**SUBMISSION OF THE PROTECOR OF CITIZENS OF THE REPUBLIC OF SERBIA**

**Regarding the Call for Submission for report on child, early and forced marriage**

Child marriages are recognized in significant strategic documents of the Republic of Serbia, such as the National Strategy for Gender Equality for the period from 2016 to 2020, the Strategy for the Prevention and Protection against Discrimination for the period from 2014 to 2018, and the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia for the period from 2016 to 2020.

However, despite numerous strategic documents, children and early marriages in the Republic of Serbia still exist, primarily within the Roma population and especially in the southern part of Serbia and some parts of Vojvodina. There are no contractual marriages in the city of Belgrade, but there are juvenile marriages. The lives of a large number of Roma women are characterized by exclusion from education, early dropping out from school, early marriages, multiple pregnancies with a small interval between them, lack of information and financial and other independence from older family members and partners. The age in which they get married varies, and very often is between 13 and 15 years of age. Although Roma women often state poor financial situation as a reason for their early marriage, it is shown that a better economic situation of the family does not have an impact on the time of their entering a marital union, as even the Roma women from economically stronger families also get married early, under the influence of gender and other stereotypes and, in particular, the absence of a systemic response of the state to this phenomenon[[1]](#footnote-1).

In the Republic of Serbia there is still no planning of preventive systematic measures for the elimination of early, contractual and forced child marriages, which is the phenomenon most appropriate for exploitation and sexual exploitation and abuse of children, although this problem, as well as the problem of juvenile pregnancy in the Roma community has long been recognized (the Roma women get married between the ages of 13 and 27, the pregnancy rate of adolescents among Roma women - from 15 to 19 years of age - is 7 times higher than in the general population[[2]](#footnote-2)). The UN Children's Rights Committee recommended in February 2017 that the state should: “establish a system to monitor all cases involving child marriages among ethnic groups, especially among Roma girls, and to provide shelter for children and appropriate rehabilitation and counseling services, as well as to organize awareness raising campaigns to highlight the harmful effects of child marriages”.[[3]](#footnote-3)

The improvement of the normative framework in protecting children from these harmful practices is lacking. Thus, the Family Law allows the conclusion of a marriage at the age of 16 with the permission of the court. The UN Children's Rights Committee announced in February 2017 that it was “concerned that the Family Law includes exceptions that allow the persons at the age of 16 to get married” and suggested “that the Signatory State should amend its Family Law and remove all exceptions that allow persons under the age of 18 to get married”[[4]](#footnote-4).

Also, the criminal offense of forming an *extramarital union with a minor*, although in its essence implies sexual activity with a child, is not considered within the Criminal Code as a criminal offense against sexual freedom[[5]](#footnote-5), so there is no possibility for the implementation of the Law on Special Measures for Prevention of Execution of Criminal Offenses Against Sexual Freedom Involving Minors*.* In this way, a lower level of protection is foreseen for violating the rights of the child by forming early and forced child marriages, compared to the improved protection prescribed for other forms of offenses of sexual harassment, abuse and exploitation committed against children.

The Protector of Citizens, in his work, recognises typical omissions of the competent services to provide prescribed and available protection measures, which he noted in the work on a number of cases of contractual and forced child marriages (such as arranging weddings between girls and boys aged 13 and 12, who were subsequently forced to beg and perform minor thefts abroad). These forms of parental neglect, sexual abuse and exploitation of children were not adequately assessed or qualified, as employees in the competent services do not have sufficient knowledge about sexual violence against children. The responsibility of adults and family members in these cases was minimized and relativized, and the participation of children in these activities was attributed to the voluntary and independent choice of children themselves. However, it is not possible to talk about the voluntary consent of children of this age to sexual activity, because the legislator has incriminated a sexual relationship with a child under the age of 14. There were also omissions in improperly conducted procedures of hearing and taking statements from children, as they took place in the presence of family members and other adults responsible for these forms of abuse and exploitation, and the protection of children from influences, threats and coercion when giving evidence was not ensured, nor was the obligation to obtain an authentic statement and opinion of children. In the case of Roma children, there is even a certain tolerance of responsible authorities to such violations of the rights of the child, which is why they do not take measures to immediately remove a Roma child from those disadvantaged conditions until the end of the procedure, even though this is regulated by the General Protocol for the Protection of Children against Violence, Abuse and Neglect[[6]](#footnote-6). As a result, the undisturbed repetition and continued exploitation and abuse of the child by the perpetrator is not stopped, but rather enabled.

The introduction of health mediator services in 2009 - as a link between the Roma people, especially Roma women and the health system - has improved the use health care services of the Roma people and improved the education of Roma children, especially girls. The work of health mediators has led to an increase in the number of Roma women who are health insured and to an increase in the use of health services by Roma women, including health services in the field of reproductive health.

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 predicted the introduction of mediators into the health system through the systematization of this workplace, this has not happened yet, and there are no indications that it will happen any time soon, especially considering the economic austerity measures that remain in force in the Republic of Serbia and which restrict employment in the public sector.

The Republic of Serbia did not take any systemic measures related to the life and work of children on the streets, which is closely related to the appearance of child, early and forced marriages.

In 2011, the Protector of Citizens has, in its research, come to the conclusion that employees in competent institutions do not have sufficient data and expert knowledge, based on which reliable conclusions could be drawn about the causes of life and/or work of children on the street, as well as the extent of this phenomenon. Not a single state authority system keeps records of the life and work of children on the street (only the social protection system and the police have some indirect data), and there is no specific, systematic and comprehensive record of children living and working on the street. The lack of records makes it difficult to undertake an organized and coordinated action to prevent and eliminate the phenomenon of children living and working on the street.

Children living and working on the street do not have a clearly recognized status of a child victim of exploitation, violence, abuse and neglect within regulations and in practice. On the contrary, from the age of 14 they are considered perpetrators of criminal offenses - misdemeanors, and they become a legitimate object of police powers and powers of the communal police and enter into criminal proceedings in which they are sentenced with sanctions. The exercise of the right to health, social, legal and security protection and education for children whose life and/or work is inextricably linked to the street is not regulated by special regulations. Instead, general norms are applied in these areas which do not recognize these children. The capacities of the bodies and institutions are inadequate, there are no professional standards for working with children who live and work on the street, the measures that are being taken are unsystematic, and the effects of the measures are not analyzed and monitored. The relationship between authorities and institutions is characterized by the absence of essential cooperation, the information direction is generally one-way and there are no joint activities. Referring to the Special Report on child begging[[7]](#footnote-7), the Protector of Citizens has made numerous recommendations, which he repeated at a joint meeting with representatives of state bodies during 2014. However, to date, the situation of children living and working on the street has not improved, and due to the austerity measures certain services intended for this vulnerable child population have been abolished (for example, by decision of the city of Belgrade, the service of providing shelter for children from the street was abolished, and has not yet been reintroduced. This service manages to survive exclusively thanks to other forms of financing, such as donations).

1. A Special Report of the Protector of Citizens on reproductive health of Roma women, from the Protector of Citizens of the Republic of Serbia website. [↑](#footnote-ref-1)
2. Research on multiple indicators of the position of women and children, Serbia MICS 2014, UNICEF in Serbia, available at: <https://www.unicef.org/ceecis/MICS_5_-_Key_Findings.pdf>. [↑](#footnote-ref-2)
3. Concluding observations of the UN Children's Rights Committee on the combined Second and Third Periodic Reports of the Republic of Serbia - from the Office for Human and Minority Rights website. [↑](#footnote-ref-3)
4. Concluding observations of the UN Children's Rights Committee, in connection with the Second and Third Periodic Reports of the Republic of Serbia on the application of the Convention on the Rights of the Child, CRC/C/SR. 2193, February 2017, from the Office for Human and Minority Rights website. [↑](#footnote-ref-4)
5. The criminal offense of forming an extramarital union with a minor is prescribed in Article 190, and criminal offenses against sexual freedom include provisions of Articles 178-186 of the Criminal Code. [↑](#footnote-ref-5)
6. General protocol, available at: website: Ministry of Labour, Employment, Veteran and Social Affairs. [↑](#footnote-ref-6)
7. More detail in the Special Report of the Protector of Citizens on child begging in the Republic of Serbia: <http://www.zastitnik.rs/attachments/1597_brosura_Final%20ddd.pdf> in Serbian language,

   <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 language. [↑](#footnote-ref-7)