopardised.¹⁰⁰ Another member concluded at the end of the session by saying that the children did not seem to have any other choice than to obey.¹⁰¹ In the Concluding observations the Committee regrets that “appropriate measures have not yet been taken to effectively prevent and combat corporal punishment and ill-treatment of children in schools or in institutions where children may be placed. The Committee is also preoccupied by the existence on a large scale of child abuse and violence within the family and the insufficient protection afforded by the existing legislation in that regard.”¹⁰²

One member of the Committee asked whether prostitution of young girls was on the decline or increase. The Polish representative said that there was a rising trend in child prostitution and of other types of exploitation of children.¹⁰³ It is considered here that, if the problem is growing, it must be looked into and remedied in a more efficient way. Hence, the Committee noted with concern “the growing use and involvement of children in criminal activities and the vulnerability of children to sexual abuse...”¹⁰⁴

Other UN Monitoring Treaty Bodies

An interesting remark, which confirms the gravity of the problems referred to above, was made in June 1998 by the UN Committee on Economic, Social and Cultural Rights. The Committee expressed concern at the “rising incidence of

97 Summary record regarding Poland CRC/C/SR.193, paras 18, 19, and 22.

98 Ibid., at 11, para 54.

99 Compte rendu analytique CRC/C/SR.194, paras 12, 13, 18, 23, and 35.

100 Ibid., para 22.

101 Ibid., para 45.

102 Concluding observations regarding Poland CRC/C/15/Add.31, at 3, para 18.

103 See, *supra* n 99, para 34.

104 *Supra*, n 102, at 4, para 20.

domestic violence and of trafficking of young women”, which is also acknowledged by the Government.¹⁰⁵

National NGOs

According to two NGO reports, Polish law conforms rather well with the CRC, even if there still is need for improvement in some areas. In practice, however, there is very much to be improved. Both reports confirm that the method of bringing up children is based on obedience and punishment. The family code permits using corporal punishment as long as the physical and mental health of the child is not threatened.¹⁰⁶ Furthermore, a NGO-network, Polish Forum for Children’s Rights, confirms that violence against children in families and institutions is still a serious problem in 2001. The NGO refers to research claiming that in Poland almost 200,000 children per year experience violence.

International NGOs

The NGO EPOCH Worldwide (End Physical Punishment of Children) confirms that corporal punishment is not prohibited in the home, though it is prohibited in schools, childcare settings, and by the penal system.¹⁰⁷

European Commission – Regular Reports

The 1999 Regular Report claims that the domestic violence towards women has an impact on children, and that legislation addressing violent and other forms of abusive treatment of children ought to be considered.¹⁰⁸ However, nothing of this is mentioned in the report from 2000.

Save the Children Sweden’s comments

Save the Children Sweden wishes, on the bases of the information given, to highlight the grave matter of domestic and institutional violence towards children. It is vital that these problems are attacked on a broad basis, not least by education on the child perspective in the CRC – that children should be seen as subjects, not as objects.

Another area of great concern is thought to be sexual exploitation of children, such as child prostitution.

105 Concluding observation of the Committee on Economic, Social and Cultural Rights regarding Poland E/C.12/1/Add.26, para 13.

106 “Commentary on the Polish Governmental Report about Application of the Convention on the Rights of the Child”, issued by Helsinki Foundation for Human Rights, and “Children Rights in Poland”, by Helsinki Foundation for Human Rights, both 1994.

107 According to EPOCH, among the countries focused on in this paper, only Latvia has banned corporal punishment in the family.

108 See, Regular Report from the Commission on Poland’s progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 13/10/99.

Romania

The Committee on the Rights of the Child

Romania was assessed already in 1994. The growing number of children living or working in the street was a matter of “deep concern”.¹⁰⁹ The view of the Romanian representative on this issue was that: “Street children were found mainly in Bucharest and Constanza, most of them having left the children’s institutions where they had been placed. Many NGOs were taking care of them and providing them with board and lodging... The problem of street children had been exaggerated out of all proportion by the media.”¹¹⁰

Another problem which was discussed to a great extent was the situation of Roma children, and their low school attendance was considered to be a “serious problem”.¹¹¹ During the discussions one member stated that it was “alarming that approximately 50 per cent of gypsy children of school age dropped out of formal education and that gypsy children were grossly over-represented in children’s homes and institutions.”¹¹² Another member quoted figures from UNICEF saying that “10 to 15 per cent of children in Romania were gypsies and that 80 per cent of gypsy children were in institutions of some sort”.¹¹³

The Committee remarked in the Concluding observations that there was need for a better understanding among the public of children with disabilities. Initiatives should be made to move children from institutions to good family environments.¹¹⁴ According to the Government representatives, the severely handicapped children were cared for in special homes. In 1994, 10,000 children with disabilities received care in their own homes.¹¹⁵ One member responded to this by saying that the “Government must realise that institutional care was not the best solution even for the handicapped”.¹¹⁶

In the actual Concluding observations there is no special provision relating to the situation of children in institutions but, according to the summary records, this was discussed in terms of the Government admitting the necessity to improve the living conditions of children in institutions and finding alternatives to institutionalisation.¹¹⁷ The Romanian representatives contested a figure provided by NGOs which estimated the number of children in institutions to 100,000, meaning that the actual figure was 50,000. The number of abandoned children was supposed to be 30,000.¹¹⁸ (As an interesting point it ought to be mentioned here that in March 2000 the Romanian Government acknowledged that there were 110,530 registered institutionalised children in Romania.)¹¹⁹

109 See, Concluding Observations regarding Romania, CRC/C/15/Add.16, para 9.

110 Summary record regarding Romania, CRC/C/SR.122, para 24.

111 See, *ibid.*, at 10.

112 Summary Record regarding Romania, CRC/C/SR.121, para 3.

113 *Ibid.*, at para 7.

114 See, *supra* n 109, para 9.

115 See, *supra* n 112, para 39.

116 *Ibid.*, para 45.

117 See, Summary Record regarding Romania, CRC/C/SR.120 at 4.

118 See, *supra* n 112, para 52.

119 See, *supra* n 24.

Other UN Monitoring Treaty Bodies

In 1994, the Committee on Economic, Social and Cultural Rights also issued its Concluding observations on Romania. Similar subjects regarding children arose. Education for the members of the Roma minority had to be ensured, as well as facilitating access to education for street and abandoned children.¹²⁰

The Human Rights Committee remarked in 1999 that “the situation of street children and abandoned children was an exceedingly serious problem” which remained unresolved. The use of firearms by the police in cases of petty offences committed by minors was also commented on.¹²¹

National NGOs

The state has done nothing to reduce the number of institutionalised children, the NGO Salvati Copiii declared in its comments to the Committee in 1994. Neither had the Government taken any measures to prevent or limit the phenomenon of street children.¹²²

In a position paper from January 2001, Salvati Copiii suggests some areas of concern which could be linked to the accession process. The organisation has already carried out work in these fields, but further activities on a broad basis are needed. These child rights issues are related to:

- Roma children (discrimination)
- child poverty (many families live in poverty, and this can lead to harmful effects on children)
- education (e.g. decrease in school attendance)
- asylum and refugee children (inadequate protection).

European Commission – Regular Reports

We have already referred to the Regular Reports regarding Romania (see chapter 2 above) and consequently there is only a short commentary here.

The main issue is, as looked into before, “child protection”, and especially the conditions in the child institutions. In the report from 1999, it was in fact said in section 1.3, General evaluation, that the consideration that Romania fulfilled the Copenhagen Political Criteria would have to be re-examined if the crisis in the child care institutions was not given priority.

Briefly, it is mentioned that there are numerous examples of discrimination with regard to education for the Roma population.¹²³

In the EU Strategy paper from 2000, it is noted that Romania, since last year, has taken measures with regard to problems in childcare institutions. “However,

120 See, E/C.12/1994/4, paras 15-16.

121 See, CCPR/C/79/Add.111, paras 5 and 12.

122 See, “Some Comments on the report of the Romanian Government on the Implementation of the Convention on the Rights of the Child”, by Salvati Copiii, 1994.

123 See, Regular Report from the Commission on Romania’s progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 13/10/99.

the living conditions of over 100,000 children have not improved and a policy for structural reform is only now being put in place. Further sustained efforts are therefore required...”¹²⁴

Street children are mentioned in short in the report from 2000. There is said to be a general need to integrate child policies by assisting families, preventing abandonment and addressing the problem of street children.

Regarding discrimination of Roma, a reference is made to the previous report.

The focus is put on an accelerating trend by drawing attention to trafficking in women and girls for forced prostitution. No measures have been taken to combat this, according to the report.¹²⁵

Save the Children Sweden's comments

The predominant discussion in relation to child rights issues in Romania has up till now been the situation of children in institutions. The work in this area has begun, but a lot of work remains to be done, not at least raising awareness on the effects of placing children in institutions, and promotion of alternatives to institutions.

The EU does not specifically acknowledge that children with disabilities are to a large extent excluded from exercising their rights. Children with disabilities are often included in the group of children at institutions. Nevertheless, it is important that the rights of the child can be exercised by all children at institutions, including those with disabilities.

In short, when studying the different sources it is clear that there is a massive discrimination towards three big groups, namely, Roma children, children with disabilities and street children.

We would also like to draw attention to the additional areas of concern, articulated by Salvati Copiii, namely, the issue of inadequate schooling and the situation of asylum and refugee children.

Slovakia

The Committee on the Rights of the Child

The Concluding observations from the Committee on Slovakia, dating from October 2000, and written slightly differently than the previous Concluding observations, can be said to focus on discrimination of Roma children. These are said to be *de facto* discriminated against as regards the right to the highest attainable health, the right to adequate standard of living, and the right to education.¹²⁶ It was remarked by one representative of the Slovak Republic that “children lived in extremely bad conditions in the Roma settlements”.¹²⁷ The

124 Commission's Overview Progress Report, section 1.a) Political criteria – Overall Development, 8 November 2000.

125 See, Regular Report from the Commission on Romania's progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 8/11/2000.

126 See, Concluding observations regarding Slovakia, CRC/C/15/Add. 140, para 19.

127 Summary record regarding Slovakia, CRC/C/SR.663, para 10.

Committee notes that “most Roma children attend special schools due to real or perceived language and cultural differences between the Roma and the majority”.¹²⁸ Moreover, it is noted that there is a stereotypical description of the Roma and their children, also in the initial State report.¹²⁹

The still existing practice of placing children into institutional care is a concern for the Committee. Especially the children with disabilities are institutionalised, and there is a lack of inclusive policies in this area.¹³⁰

Slovakia is said to have become a transit country for transport of children for the purpose of pornography, prostitution and sex tourism. This is acknowledged by the UN Special Rapporteur on the sale of children, child prostitution, and child pornography. Commercial sexual exploitation is said to be rising.¹³¹

Other UN Monitoring Treaty Bodies

During 2000, the Committee on the Elimination of Racial Discrimination also made its Concluding observations on Slovakia. It is observed that “a disproportionately large number of Roma children are not enrolled in schools, have high dropout rates, do not complete higher education or are segregated and placed in schools for mentally disabled children.”¹³²

National NGOs

An NGO report sent to the Committee by the Children Fund of the Slovak Republic puts forward several problems which need to be remedied. We have chosen some of them here. It is stated that the vast majority of children with disabilities receive care in “huge asylums”. It should be allowed to let the child live at home, if possible, and the big institutions ought to be changed into smaller units, as it is difficult to provide care of high quality in accordance with the CRC in the big institutions. It is also argued that “children on the streets” is a “hidden group”, which needs to be attended. The children living in the streets are there for many different reasons, some abuse drugs, live on prostitution and/or crime and some have just run away from their homes.¹³³

European Commission – Regular Reports

The fact that Roma children are over-represented in schools for children with mental disabilities is briefly mentioned in the 1999 Regular Report.¹³⁴

128 *Supra* n 126, para 47.

129 See, *ibid.* An example of this: “A good programme of spending leisure in school premises... Could increase the overall cultural level of the roma youth and have a positive impact on forming their value system.” (para 232 of the Initial Report).

130 *Supra* n 126, paras 27 and 33.

131 *Ibid.*, para 49.

132 Concluding observations of the Committee on the Elimination of Racial Discrimination, regarding Slovakia, CERD/C57/CRP.3/Add.4., para 11 (unedited version).

133 See, “Report to the Committee on the Rights of the Child, by Children Fund of the Slovak Republic, (member of Defence for Children International). To be found at the CRIN-web-site, see n 26.

134 See, Regular Report from the Commission on Slovakia’s progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 13/10/99.

The over-representation of Roma children in separated schools is mentioned again in the 2000 Regular Report. The Roma minority is very big in Slovakia. It is said to be 1.6 per cent of the population, but according to sources other than the State, it might be nearly 10 per cent, which would count for the largest in Europe in relative terms. The strategies set up for improvements for the Roma community are shown to be lacking in many respects, and not much has changed for the better.

A whole paragraph is devoted to child protection in the 2000 Regular Report. It is said that Slovakia “is not making satisfactory progress” in this respect. There are around 5,800 abandoned children in homes, and their living and educational conditions are considered inadequate.¹³⁵

Save the Children Sweden’s comments

Clearly, the situation for the Roma children is precarious, as they are discriminated against in several ways. We cannot but agree with the member of the Committee who stated that it must indeed be very difficult to initiate inclusion policies towards the Roma population without even knowing the number to which they amount.¹³⁶

The situation of children in institutions, many of them children with disabilities, appears to be far from satisfactory. This is recognised in the Commission’s Regular Report 2000, and it ought to play a role in the negotiations towards membership.

The UN Special Rapporteur on the sale of children, child prostitution, and child pornography has pointed out that there are serious problems related to these issues in Slovakia. A third area of concern is thus suggested to be the rise of sexual exploitation of children.

Slovenia

The Committee on the Rights of the Child

All in all, at the end of the oral session in October 1996 one member stated: “The situation of children in Slovenia was not at all alarming, but efforts to provide better protection should continue.”¹³⁷

A couple of questions were posed by the members of the Committee with regard to the situation of disabled children,¹³⁸ and the Committee does not seem to be totally satisfied with the answer provided,¹³⁹ as the Committee states that it notes with concern that “the principle of non-discrimination is not fully implemented for disabled children”.¹⁴⁰

135 See, Regular Report from the Commission on Slovakia’s progress towards accession, under section 1.2. “Human rights and the protection of minorities”, 8/11/2000.

136 See, Summary record regarding Slovakia, CRC/C/SR.664, para 3.

137 Summary record regarding Slovenia CRC/C/SR.338, para 37.

138 See, *ibid.*, paras 10 and 18.

139 See, *ibid.*, para 11.

140 Concluding observations regarding Slovenia CRC/C/15/Add.65, at 3, para 13.

Regarding children dropping out of school, the Committee holds that there are “insufficient alternative educational programmes”,¹⁴¹ and it is not impressed by the efforts which have taken place.¹⁴²

National NGOs

In a report to the Committee it is claimed, among other things, that the right to education is not recognised for everyone. Fewer pupils than before continue in secondary schools due to various reasons: children with specific needs do not yet have the same right to education as other pupils; and there have been many cases where children with refugee backgrounds were not offered schooling.¹⁴³

European Commission – Regular Reports

The 1999 Regular Report brings forward in general terms that the “situation of the Roma continues to present some problems despite the Government being fully committed to finding solutions”. With regard to children, it is noted that the number of Roma children who regularly attend school has increased.¹⁴⁴

There is need for sustained efforts with respect to Roma children and education, according to the Regular Report from 2000.

Additionally, it is mentioned (however not in relation to children’s rights) that persons with status of temporary protection – people from Bosnia and Herzegovina – might have had such a status for up to eight years, and that this status means that they do not have any right to education.¹⁴⁵

Save the Children Sweden’s comments

When combining the Committee’s opinions and the NGOs’, one area of concern regarding children in Slovenia is suggested to be the discrimination against children with disabilities, and in particular their right to education, which does not appear to be upheld in practice.

Another matter of concern, when studying the Commission’s Regular Reports, is the situation of children with temporary protection, who are not entitled to receive education. Save the Children Sweden maintains that this contravenes the CRC.

However, it has to be noted that, generally speaking, there does not appear to be an alarming situation with respect to the rights of the child in the country.

141 Ibid., para 15.

142 Summary record regarding Slovenia CRC/C/SR.337, at 10, para 58.

143 “Comments and Remarks on the Governmental Report on Implementation of the Convention on the CRC” by Members of the Slovenian UNICEF Committee in Co-operation with NGOs in Slovenia.

144 See, Regular Report from the Commission on Slovenia’s progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 13/10/99.

145 See, Regular Report from the Commission on Slovenia’s progress towards accession, under section 1.2 “Human rights and the protection of minorities”, 8/11/2000.

Areas of great concern, that need to be addressed in the enlargement process.

The child-rights issues listed below are based on different sources, such as the UN Committee on the Rights of the Child, EU Commission and NGOs. The areas should be seen as preliminary.

Country	Child institutions	Children on the streets	Corporal punishment	Discrimination: minority children	Discrimination: children with disabilities	Lengthy pre-trial detention	Non-attendance in schools	Non-permanent residents & refugees	Sexual exploitation	Stateless children & "non-citizens"
Bulgaria				X			X			
Czech Rep.				X					X	X
Estonia		X								X
Hungary			X	X				X	X	
Latvia	X					X	X			X
Lithuania	X		X		X		X			X
Poland			X						X	
Romania	X	X		X	X		X	X		
Slovakia	X			X					X	
Slovenia					X			X		

4. Prospects for future work

Some Comments – A base to build on

Save the Children Sweden maintains that there are severe problems relating to the implementation of the rights of the child in most of the candidate countries in Central and Eastern Europe. Generally speaking, it is a fact that the transition period to market economy, has had a serious negative impact particularly on the welfare of all groups in difficult situations, including children. Every area of problems has to be seen in this context, and one must not lose sight of the underlying social, political, economic, and cultural situation for children. However, in our opinion it is necessary to point out specific areas of concern, as they are clear examples of the need for political action on a broad basis to show political will to implement the rights of the child. However, as regards, for example, children on the streets, it has to be remembered that it is not the children themselves whom we regard as the problem; it is the lack of adequate preconditions for a good childhood.

In several countries, children belonging to minority groups, especially Roma children, are exposed to massive discrimination in different ways. The EU is manifestly concerned about the situation of the Roma population in Bulgaria, Czech Republic, Hungary, Slovakia, and Romania. For example, Roma children do not get access to education on the same conditions as non-minority children. The disturbing tradition of placing Roma children into special schools for children with mental disabilities (*e.g. Bulgaria, Czech Republic, Hungary, and Slovakia*) has to be abolished. Often it is not even sufficient to guarantee access to schools on the same conditions – there is need for an active policy with the aim of preventing discrimination. Moreover, the Committee has many times expressed concern about the great number of children dropping out of school, of whom a large number are Roma children. Dropping out of school often leads to the child starting to live in the streets, and becoming involved in criminality or prostitution. Another problem is that many children are stateless or non-nationals of the country in which they reside. Therefore, they are sometimes excluded from exercising their rights. The growing number of children working as prostitutes and sexual trafficking of children is also very alarming. The phenomenon of placing children in institutions, on the pretext of that this is the best alternative for the child, has been a widespread practice of the authorities in Central and Eastern Europe. The conditions under which many children, often with disabilities, live in institutions, are equally very upsetting.

Save the Children Sweden claims that the approach described above regarding the negotiation process towards Romania – with a dialogue between the national Government, EU-politicians and civil servants, and NGOs focusing on the rights of the child – is constructive and definitely a step in the right direction. Therefore, it ought to be applied in terms of human rights, and consequently the rights of the child, in the negotiation processes with each individual candidate country.

Under no circumstances should the idea of bringing the rights of the child into the accession negotiations be seen as means of impeding the Central and Eastern European countries to become members of the EU. Save the Children Sweden shares the value that enlargement is one of the most important opportunities for the EU.

Save the Children Sweden believes that it is essential that the round-table meetings, with discussions between different actors, in due course will discuss the issue of how to make priorities in the field of the rights of the child in the specific country. Which problems have to be adhered to first? Should discrimination of children with disabilities be dealt with before corporal punishment is combated? Is it more important to shorten the time spent in detention centres than to remedy the issue of stateless children within the territory? Whatever the answer to these provoking questions might be, it is vital to implement some kind of action plan as the interventions have to be focused, and the resources are limited. Notwithstanding that there might be different opinions on what ought to be attended to first, at the end of the day, it is the government which is fully responsible for that the rights of the child becomes reality for every child in a country.

A positive spin-off effect is that, if attention is drawn to the rights of the child in relation to the future members, it may also help to enhance the status of the rights of the child within the EU of today. It has been pointed out by several that it is important that there will not emerge double-standards with regard to human rights and children's rights.¹⁴⁶ Moreover it has been observed: "The enlargement process offers a valuable opportunity for existing Member States to hold up a mirror on their own performance. Few if any should be fully satisfied with what they see."¹⁴⁷

In this context it can be pointed out that the rights of the child have specifically been acknowledged in article 24 of the Charter of Fundamental Rights of the European Union. The Charter was proclaimed by the Council, the Parliament and the Commission at the Nice Summit in December 2000. However, the question of the Charter's force, or status, is considered later.¹⁴⁸ Save the Children Sweden considers that there are shortcomings in the final wording of this article. The Swedish Prime Minister, Mr Göran Persson, has at an early stage commented on this by saying that the article is too weak. The provision of protection of children in the article ought to have been balanced by focusing more on the child as an individual with own rights, in accordance with the CRC.¹⁴⁹ Nonetheless, the inclusion of a specific article regarding the rights of the child in the Charter of Fundamental Rights of the European Union, is a manifestation of the rights of the child being something which belongs within the union, and is acknowledged by the Union. Save the Children Sweden expects that this

146 See, "The European Union and Human Rights: Final Project Report on an Agenda for the Year 2000", by Philip Alston and J.H.H. Weiler, Florence 1998, paras 9-11, and "Child Well-being in the EU and Enlargement to the East", Innocenti Working Papers no. 75, Unicef, Florence, February 2000, at 22.

147 Ibid., Innocenti Working Papers no. 75, at 22.

148 See, Nice European Council Meeting 7, 8 and 9 December 2000, Presidency conclusions, para 2.

149 From speech held by the Swedish Prime Minister Mr Göran Persson before the Special Meeting of the European Council in Biarritz, 13-14 October 2000.

political intention in the long run will prove to have a practical positive impact on children's lives.¹⁵⁰

Expectations on NGOs by Save the Children Sweden

It would be an understatement to say that it is difficult to influence the machinery of the EU in the process of enlargement. But even so, the opportunity at hand must not be lost. It is suggested that the advocacy has to be carried out in different parallel processes, namely towards national politicians, and key decision-makers within the EU.

Some suggestions of groups or bodies that might be useful to contact once you as an NGO have defined which child-rights issue you want to advocate are given below.

It is suggested that NGOs:

- Collaborate with a national NGO-network on the UN Convention on the Rights of the Child, if such exists in the country in question. A network consisting of many NGOs is more likely to be listened to and have a substantial impact.
- Contact members of Parliaments and civil servants who take part in the EU-negotiations. The names of these persons can most likely be traced through the Foreign Ministry in your country. Make them understand the opportunity at hand.
- Contact Members of the European Parliament (MEPs) who are likely to be interested in specific child issues in a particular country. There is a so-called Joint Parliamentary Committee on each of the candidate countries, and these MEPs often have a special interest and knowledge about the country in question. The MEPs can, for example, pose oral or written questions in the European Parliament, or initiate a certain issue on the agenda, and the MEPs may also influence other actors within the EU.¹⁵¹ (Two other groups of interest are: MEPs for the Parliamentary Children's Alliance Group and the Intergroup "Family, Children and Solidarity".)
- Make contact with the Commission, through the Directorate General for Enlargement. The Directorate has specific staff for each of the candidate country.¹⁵²
- Invite relevant politicians and civil servants to a round-table discussion where you discuss the situation of the rights of the child in your country, and try to form a consensus on which problems are in most acute need of resolution. Set priorities. Arrange – if possible – a joint plan of action on what has to be done in the field of the rights of the child.

150 Article 24 of the Charter of Fundamental Rights of the European Union can be found in the appendixes of this paper. (The version which the Swedish Government and Save the Children Sweden is advocating can also be found there.)

151 [Http://www.europarl.eu.int/delegations/europe/jpc/default_en.htm](http://www.europarl.eu.int/delegations/europe/jpc/default_en.htm)

152 [Http://europa.eu.int/comm/enlargement/contacts/index.htm](http://europa.eu.int/comm/enlargement/contacts/index.htm)

- Contact the Phare Programme and propose projects with the aim of enhancing the enforcement of the UN Convention on the Rights of the Child in your country.¹⁵³

Requests to politicians and officials by Save the Children Sweden

Politicians and officials involved in the EU enlargement process are requested to:

- Bring the rights of the child more consistently into the enlargement process, underlining that children's rights, as expressed in the UN Convention on the Rights of the Child, should be one component of the interpretation of the Copenhagen Political Criteria. A holistic view on the rights of the child should be applied.
- Introduce a clear child-rights perspective into the enlargement process. The child-rights perspective stands for that children must be acknowledged as bearers of their own rights, and as full members of society.
- Invoke the rights of the child, specifically during discussions under negotiation chapter 24, Co-operation in the fields of justice and home affairs.
- Convene further conferences in the European Council and Commission following up the extent to which candidate countries have implemented the obligations under the UN Convention on the Rights of the Child, as proposed by the European Parliament in the Annual Report on International Human Rights and European Union Human Rights policy, 1999.
- Encourage the candidate countries to draw up a national joint plan of action with regard to the rights of the child in their country, within the enlargement process, and press for improvements for children.
- Ensure that a close follow-up of the actual national implementation of the rights of the child is to be made in the coming European Commission annual Regular Reports.
- Initiate a dialogue with civil society about the situation of the rights of the child in the Central and Eastern European Countries. You may obtain additional and useful information from NGOs.
- Initiate a meeting, where NGOs are also represented, where you can have a more in-depth discussion of the situation of children in a particular country. (Examples of politicians setting up such discussions have come to reality regarding Romania.)
- Take initiatives with the aim of focusing Phare resources towards political reforms concerning child issues to a greater extent than before.

153 <http://europa.eu.int/comm/enlargement/pas/phare/index.htm>43

- Elaborate policies in the area of minority issues specifically designed for children, as they, to some extent, find themselves in another situation than the adult minority population.
- Promote good policies of inclusion in the area of education of Roma children, in order to remedy the widespread tradition of placing Roma children into special schools for children with mental disabilities.
- Press for strategies aiming at guaranteeing that the right to education for every child is upheld in the Central and Eastern European countries. If school-attendance is increased, other problems can be diminished. Additionally, the school is an important arena where the rights of the child can be taught.
- Use the Phare Programme as a means to provide families with necessary protection and assistance so that they can fully assume their primary responsibility for a child's upbringing; and to develop sustainable alternatives to child institutions.
- Address violence towards children as a human rights issue, and promote initiatives of appropriate measures to prevent corporal punishment. In this regard it is very important to highlight the child perspective in the UN Convention on the Rights of the Child.
- Specifically include children with disabilities and their rights in the process. The policies promoted must not only include access to services, technical aid etc., but must focus on the means to attain real participation in society for these children.
- Address all forms of child sexual exploitation. The EU should strengthen existing initiatives to support the development of law, policy and practice in this area in the candidate countries.

To sum up, it should be possible to establish, within the process of enlargement, a consistent policy including and giving priority to the rights of the child. That is the message Save the Children Sweden and its partners seek to convey.



Article 24 of the Charter of Fundamental Rights of the European Union, proclaimed in December 2000

The rights of the child

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.
3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

The version that the Swedish Government, supported by Save the Children Sweden, is advocating:

In all actions concerning children the best interests of the child shall be a primary consideration and the rights of the child shall be respected and ensured without discrimination of any kind. The child shall be assured the right to express its views freely in all matters affecting the child, the views of the child being given due weight.

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