**INPUTS FROM THE PROTECTOR OF CITIZENS OF THE REPUBLIC OF SERBIA**

**FOR THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS CONCERNING CHILD, EARLY AND FORCED MARRIAGE**

1. What progress has been made in addressing the drivers of child, early and forced marriage, such as poverty and lack of opportunities for women and girls at risk and survivors, which promote the human rights of women and girls (inheritance, property, social protection, education, and access to employment, land and other productive resources)?

No progress has been made on the elimination of some of the causes and factors contributing to the existence of child, early and forced marriages. A high percentage of children - over 30% - are at risk of poverty, as are almost 30% of young people. Girls and young women are at higher risk of poverty than boys and young men (32.3% vs. 27.3%). The risk of poverty and social exclusion is also higher in children (38.5%) and young people (39.8%) than in the general population[[1]](#footnote-1).

On the other hand, there has been an increase in the coverage of marginalized children, especially Roma children, in the preparatory pre-school program and primary school. The Ministry of Education, Science and Technological Development has developed a *School-Level Dropout Prevention Model*, developed in collaboration with UNICEF, and is gradually introducing it into primary and secondary schools, and nearly 40,000 teachers and approximately 3,500 preschool teachers have received appropriate training. The primary school completion rate for Roma children has increased to 64%, but is still significantly lower than in the general population (96%). The situation is similar when it comes to the rate of starting high school: 59% for Roma children and 96% for the general population. Elementary school attendance for Romani children was also increased to 85%, but it is lower than that of the general population (99%), while secondary school attendance was only 22% for Roma children compared to 89% for the general population. The greatest disparity is with regard to early childhood education: 6% of Roma children attend preschools, compared to 50% of children in the general population[[2]](#footnote-2).

1. What progress has been made to remove legislative provisions that justify or lead to child, early or forced marriage, including provisions that enable perpetrators of rape and other forms of sexual violence to escape prosecution and punishment by marrying their victims? What are the remaining challenges?

Challenges:

The legislative framework is not adequate enough to prevent child, early and forced marriages.

Although it has been announced that the Family Law will be amended, this regulation still contains a provision allowing the marriage of children over 16 years of age with court approval.

Despite the initiatives, recommendations, proposals and opinions of the Protector of Citizens, the crime of *Extramarital union with a minor*, even though it essentially involves sexual activity with a child, does not fall within the Criminal Code as a criminal offense against sexual freedom[[3]](#footnote-3), so there is no possibility of applying the Law on Special Measures for Preventing the Perpetration of Crimes Against the Sexual Freedom of Juveniles. In this way, a lower level of protection is envisaged for violations of the rights of the child in early and forced child marriages, compared to the enhanced protection prescribed for other forms of sexual harassment, abuse and exploitation offenses committed against children. Furthermore, practice shows that it is necessary to redefine criminal protection against child, early and forced marriages, given the lack of understanding of the fact that early, child and forced marriages are always and without exception sexual exploitation and sexual abuse of children and therefore require a response in line with the highest standards of protection of children from sexual exploitation and sexual abuse, especially because of the continued interpretation of Roma culture and tradition as an unavoidable obstacle to the establishment of criminal responsibility for sexual offences against children.

1. What are the measures taken to ensure that women and girls at risk or subjected to child, early and forced marriage do not face discriminatory legal, practical and structural barriers to access to justice and legal services, barriers to access to legal aid, including legal advice, assistance and representation, and other legal remedies?

In 2018, the Law on Free Legal Aid was adopted[[4]](#footnote-4), which in particular sets aside the provision of free legal aid to a child whose right, obligation or interest based on the law is decided in proceedings before a court, other state authority or public authority, a child who is protected by being given accommodation services in the social protection system and children and young people who ceased to have their social housing services until the age of 26. The law came into force on November 21st, 2018 and started to be applied on October 1st 2019.

5. What progress has been made in engaging other stakeholders, such as parents and other family members, teachers, religious, traditional and community leaders, civil society, organizations led by girls, women’s organizations, youth, men, human rights defenders, parliaments, children’s ombudspersons, media, the private sector, national statistics bureaus and gender machineries in the prevention and elimination of child, early and forced marriage?

In 2019, the National Coalition for the Prevention of Child Marriages was formed, whose members, in addition to the MPs of the Republic of Serbia and representatives of the Protector of Citizens, are representatives of numerous institutions and bodies: The Ministry of Construction, Transport and Infrastructure, UNICEF, The Gender Equality Coordination Body, The Nišava Administrative District, The Jablanica Administrative District, The Secretariat for Social Welfare of the City of Belgrade, The Ministry of Demography and Population Policy, The team of the Government of the Republic of Serbia for Social Inclusion and Poverty Reduction, The Roma Inclusion Office of AP Vojvodina, The Republic Institute for Social Protection, civil society organizations, The Commissioner for the Protection of Equality, UNFPA and UNHCR.

The National Coalition began planning and undertaking cross-sectoral activities aimed at publically advocating for the suppression and prevention of child marriages, improving the legislative framework and improving the practice and work of acting professionals.

6. What progress has been made in enhancing protection for girls and women who have been subjected to child, early and forced marriage, through for instance safe shelters, counselling and other support services, including medical, psychological and legal services, as well as programmes focusing on education, health including sexual and reproductive health, livelihood, autonomy, and decision-making to empower girls and women? What are the remaining gaps and challenges?

In a number of local self-government units in Serbia, local Roma inclusion teams have been formed, representing a cross-sectoral model of approach to combating the marginalization of Roma men, women and especially Roma children, as well as establishing and developing services for their social inclusion. The mobile teams conducted a number of activities aimed primarily at addressing personal statuses, including the children in pre-school and preparatory pre-primary and primary school system, vaccination of children, providing additional support services in education, preventing dropping out of school and promoting and protection of sexual and reproductive health, including activities to prevent early marriages.

Particularly important in this process are health mediators - as liaisons between Roma, in particular Roma women and the health system - who have achieved significant and measurable results in the health care of Roma women and Roma children and have contributed to increasing the education level among Roma children, especially girls. The work of health mediators has led to an increase in the number of Roma women who have health insurance and an increase in the use of health services by Roma women, including sexual and reproductive health services. However, despite the undeniable positive influence of health mediators and the fact that the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia for the period 2016 - 2025 envisaged the introduction of mediators in the health system through the systematization of this workplace, this has not happened to date, nor are there indications that this will happen any time soon, especially given the economic austerity measures still in force in the Republic of Serbia and which limit employment in the public sector.

7. Please provide information on efforts by judicial and non-judicial accountability mechanisms to address child, early and forced marriage at national and regional levels (e.g. national human rights institutions, monitoring or oversight mechanisms)?

In the 2011 survey, the Protector of Citizens found that employees of competent institutions had not had sufficient data and expertise to draw reliable conclusions about the causes of life and/or work of children on the street and the extent of this phenomenon. No state government system keeps records on the lives and work of children on the street (only the social protection system and the police have indirect data), and in particular there is no systematic and comprehensive record of children living and working on the street. The lack of records makes it difficult to take organized, synchronized and coordinated actions to prevent and eliminate the life and work of children on the street.

Children living and working on the streets do not have a clearly recognized status in regulations and practices as child victims of exploitation, violence, abuse and neglect. On the contrary, at the age of 14, they are considered as perpetrators of criminal offenses - misdemeanors, they become a legitimate object of police authority and the authority of the communal police and enter into criminal proceedings in which sanctions are imposed on them. The exercise of the right to health, social, legal and security protection and education for children whose life and / or work is inseparably linked to the street is not governed by specific regulations, but general norms apply in these areas in which these children are not recognizable by the system. The capacities of organs and institutions are insufficient, there are no professional standards for work with children living and working on the street, the measures taken are unsystematic, the effects of the measures are not analyzed and monitored. The relationship between authorities and institutions is characterized by a lack of substantive cooperation, and information is generally one-way and there is no joint activity. When writing the Special Report on Child Begging[[5]](#footnote-5), the Protector of Citizens made a number of recommendations, which he repeated at a joint meeting with representatives of state authorities in 2014. However, to date, the position of children living and working on the street has not been improved and, due to austerity measures, certain services intended for this vulnerable child population have been abolished (for example, the City of Belgrade made the decision to abolish the service of Shelter for children of the street, which has not been reinstated since. The service as such survives solely through other forms of financing, such as donations).

The Protector of Citizens is currently conducting a control procedure regarding the instruction given by the Ministry of Labour, Employment, Veteran and Social Policy to the centres for social work, which obliges the centres for social work to take children in the street situation away from their parents **in all cases**. The Protector of Citizens is of the opinion that this instruction is illegal, irregular, contrary to the interests of children and harmful to children, since it neglects the fact that child and family poverty is a key factor in children finding themselves in the street situation.

In 2011, the Protector of Citizens started the Initiative for the modification and amendments to the Criminal Code, to bring it into line with the Council of Europe Convention on the Protection of Children against Sexual Abuse and Sexual Exploitation. In 2012, the Protector of Citizens repeated this initiative and in 2016 the National Assembly received, through the Women's Parliamentary Network, a revised Initiative for Amendments to the Criminal Code, which sought to ensure the criminal protection of children from child and early marriages, by introducing the criminal offense of extramarital unions with a minor into the group of crimes against sexual freedom, which would ensure the implementation of a special law that promoted the protection of children from sexual offenses[[6]](#footnote-6).

In 2016, the Protector of Citizens also produced a publication entitled "Protecting Children against Sexual Exploitation and Sexual Abuse", which was submitted to the competent authorities[[7]](#footnote-7).

The experts within the Protector of Citizens held instructions and trainings on children’s rights to health workers, Roma organizations, women's organizations and educators on protecting children from all forms of violence, abuse and neglect.

1. The first Voluntary National Review of the Republic of Serbia on the Implementation of the 2030 Agenda for Sustainable Development, available at:

   <https://sustainabledevelopment.un.org/content/documents/23471Serbia_VNR_Report_2019_final.pdf>. [↑](#footnote-ref-1)
2. The data of the Ministry of Education, Science and Technological Development from January 2019, which are available to the Protector of Citizens. [↑](#footnote-ref-2)
3. The criminal offense of Extramarital union with a minor is prescribed by Art. 190, and sex offenses include the provisions of Art. 178-186. of the Criminal Code. [↑](#footnote-ref-3)
4. “The Official Gazette of RS“ number 87/2018. [↑](#footnote-ref-4)
5. More details in the Special report of the Protector of Citizens on child begging in the Republic of Serbia, available at: <http://www.zastitnik.rs/attachments/1597_brosura_Final%20ddd.pdf> in Serbian, <http://www.ombudsman.org.rs/index.php?option=com_content&view=article&id=71:prevention-of-exploitation-of-children-in-south-east-europe&catid=12&Itemid=14> in English. [↑](#footnote-ref-5)
6. Available at: <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/4598-2016-02-10-14-53-33>. [↑](#footnote-ref-6)
7. Available at: <https://www.pravadeteta.com/attachments/394_publikacija%20Lanzarot%20pdf.pdf>. [↑](#footnote-ref-7)