
Appendix II. TDA Criteria and Corresponding Guidance Questions

1. Prevalence and Sectoral Distribution of the Worst Forms of Child Labor

TDA Conference Report Criteria:

- Although not explicitly discussed in the TDA conference report, any government that supports the use of forced child labor cannot be said to be implementing commitments to eliminate the worst forms of child labor.

Guidance Question

1. *Was the government complicit in the use of forced child labor?

2. Laws and Regulations on the Worst Forms of Child Labor

TDA Conference Report Criteria:

- “Whether the country has adequate laws and regulations proscribing the worst forms of child labor;”
- “Whether the country has adequate laws and regulations for the implementation and enforcement of such measures;”

Guidance Questions

1. Did laws meet the following international standards:
 - a. a minimum age for admission to employment in line with ILO Convention 138
 - b. a minimum age for admission to hazardous work in line with ILO Convention 138 and 182
 - c. a minimum age to which education is compulsory in line with ILO Convention 138
 - d. ratification of ILO Convention 182
 - e. prohibitions on each of the worst forms of child labor as established in ILO Convention 182?

Labor Law of Montenegro, under Article 16, paragraph 2, as a general condition of employment provides for a minimum age limit of 15 years of life.

In addition, Article 17 of the Law stipulates that a person under 18 years of age may enter into employment contract only with the written consent of a parent, adoptive parent or a guardian, provided that such work does not endanger the health, morals or education of a person i.e. if such work is not prohibited by law. To conclude employment contract for this category of persons, in addition to aforementioned consent, it is required to obtain the finding of a competent health authority, which determines the ability to perform tasks for which a child signs the employment contract, and ascertains that such activities are not harmful to the health of the person.

2. If the country’s constitution and laws are not compliant with international
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standards embodied in ILO Conventions 138 and 182, has there been any change in the constitution or laws that brings the country closer to being fully compliant?

The provisions contained in the Labor Law are in line with the standards of the ILO Conventions no. 138 and 182.

3. If laws were not comprehensive in their prohibitions of all variations of a particular worst form, has there been any change in the constitution or laws that brings the country closer to being comprehensive?
4. *Were there aspects of laws that are contrary to international standards and likely to increase children's vulnerability to the worst forms of child labor?

The provisions contained in the Labor Law are in line with the standards of the ILO Conventions no. 138 and 182.

3. Institutional Mechanisms for Coordination and Enforcement

TDA Conference Report Criteria:

- "Whether the country has established formal institutional mechanisms to investigate and address complaints relating to allegations of the worst forms of child labor;"

Guidance Questions

1. Was an agency or committee created to coordinate government efforts to combat the worst forms of child labor? Did such an agency or committee meet more regularly and take more action, or did it meet less regularly and take less action?
 2. Was there an increase or reduction in inspectors to enforce child labor laws and regulations? Was the number of inspections an improvement or decline, given the incidence of child labor in the country?
 3. Was there an increase or decrease in the funding and resources to enforce child labor laws and regulations? Was the amount an improvement or decline, given the incidence of child labor in the country?
 4. Did the country increase or decrease training offered to child labor inspectors?
 5. Did the government create or improve a mechanism for filing complaints regarding child labor?
 6. Was there an increase or reduction in child labor inspections? Were inspections targeted to sectors in which child labor occurs more or less frequently? Was the number of inspections an improvement or decline, given the incidence of child labor in the country?
 7. Did the government establish or improve a process for information sharing among enforcement authorities?
 8. Did the judiciary uphold existing laws and penalties regarding child labor? Was there an improvement or decline in the quality or quantity of criminal prosecutions of crimes related to child labor?
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9. *Were there any aspects to the country's enforcement practices that likely increase children's vulnerability to the worst forms of child labor?

4. Government Policies on the Worst Forms of Child Labor

TDA Conference Report Criteria:

- "Whether the country has a comprehensive policy for the elimination of the worst forms of child labor;"

Guidance Questions

1. Did the government establish any new policies or plans that specifically address the worst forms of child labor or any one of the worst forms of child labor?
2. Did the government incorporate the worst forms of child labor specifically as an issue to be addressed in poverty reduction, development, educational or other social policies, such as Poverty Reduction Strategy Papers, etc?
3. Did the government establish any poverty reduction, development, educational or other social policies, such as Poverty Reduction Strategy Papers, etc., that did not explicitly address the worst forms of child labor or any one of the worst forms of child labor, but that might have had an impact on them or it? If so, have any studies been conducted to assess the impact of such a policy on the worst forms of child labor?

The Government of Montenegro adopted the Development and Poverty Reduction Strategy 2007-2011. The Government concluded that the country needs not adopt a new strategy, as individual strategies covering the areas that were the subject of the above mentioned strategy are to be adopted. The Government of Montenegro adopted the Strategy for the Development of Social and Child Protection in Montenegro for the period 2008-2012, and the Strategy for the Development of Social and Child Protection in Montenegro for the period 2013-2017 is being drafted at present. The main objective of the Strategy for the Development of Social and Child Protection is to develop an integrated social and child protection, through the development of efficient services network, capacity building and by guaranteeing the fundamental rights which provide protection to families, individuals and groups in the least restrictive environment to activate their potential, which can prevent, eliminate or mitigate the main risks to which citizens are exposed. The Strategy does not deal with explicit forms of child labor, however, measures stipulated within the Strategy relate to the protection of families and children, and therefore have an impact on the prevention of child labor. The measures envisaged in the Strategy are mainly realized by applying the Law on Social and Child Protection ("Official Gazette of Republic of Montenegro" No. 78/05), which lays down the basic rights to social protection and basic rights from the child care system whose beneficiaries are children within the family or as individuals. The Law particularly protects: incapable for work and unprotected; children without parental care; children with physical, mental or sensory disability; abused and neglected children, children with behavior disorders. The basic rights of social protection are: family allowance (note:

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monthly social assistance), personal disability allowance, care and assistance of another person, placement in institutions, foster placement, assistance for the education of children and youth with special needs, health care, funeral costs and one-off financial support. Fundamental child protection rights are: equipment for newborn babies, child allowances, benefits based on child's birth, salaries for part-time work for mothers, and holiday and recreation for children. The fundamental right to social protection is a family allowance to a child as a family member, provided that the child is under 18 years old and attends school. If a child is between the ages of 15 and 18 and he/she does not attend school, the child needs to be registered as unemployed with the competent body. These conditions equally apply to children when it comes to achieving child allowance as a fundamental right of children to child protection. Although a study to evaluate the impact of policies in the field of social and child protection on the worst forms of child labor has not been conducted, we believe that the prescribed conditions to exercise these rights i.e. attendance of school and records with the authorities in case of children aged 15-18 years who are not attending school. The competent authority helps children who are registered as unemployed find an employment through retraining programs and additional trainings. Number of children using the right to family allowance and the right to child allowance is about 20,000. To better protect children without parental care, the Government of Montenegro adopted the Strategy for the development of foster care in Montenegro, with the Action Plan for the period 2012-2016. The National Action Plan for Children 2013-2017 is currently drafted.

The Government of Montenegro has established a Council for the Rights of the Child, whose job is to primarily protect and promote children's rights in social welfare and child protection, health care, education and other areas of importance to the protection of the rights and interests of the child.

4. If the country established any of the above plans, do they designate responsible agencies, establish actions to be taken, timelines, and other concrete measures?

Action plans of adopted strategic documents define concrete measures, the competent authorities and the deadlines for the implementation of the measures. When it comes to the Law on Social and Child Protection, it is being enforced in continuity by the competent authorities. The competent authorities for the implementation of the said law are 10 centers for social work, which with their services cover all 21 municipalities in Montenegro, as well as 5 institutions for beneficiaries, three of which are for children as follows: for children without parental care, children with behavioral disorders and for vacation and recreation for children.

5. Using the criteria in Question 4, did implementation of existing policies improve or worsen compared with the previous year?

The enforcement of existing policies is constantly improving, and the existing policies

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are also constantly harmonized with international standards by innovating strategic documents. Also, the Government of Montenegro adopted the Draft Law on Social and Child Protection, which was submitted to the Parliament of Montenegro as the competent authority for its adoption.

6. *Were there on-going country policies or were they any changes to the country's policies that likely increase children's vulnerability to the worst forms of child labor?

The Labor Law provides for special protection of youth at work. This category includes employees aged 15 to 18 years. In this regard, the amendments to the Labor Law of December 2011 prescribe that employees younger than 18 years are entitled to a weekly rest period of at least two consecutive days, one of which is Sunday (Article 62, paragraph 6), while the right to annual home leave is for a minimum period of 24 working days, while for other employees the leave is allowed for 20 days the minimum (Article 65, paragraph 2).

In addition, under current arrangements, employees younger than 18 years old cannot work in the workplace with the prevailing hard physical labor, underground or under water, or jobs that can have detrimental or increased risk to their health and life (Article 104), nor can they be instructed to work at night, and more than full time. Exceptionally, they may be assigned to work at night, if it is necessary to continue the work that was interrupted by natural disasters or to prevent damage to raw and other materials.

5. Social Programs to Eliminate or Prevent the Worst Form of Child Labor

TDA Conference Report Criteria

- "Whether social programs exist in the country to prevent the engagement of children in the worst forms of child labor, and assist in the removal of children engaged in the worst forms of child labor;"

Guidance Questions

1. Were any child labor specific programs or social protection programs that target child labor created?
2. Were any social protection programs established that target children and could reasonably be expected to have an impact on child labor? Were any other social protection programs established that were shown, through research, to have an impact on child labor?

Law on Social and Child Protection ("Official Gazette of the Republic of Montenegro" No. 78/05), lays down the basic rights of social protection and basic rights from the child care system whose beneficiaries are children within the family or as individuals. The law specifically protects: incapable to work and materially unsecured; children without parental care; children with physical, mental or sensory disability; abused and neglected children, children with behavior disorders. When it comes to children, these are primarily

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children from economically disadvantaged families, abused and neglected children, children without parental care and children with behavioral problems whose status may have impact on child labor. Forms of protection are provided for primarily in the form of financial support to families with children (family allowance, one-off assistance, etc..), and to children themselves (child allowance, care and assistance of another person, personal disability allowance, vacation and recreation for children and others.)

3. Are new programs sufficient to combat particular forms of child labor given the scope and magnitude of those problems?

Programs in the field of social and child protection are not adequate enough to combat certain forms of child labor as they include only the area of social and child protection and the category of children who are at risk, which covers a smaller percentage of the total number of children. For a comprehensive fight against certain forms of child labor relevant are the fields of labor, employment and other areas that deal with issues of child protection.

4. Do new programs provide services directly to children?

In the field of social and child protection, under the Law on Social and Child Protection, the rights and services directly related to the protection of children both in financial terms and in terms of service delivery have been stipulated. Rights that are directly related to the children are as follows: child allowance, care and assistance of another person, personal disability allowance, vacation and recreation for children, placement in a foster family or in foster care, etc. Competent social work centers provide services in the form of advisory work in all cases when it comes to protecting the interests of children, and give their opinions to other authorities (police, courts, etc.). Draft Law on Social and Child Protection, which is pending before the Parliament of Montenegro, defines services that need to be provided to children who are at risk.

5. Do new programs adequately target at-risk populations?

Programs target at-risk populations of children such as: children from economically disadvantaged families, children with physical, mental and sensory disabilities, abused and neglected children, orphans and children with behavior disorders.

6. Were new programs fully funded?

Fundamental rights to social protection and fundamental rights to child protection prescribed by the Law on Social and Child Protection are funded from the budget of

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Montenegro.

7. Are new programs meeting their goals?

Activities carried out under the law or policy documents largely meet their goals.

8. Are new program efforts sustainable?

Strategic documents and laws cannot be passed unless their financial viability proven.

9. Using the criteria in questions 4-8, did existing government programs improve or worsen compared with the previous year?

Strategic documents and laws are continuously adjusted according to the needs or perceived deficiencies in their application in practice, so as to improve them compared to the previous period of application.

10. *Were there any changes to the country's programs that likely increase children's vulnerability to the worst forms of child labor?

*A yes response to questions with an asterisk indicates a country that would likely receive an assessment of minimal or no advancement.
