

“ROMA WOMEN SPEAK OUT”

Shadow report for the Committee on the Elimination of Discrimination against Women (CEDAW Committee) to be considered at its 55th session (8-26 July, 2013)

Submitted on behalf of the organisations – members of Roma Women’s Network of Serbia

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INTRODUCTION

This shadow report is submitted to the CEDAW Committee for consideration at its 55th session, on behalf of the following members of the Roma Women's Network of Serbia: Roma Women's Centre „Bibija“ from Belgrade, “Women's Space” from Nis, Association of Roma Women „Osvit“ – SOS Helpline in Romany and Serbian languages from Nis, Association of Roma – SOS Helpline in Minority Languages from Novi Becej, „Roma Women's Initiatives” from Pirot, „Roma Women's Initiatives“ from Bujanovac, “Roma Researchers” from Zabalj, „Sastipe“ from Vranje, and „Romnjako ilo“ from Zrenjanin. The report is prepared by Independent Researcher – Consultant Biljana Brankovic, in collaboration with and contributions by the above-mentioned organisations.

In an attempt to make a process of preparation as inclusive as possible, the team of researchers from the above-described Roma women's NGOs was additionally strengthened by contributions provided by young Roma women - activists (on average, 24-year-olds).

The report was prepared with financial support of United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), while Organisation of Security and Cooperation in Europe (OSCE), Mission to Serbia supported the training/capacity building of the young group of researchers.

The process of preparation the report included two trainings/working group meetings of project partners (one for older and one for younger group), during which crucial issues and topics that should be included in the shadow report were jointly decided and agreed. More meetings were planned, but cancelled, due to time limitations and budgetary issues.

METHODOLOGY

The methodology involved a **desk review**, which relied on various sources: research studies conducted on nationally-representative samples of Roma women and girls (such as Multiple Indicator Cluster Surveys, carried out by UNICEF in collaboration with Statistical Office of Serbia), data or estimates of NGOs, regional/comparative studies, monitoring reports, official statistics (when possible/available), surveys of international organizations, Web sources, etc.

Further, bearing in mind that Roma women and girls represent a disadvantaged group, which is mostly invisible in public/official documents, **project partners jointly decided to apply a women-centred methodological approach that will “give Roma women and girls a voice”- activists carried out in-depth interviews in Roma settlements and/or described cases of (alleged) discrimination known to them.**

These short case descriptions are quoted throughout the shadow report, accompanying analysis of key issues and concerns, chosen by project partners. We do not intend to generalize conclusions stemming from these stories, but we do claim that each story requires attention and raises questions.

Women provided their consent for publishing the stories, and the research and reporting purpose was clearly explained to them¹.

Note that the stories are not meant to represent “case studies” in a strict methodological sense of the term. Rather, these brief stories are aimed at **illustrating the crucial problems in real life of real women/girls, and allowing them to (figuratively) “approach” the CEDAW Committee members** and to explain their problems in their own words.

During the presentation of this report to the Committee, we will imagine that these women and girls are present in the conference room with us.

Being aware of complexity of intersectional discrimination, we also decided to highlight the problems of (particularly) disadvantaged women and girls within the Roma community, such as women with disabilities, rural women, women/girls in various institutional contexts (such as, institutions for children without parental care, institutions for persons with disabilities, prisons, hospitals for mentally disturbed, etc.), women/girls - returnees from Western Europe (based on re-admission agreements with EU countries), lesbians, refugees/internally displaced women, etc. In the text that follows, we sometimes refer to them as **“marginalized among marginalized”**.

Note that far more stories/cases have been collected during the field survey and interviews, but only some have been translated for the purpose of this report. All stories will be published in Serbian, in a wider publication we plan to produce upon submission and review of this shadow report.

¹ In order to protect confidentiality, details that might indicate women's identity (including names of places, institutions, etc.) are removed or deliberately changed. In some cases, initials are provided, or - a false name of a woman. Prior to interviews with (under-aged) girls, consent of their mothers was obtained.

Background information on a process of preparation of the periodic state report

The initial government report to the CEDAW Committee was submitted in 2007, and was considered at the thirty-eighth session of the Committee (held in May-June 2007).

At that session, Roma women's NGOs submitted the specific shadow report, addressing problems in implementation of CEDAW Convention with respect to Roma women.

Taking two alternative/shadow reports in consideration (one on general situation of women and one on specific position of Roma women: European Roma Rights Centre, Bibija, Eureka and Women's Space, 2007), the CEDAW Committee issued its Concluding Comments, in which issues related to Roma were addressed in paragraphs 23, 29, 30, 33, 35, 37 and 38.

The Committee also invited the state party to submit its second periodic report, which was due in April 2006, and its third periodic report, due in April 2010, in a combined report in 2010 (CEDAW Committee, Concluding Comments, para. 45).

Roma women's NGOs organised follow-up of the Committee's recommendations and relied on these recommendations in all advocacy/lobbying and awareness-raising activities.

When a preparation of the combined second and third report of the state of Serbia commenced, several (selected) NGOs were invited by responsible state bodies to participate in a dialogue regarding drafting.

As mentioned in the state report (para. 2.3), the following NGOs submitted their contributions: Group 484, Belgrade Human Rights Centre, *Out of Circle* – Organisation for Protection of Rights and Support to Women with Disabilities. Autonomous Women's Centre was invited by the authorities to participate in consultations on drafting, but they did not take a part in the process, on the grounds that have been engaged in writing the alternative/shadow report on general situation of women.

On this point, we wish to emphasize that no Roma women's NGO was invited by the responsible authorities to participate in consultations related to drafting the state report.

Thus, it might be elaborated that consultation process organised by responsible authorities were not in line with Committee's recommendation, para 39,

“39. Committee also recommends that ongoing and systematic consultations with a broad range of women's non -governmental organizations on all issues pertaining to the promotion of gender equality be ensured, including in regard to the follow-up to the Committee's concluding comments and in the preparation of future reports.”

Further, we want to commend state party for inclusion of the section on minority women, in line with the Committee's recommendations (para 37 and 38), which stated the following,

“37. The Committee notes that the report was lacking in information and statistics about particularly vulnerable groups of women, including rural women, Roma women, women without civil registration and documentation, disabled women, refugee women and internally displaced women, who often suffer from multiple forms of discrimination.

38. The Committee requests the State party to provide, in its next report, a comprehensive picture of the de facto situation of these vulnerable groups of women in all areas covered by the Convention and of governmental policies and programmes to eliminate discrimination against them.” (CEDAW Committee, Concluding Comments on Serbia, 2007).

However, we also want to stress that **in this, as well as other sections of the state report, i.e. the combined second and third periodic report, there are very little information, data and analyses on concrete steps and measures undertaken by the state in order to improve the position of Roma women and girls.**

The latter conclusion particularly pertains to specific groups of Roma women, such as refugees/IDPs, overwhelmed by the pressure of patriarchal stereotypes and extreme poverty, who even in the process of re-admission have remained one of the most affected group of women – victims of wars in the former Yugoslavia.

On this point, it should be noted that, after the parliamentary elections in May 2012 (which were held simultaneously with presidential, provincial and local elections), Serbia created a new Government by the end of July 2012.

Finally, it should be highlighted that the Government of Serbia was scheduled to report at the 53rd session of the CEDAW Committee, in October 2012, but cancelled the presentation approximately two weeks before

the session. No explanation about reasons for cancellation was provided to professional/NGO circles or to the public.

For these reasons, this shadow report has been revised and updated to include certain changes in the period from October 2012 to June 2013.

We also need to add a **general introductory remark**.

Officially, 147,604 Roma live in Serbia, but the real number is approximately four times higher

It should be emphasized that different sources (NGOs, UNICEF, World Bank, etc.) repeatedly stressed that **official (census) data on percentage of Roma in general population are not reliable**. At the census held in 2002, in total 108,193 persons declared themselves as Roma (thus, Roma officially represented 1,5% of the entire population of Serbia). The latest available official census data (the results of the 2011-census) indicated a slight increase: 147,604 people declared themselves as Roma (Statistical Office of Serbia, 2012, pages 21-23²). Consequently, according to the latest official statistics, Roma people currently make up 2,05% of general population (ibid.). However, **Roma NGOs and many international organisations have estimated on numerous occasions that the real number of Roma in the general population of Serbia is approximately four times higher than indicated in official statistics**.

It should be further clarified that during the census held in 2011, responsible state authorities (the Statistical Office of Serbia) undertook measures aimed at determining the accurate number of Roma: they engaged a significant number of interviewers of Roma origin to gather data in the field (including in informal Roma settlements). Nevertheless, in spite of these efforts, the problem remains: in population censuses, many Roma declare themselves as Serbs, Muslims, etc. (they avoid declaring and officially registering their ethnicity)³.

Some international organisations, such as Open Society Foundation, concluded (upon the announcement of the latest census data) that the above-mentioned increase in the official number of Roma should be (nevertheless) seen as encouraging.

“This increase is expected to affect Serbian public policies concerning Roma. As outlined in Serbia’s minority legislation, census data is directly translated into assigned quotas in employment for public administration and police. A higher, more representative figure for the Roma population in Serbia means the government will be legally obliged to hire more Roma in public enterprises and increase Roma representation in public institutions and public service media.” (Open Society Foundation, 2012⁴).

We can wait and see whether such expectations will come true.

DO THE EXISTING LEGISLATIVE AND POLICY MECHANISMS ADEQUATELY ADDRESS INTERSECTIONAL DISCRIMINATION?

Cross-cutting issues related to Articles 2-4: Policies to Eliminate Discrimination against Women, Development and Advancement of Women, and Temporary special measures

Under this chapter, we highlight some key points with respect to legislative and policy framework that particularly affect Roma women and girls.

Due to a large number of cross-cutting issues, and in an attempt to provide data/analyses relevant for following up the Concluding Comments of the CEDAW Committee (2007), problems and concerns of general nature, i.e. related to underlying principles of the Convention (Articles 2-4) are discussed under this same chapter.

The analyses will be focused on a complex issue: **do legislative and policy measures adequately address the issue of intersectional discrimination**, in a “spirit” of CEDAW provisions on substantive equality, as well as general recommendations of the CEDAW Committee, especially GR 28? Does the state fulfilling its **due diligence obligation** to prevent discrimination by any public or private actor?

Note: The analyses in this chapter are mostly focused on novelties in legislative and policy framework that occurred in the period 2007-2013, while some other issues of general nature, such as definition of

² Statistical Office of the Republic of Serbia (2012). *2011 Census of Population, Households and Dwellings in the Republic of Serbia: Population – Ethnicity, Data by municipalities and cities*. Belgrade: Statistical Office of Serbia, in English and Serbian

³ As clarified in the official source mentioned above, during the last census held in 2011, “the question on the ethnicity was formulated as an open-type question with a legal notice concerning the fact that pursuant to Article 47 of the Constitution of the Republic of Serbia citizens are not obliged to declare their ethnicity.” (Statistical Office of Serbia, 2012, page 9)

⁴ Open Society Foundations, *Roma Feel Less Fear and More Hope After Census*, 12th December, 2012, in English, <http://www.opensocietyfoundations.org/voices/roma-feel-less-fear-and-more-hope-after-census> (Accessed on 1st March, 2013)

discrimination, constitutional guarantees of gender equality, as well as a relevant problem of the status of international law in the Constitution of Serbia (2006) are discussed in the **Annex 1**.

✓✓✓ Positive steps: Legislative improvements - Adoption of the Law on Prohibition of Discrimination (2009) and changes related to hate crimes

- **In 2009, Serbia adopted the “umbrella laws”** related to anti-discrimination (the Law on Prohibition of Discrimination, Official Gazette of Serbia, 22/2009) and gender equality (the Law on Gender Equality, Official Gazette of Serbia, 104/2009). Adoption of these laws has been delayed for many years, and different international/UN treaty bodies, including the CEDAW Committee (2007⁵), reminded the Serbian authorities of the necessity to bridge the gap in legislation. Numerous NGOs, in particular, Coalition against Discrimination, organised various lobbying/advocacy activities in support of adoption of anti-discrimination legislation. Women’s NGOs on numerous occasions protested against delays in adopting the Gender Equality Law. The first draft was developed in 2005, but it has been put off the agenda of the National Parliament. Re-drafting process has continued, and some women’s NGOs and/or legal experts (Djordjevic, 2010⁶) assessed that the adopted version was of lower quality in comparison to (some) previous drafts.

- Numerous NGOs have advocated for a long time for introduction of hate crime into the Criminal Code, emphasizing that members of national and ethnic minorities (most often – Roma), religious communities, sexual minorities, persons with disabilities and many other groups have been exposed to overt hatred, attacks and threats by extremist, far-right and militant groups. Due to these initiatives, **the Art. 387 of the Criminal Code (on racial and other discrimination) was amended in 2009** to include provisions that prohibited promotion of hatred, violence and discrimination, as well as public threats against a person or groups based on their race, colour, religion, nationality, ethnic origin or other personal characteristics. Criminal Code in the Article 387, paragraphs 4 and 5, stipulates,

“(4) Whoever spreads or otherwise makes publicly available texts, images or any other representation of ideas or theories that advocate or encourage hatred, discrimination or violence against any person or group of persons based on race, colour, religious affiliation, nationality, ethnic origin or other personal property, shall be punished with imprisonment of three months to three years.

(5) Whoever publicly threatens a person or group of persons because of their race, colour, religion, nationality, ethnic origin or other personal characteristics with a criminal offence punishable by imprisonment exceeding four years shall be punished with imprisonment of three months to three years.”

- Further, due to campaigns of NGOs, **the provision that includes hate crime as an aggravating circumstance in committing criminal acts was adopted in December 2012**. The newly-adopted provision in the Criminal Code (Art.54a) reads, “If a criminal act is committed due to hatred based on other person’s race, religion, national or ethnic background, sex, sexual orientation or gender identity, such act will be deemed by the court as an aggravating circumstance, unless it is not stipulated by this Code as a feature of a criminal act”.

Anti-discrimination provisions in relevant laws

- In the text that follows, we focus on the (long-awaited) **Law on Prohibition of Discrimination** (Official Gazette of Serbia, 22/2009⁷), having in mind its (potential) relevance as legal mechanism for protecting Roma women. The Law defines both direct and indirect discrimination (Articles 6 and 7⁸).

- Importantly, the Law established an independent state body responsible for protecting citizens against discrimination: Commissioner for the Protection of Equality. The Law defines the concept of

⁵ CEDAW Committee urged the Govt. of Serbia in its 2007-Concluding Comments (para.16) to adopt draft Gender Equality Law

⁶ Djordjevic, Ljubica (2010). *Analysis of the Law on the Equality of Sexes*. Belgrade: UNDP, Office in Serbia and the Project Support to the Implementation of Anti-discrimination Legislation and Mediation in Serbia (in Serbian), available at: <http://www.undp.org.rs/index.cfm?event=public.getFile&fileid=6F9964EE-F119-F071-B9254D15226AC71A> (Accessed on 8th June, 2013)

⁷ Translations of the Law on Prohibition of Discrimination into English and languages of national minorities (including Romani language) are available on the Website of the Commissioner of Protection of Equality, http://www.ravnopravnost.gov.rs/index.php?option=com_jdownloads&Itemid=0&view=finish&cid=10&catid=5&lang=rs (Accessed on 25th May, 2013). Note that by cross-checking we determined that the English translation in this publication uses the term “gender”, while the Law in Serbian actually uses the term “sex”.

⁸ The Law on Prohibition of Discrimination, 2009, Art. 6 states, “Direct discrimination shall occur if an individual or a group of persons, on the grounds of his/her or their personal characteristics, in the same or a similar situation, are placed or have been placed or might be placed in a less favourable position through any act, action or omission.” Art. 7 of the Law defines that Indirect discrimination shall occur if an individual or a group of individuals, on account of his/her or their personal characteristics, is placed in a less favourable position through an act, action or omission that is apparently based on the principle of equality and prohibition of discrimination, unless it is justified by a lawful objective and the means of achieving that objective are appropriate and necessary”.

“discriminatory treatment”, and in its provisions, **prohibited grounds of discrimination are defined broadly** (including race, skin colour, ancestors, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, gender, gender identity, sexual orientation, financial position, birth, genetic characteristics, health, disability, marital and family status, previous convictions, age, appearance, membership in political, trade union and other organisations and other real or presumed personal characteristics). Discrimination on the grounds of sex is defined in the Art.20.⁹

- From the perspective of Roma women’s NGOs, it is also relevant that **this Law also prohibits hate speech** (Art.11¹⁰). It is prescribed that “Anyone who has suffered discriminatory treatment shall have the right to initiate a lawsuit, and the provisions of the law regulating litigation proceedings shall apply accordingly to such a lawsuit” (Art. 41, para.1 and 2); and that **the legal proceedings should be conducted urgently** (Art. 41, para.3). Lawsuits can be also initiated by the Commissioner for the Protection of Equality, as well as by NGOs dealing with human rights/rights of certain groups (Art. 46).

With respect to the procedure and burden of proof, the general rules on the burden of proof are limited¹¹ by specific regulations governing the protection from discrimination so that the defendant cannot get rid of the responsibility by proving not being guilty, if the court determined that an act of direct discrimination is committed or if that is beyond question between the parties. In litigations on protection from discrimination, if the plaintiff makes it probable that the defendant committed an act of discrimination, the burden of proof that the measure taken was justified, and that such an act was not a case of discrimination and that the principle of equality and the principle of equal rights and obligations was not violated, shifts to the defendant. During proving, it is considered that the plaintiff has made it probable that the defendant committed an act of discrimination, if he makes probable the existence of different treatment of persons based on of personal characteristics or assumed personal characteristics. In particular case, it is enough to make probable the existence of differential treatment, and he does not have to make it probable that the measures taken in particular case was unjustified. However, the case-law analysis (Commissioner for the Protection of Equality, 2013) shows that these relevant provisions on the burden of proof have not been properly implemented in the court practice (See in more detail in the text that follows).

- It is also relevant to highlight that under the **Criminal Code** of the Republic of Serbia¹², **Breach of Equality** is liable to punishment (Article 128). This Article states,

“(1) Whoever denies or restricts human rights or rights of citizen granted by the Constitution, laws and other general legal acts, or ratified international treaties, on grounds of national or ethnic origin, race, religion, or on grounds of absence of these differences, or on grounds of differences with respect to political and other belief, sex, language, educational level, social status, social background, property status, or some other personal characteristic, or whoever grants privileges or advantages on grounds of this difference, shall be sentenced to imprisonment of up to three years;

(2) If the act referred to in paragraph 1 of this Article is committed by a public official in the line of duty, such person shall be punished with imprisonment from three months to five years”.

In addition to the above provision, the Criminal Code also includes other criminal offences directly related to prohibition of discrimination: Violation of the Right to Use a Language or Alphabet (Art.129), Racial and Other Discrimination (Art.387), as well as other criminal offences against human rights and freedoms, such as Violation of the Right to Express National or Ethnic Affiliation (Art.130).

- Further, various laws include certain anti-discriminatory provisions (not necessarily specifying gender-based discrimination), e.g. the Law on Prevention of Discrimination against Persons with Disabilities (Official Gazette of Serbia, 33/2006), the Labour Law (Official Gazette of the Republic of Serbia, 24/2005, 61/2005 and 54/2009), the Law on Health Care (2005), the Law on Principles of the Education System (Official Gazette of Serbia, 72/2009 and 52/2011), the Law on Basics of Preschool Education System

⁹ Art.20 of the Law on Prohibition of Discrimination reads, “Discrimination shall be considered to occur in the case of conduct contrary to the principle of the equality of the sexes; that is to say, the principle of observing the equal rights and freedoms of women and men in the political, economic, cultural and other aspects of public, professional, private and family life. It is forbidden to deny rights or to grant privileges, be it publicly or covertly, pertaining to gender or to sex reassignment. It is forbidden to practise physical violence, exploitation, express hatred, disparagement, blackmail and harassment pertaining to sex, as well as to publicly advocate, support and practise conduct in keeping with prejudices, customs and other social models of behaviour based on the idea of inferiority or superiority of sexes; that is, the stereotyped roles of the sexes”.

¹⁰ As stipulated in the Art.11 of the Law on Prohibition of Discrimination, “It is forbidden to express ideas, information and opinions inciting discrimination, hatred or violence against an individual or a group of persons on account of his/her or their personal characteristics, in public organs and other publications, in gatherings and places accessible to the public, by writing out and displaying messages or symbols, and in other ways.”

¹¹ Burden of proof is regulated by the Art. 45 of the Law on Prohibition of Discrimination. The interpretation of the burden of proof quoted above is provided in the research conducted by the Commissioner, Commissioner for the Protection of Equality (2013). *Review of Court Decisions of the Courts in the Republic of Serbia in the Area of Protection against Discrimination*. Belgrade: Commissioner for the Protection of Equality

¹² Criminal Code of the Republic of Serbia, *Official Gazette of the Republic of Serbia*, Nos. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009 and 121/2012), in Serbian. Translation of the Criminal Code into English is available on the Website of the Ministry of Justice: http://www.mpravde.gov.rs/files/Criminal%20Code_180411.doc (Accessed on 31st May, 2013). Note that this translation does not include the latest amendments, adopted in 2012.

(Official Gazette of Serbia, 18/2010), the Law on Employment and Insurance in Case of Unemployment (2003), etc.

It seems that legislative and institutional framework has been, largely, in place. Let us see what happens in practice, though.

▶▶▶ KEY ISSUES AND CONCERNS ▶▶▶

▶▶▶ Anti-discrimination in practice: Problems in implementation of the Law on Prohibition of Discrimination and other anti-discrimination provisions in Serbian courts

- In spite of improvements in legislation, it appears that the introduction of new mechanisms for achieving substantive equality and prohibiting discrimination **has not been accompanied by efficient, swift, and economically viable protection.**

While many legal experts assess that anti-discrimination legislative framework in Serbia has been mostly harmonised with European standards, recent research aimed at analysing how legal/institutional anti-discrimination mechanisms function in practice indicated numerous gaps (Lawyers' Committee for Human Rights - YUCOM, 2013). As mentioned above, in line with the Art.41 of the Law on Prohibition of Discrimination - anyone who has suffered discriminatory treatment has the right to initiate a lawsuit, and legal proceedings should be conducted urgently, pursuant to this Article. The researchers (Todorovic, Stjelja and Grujic, 2013¹³) collected data from all Basic courts of general jurisdiction in Serbia, in order to assess the efficiency of court protection, using the Law on Free Access to Information on Public Importance. In total, 30 courts (out of the existing 34 Basic courts of general jurisdiction) responded to the request (ibid.). The authors concluded that, although the Law on Prohibition of Discrimination has been in force since 2009, **lawsuits related to alleged cases of discrimination have been rarely initiated before the courts in Serbia** (ibid.). Only 13 courts responded that such lawsuits were initiated. As revealed in this research, during the three-year period of the implementation of the Law, only 184 lawsuits related to protection against discrimination were recorded at the entire territory of Serbia (including the **ongoing** proceedings; ibid.). Interestingly, only in 10 cases the respective court adopted the plaintiff's request, i.e., discriminatory treatment was determined (in total) in 10 court decisions across Serbia in the period of implementation of the Law: 2009-2012 (ibid.). Analysis of court decisions also revealed that in practice, plaintiffs, but also their legal representatives, mostly interpreted "protection from discrimination" as "protection against mobbing at the workplace". It should be also added that the total number of initiated lawsuits represented only a tiny proportion of the entire number of lawsuits before the Serbian courts, e.g., the Court in Nis had in total 16,353 lawsuits, out of which only 29 were related to protection against discrimination. Research revealed disturbing results regarding the duration of the proceedings. Based on the total number of ongoing proceedings in the analysed period, researchers (ibid.) stressed that in practice, **legal protection was not efficient and swift** (although legal proceedings related to protection against discrimination were explicitly defined as particularly urgent, pursuant to the Art.41, para.3 of the Law on Prohibition of Discrimination).

- **The Commissioner for the Protection of Equality (2013¹⁴) conducted a comprehensive survey on practical implementation of anti-discrimination provisions, which also revealed numerous gaps.** The Commissioner's Office addressed with a written request all courts of general jurisdiction in Serbia to report on the number of cases having discrimination as a matter of litigation (and to submit court decisions), in particular the ones that were initiated on the basis of: the Law on Prohibition of Discrimination, as well as on other laws related to discrimination in certain areas, such as the Law on the Prevention of Discrimination against Persons with Disabilities, Labour Law, Law on the Prevention of Mobbing at Work, as well as the Law on Gender Equality. In total, **150 court decisions** were collected (including nine decisions of the Supreme Court of Cassation). It should be particularly emphasized that **the courts have not provided any decision having as its basis other (the above indicated) laws dealing with the prevention of discrimination in certain areas.** Court cases were mostly related to social benefits of disabled war veterans in comparison to "civilian" persons with disabilities, as well as labour litigations (termination of employment and the harassment at work). Upon reviewing the available examples, we could also add that no court case was related to the rights of Roma women.

¹³ Todorovic, K., Stjelja, I. and Grujic, N. (2013). *Anti-discrimination Mechanisms in Practice*. Belgrade: Lawyers' Committee for Human Rights – YUCOM, in Serbian

¹⁴ Commissioner for the Protection of Equality (2013). *Review of Court Decisions of the Courts in the Republic of Serbia in the Area of Protection against Discrimination*. Belgrade: Commissioner for the Protection of Equality, http://www.ravnopravnost.gov.rs/index.php?option=com_jdownloads&Itemid=0&view=finish&cid=1272&catid=530&lang=en (in English; Last accessed on: 10th June, 2013)

The survey further implied that the court proceedings were conducted by the rules of the Law on Civil Procedure, failing to appreciate the moment when the burden of proof should be shifted from the plaintiff to the defendant. No requests for temporary measures were recorded in the analysed sample, i.e. not even one plaintiff submitted a request to the court to prevent further discriminatory treatment, in line with the Art. 44 of the Law on Prohibition of Discrimination.¹⁵

►►► **Gender-neutral language in legislation**

- It should be also noted that legislation mostly does not use gender-sensitive language: legal definitions are provided in gender-neutral terms; if reference is made to gender equality, it is actually phrased “equality between sexes”, whereas in anti-discrimination provisions, the reference is made to denial/violation of rights on the grounds of “sex”.

►►► **CEDAW has (still) not been directly implemented**

- **To our knowledge, the CEDAW Convention is not directly implemented.**

The Convention has not been invoked or referred to in court decisions (note that in this field, monitoring is very difficult, due to a lack of publicly available information; however, an example obtained in the research survey is provided; See Box: International treaties are rarely invoked in court decisions). In this context, it should be noted that the Government of Serbia, in its 2012-responses¹⁶ to the List of Issues and Questions of the CEDAW Committee explained that the Division of Case Law in the Supreme Court of Cassation has no registered cases in which the CEDAW Convention has been invoked by individuals or directly applied or referred to in court proceedings.

International treaties are rarely invoked in court decisions

In the context of this shadow report, we highlight the following finding of the above-mentioned research (Todorovic, Stjelja and Grujic, 2013, page 18):

“In their decisions, courts rarely invoke provisions of international conventions ratified by Serbia, although human rights treaties represent the integral part of the domestic legal system and, as such, should be implemented directly. In their work, courts rarely invoke even the Constitution, and almost never – case law of international courts, e.g., the European Court of Human Rights”.

It should be clarified that the quoted research was not focused on implementation of the CEDAW Convention; still, the above-quoted finding should be regarded as relevant, keeping in mind that the research survey included lawsuits for protection of discrimination, based on data collected from 30 Basic courts of general jurisdiction in Serbia in the period 2009-2012. Authors strongly recommended the necessity of direct implementation of human rights treaties, emphasizing that such proposal was not based on the above-cited research only, but also on years-long experience of NGOs/networks, which represented victims of discrimination in Serbian courts.

Other sources also provide an (almost unbelievable) illustration: when a lawyer of one such network (the CHRIS Network), during the legal proceedings for protection against discrimination, invoked the European Convention on Human Rights (ECHR), the responsible judge said that “the lawyer will be removed from the court-room if he mentions the Convention once again”. (EurActiv.rs, 2013¹⁷).

The CEDAW Committee, upon analyzing the initial report of Serbia in 2007, rightfully addressed an issue of a lack of awareness of the CEDAW provisions and requirements among public officials, in spite of the fact that the State Party ratified the Convention almost 30 years ago. In spite of the fact that different in-service trainings have been organised in recent years, civil servants, lawmakers, judiciary, politicians, and other professionals (not to mention wider audience!) have not been properly introduced to the Convention and, in particular, to the **Optional Protocol**.

¹⁵ The Art.44, para. 1 reads, “The plaintiff may demand, when initiating a lawsuit, in the course of the proceedings and after the termination of the proceedings, until the court decision is enforced, that the court should pass a temporary measure in order to prevent discriminatory treatment, with a view to eliminating the danger of violence or some major irreparable damage”.

¹⁶ In response to the Question 1 of the CEDAW Committee, the Government of Serbia stated “At the request of the Division of Case-law in the Supreme Court of Cassation, appellate courts submitted information that the courts competent for the areas of appeals did not register cases in which the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter referred to as: Convention) has been invoked by individuals or directly applied or referred to in court proceedings. Also, there were no cases in which women claimed their rights in courts by invoking provisions on non-discrimination against women and gender equality.” (Replies of Serbia to the list of issues to be taken up in connection with the consideration of its combined second and third periodic reports, CEDAW/C/SRB/Q/2-3/Add.1, 23 July, 2012).

¹⁷ See: EurActiv.rs (Serbian Web portal, member of the international Web Network *EurActiv*), The small number of lawsuits related to protection against discrimination, 14th March, 2013, <http://www.euractiv.rs/ljudska-prava/5562-mali-broj-sudskih-postupaka-za-zatitu-od-diskriminacije-html> , in Serbian (Accessed on 13rd April, 2013)

The state has not undertaking sufficient proactive measures (public campaigns, dissemination of information about the Convention) to make the CEDAW a frequently used and legally binding instrument for protection of human rights of women.

►►► **Issues raised by practice of newly-established independent state bodies**

- Legislation in Serbia provides for creation and functioning of other institutions that should address promotion and protection of gender equality and the rights of minorities – Ombudsperson¹⁸ at the national, provincial level and local levels (in municipalities). Serbia has chosen the model of **national parliamentary Ombudsman** (i.e., elected by the National Parliament) **with general jurisdiction**. In July 2007, the first Ombudsman of the Republic of Serbia was sworn in, and was further re-elected in August 2012, for a new five-year term.

The institution of Ombudsman (at the national level) is constitutionally entrenched. In line with legislative provisions in other countries, Ombudsman at the national level is entitled to **act upon individual complaints of citizens in cases of alleged human rights violations**, under condition that other legal remedies have been exhausted (there are also exemptions to this rule), as well as on own initiative. The Ombudsman is legislatively mandated with a broad-scope powers and duties: protection of human rights, “preventive” activities, aimed at preventing human rights violations, monitoring realization of human rights, proposing legislative changes (submitting draft laws to the government or National Parliament, or initiatives to amend laws related to human rights protection), or initiating the procedure before the Constitutional Court for the assessment of legality and constitutionality of laws, other regulations and general by-laws. Consequently, **the mandate of Ombudsman in Serbia is broad** (in some countries with a far-longer history of Ombudsperson institutions, these institutions are not mandated to initiate legislative changes). Ombudsman at the national level is legally defined as independent state body, accountable to the National Parliament. There are certain **“gaps” in legislation**, related to “overlapping” the authorities between the national and provincial ombudsperson institutions¹⁹. The Ombudsman is envisaged in legislation as integrated institution that addresses human rights violations in various fields, whereas **specialisation** is provided in the following areas: the rights of national minorities, the rights of the child, persons with disabilities, persons deprived of liberty, and gender equality. In practice, though, the Ombudsman at the national level currently has three Deputies; one of them (Deputy for the Rights of the Child) is also responsible for the area of gender equality²⁰.

We fully acknowledge the role of Ombudsman as a (potentially) highly relevant body for protection of women’s human rights, and support legal solutions that define mandate and jurisdiction of this body in a very broad manner. On the other hand, a question may be raised whether this institution has fulfilled the expectations in the area of protecting women against gender discrimination, and in particular, protecting **women exposed to various forms of intersectional discrimination**, such as Roma women. Without an intention to provide a final answer to this complex question, we would like to attract the attention to the following issues.

a) Data on the number of complaints of women received by Ombudsman are provided by the Government of Serbia (2012) in its responses²¹ to the List of Issues and Questions of the CEDAW Committee. The total number of complaints lodged by women related to alleged cases of discrimination on the grounds of sex and gender at the annual level seemed to be surprisingly low, and no significant increase could be identified in the period 2008-2012. Similarly, Deputy Ombudsman has rarely acted on own initiative.

b) Secondly, as mentioned in the replies of the Govt. of Serbia to the List of issues and questions of the CEDAW Committee, “In most cases complaints were rejected for the lack of jurisdiction of the Deputy Ombudsman for Gender Equality, i.e. they were rejected as unfounded” (Govt. of Serbia, 2012, page 2). The reasons for such situation were not clarified in the responses of the Government. Potential reasons might be

¹⁸ As regulated by law/decreed, Ombudsman at the national level is officially entitled Protector of Citizens (Law on Protector of Citizens, Official Gazette of the Republic of Serbia. Nos. 79/05, 54/2007), whereas the Provincial Ombudsperson of the Autonomous Province of Vojvodina is officially entitled Provincial Ombudsman (Decree on creation of Provincial Ombudsman, Official Gazette of the AP of Vojvodina, Nos. 23/02, 5/04, 16/05).

¹⁹ In practice, the legal “gaps” are bridged and the issues of “overlapping” authority between Ombudspersons at provincial and national level have been solved by their *internal agreement*. The latter agreement is applied to situations, for example, when rights and provisions regulated by national legislation have been violated by provincial authorities.

²⁰ Ombudsman of the Republic of Serbia, Section: Gender equality (in Serbian), <http://www.ombudsman.rodinaravnopravnost.rs/> (Accessed on 6th June, 2013)

²¹ Replies of Serbia to the list of issues to be taken up in connection with the consideration of its combined second and third periodic reports, CEDAW/C/SRB/Q/2-3/Add.1, 23 July, 2012

that women were not familiar with jurisdictions of Ombudsman, and/or were not able to support their claims in legally accepted manner, etc. Such fact requires an explanation, i.e. it would be revealing to analyse why in most cases the complaints related to alleged gender discrimination have been rejected as unfounded.

c) We examined publicly available information, provided at the Ombudsman Website, in order to determine whether the Deputy Ombudsman issued recommendations related to cases of gender discrimination against Roma women and found none. Further, it turned out that, **in the area of gender equality, Ombudsman's recommendations have been rarely issued.** The latter might be viewed as a logical consequence of the previously described fact that complaints have been mostly rejected. Nevertheless, having in mind that Ombudsman has been legislatively mandated to act on own initiative, it could be assumed that a variety of problems related to the area of gender equality might and should attract Ombudsman's attention. In addition to those two recommendations that were specified in the above-mentioned Replies of Govt. of Serbia (2012), the following ones were related to gender equality in general²²: a) Recommendation to the Ministry of Labour and Social Policy on salary compensation during maternal or parental leave (Rec. 13-632/12 of 13th May, 2013); b) Recommendation to the Centre for Social Work and the Police Department in Jagodina related to the case of domestic violence that resulted in the victim's death (Rec.13-691/11 of 21st October, 2012); c) Opinion and Recommendation to the Ministry of Interior, the Ministry of Labour and Social Policy and the Ministry of Justice to create and adopt Special Protocols that would regulate conduct of institutions in cases of domestic violence against women (in line with the General Protocol²³), in which the respective ministries were reminded that they had not met the deadline for adopting Special Protocols (Op. and Rec. 13-4174/12 of 11th December 2012).

The Ombudsman has recently undertaken steps to strengthen its activities in the area of gender equality, through establishment of a new expert advisory body. The Council for Gender Equality was created in 2012, composed of legal experts and NGO activists, including a representative of Roma women's NGO. The body is mandated to support the work of Deputy Ombudsman for Gender Equality, re-examine the practice of the Office, and create strategic plans for Ombudsman's initiatives. According to the assessment of the above-mentioned representative of Roma women's NGO, certain improvement in practice (with respect to gender equality) has been identified since establishment of this body.

- Recently, another independent state body relevant for protection against discrimination was established: a **Commissioner for the Protection of Equality.** The first Commissioner was elected by the National Parliament in May 2010, and numerous women's NGOs, including the Network of NGOs "Women against Violence", publicly supported her candidacy. This body was established on the basis of the above-mentioned 2009-Law on Prohibition of Discrimination. The Commissioner acts upon complaints of alleged discrimination and may initiate a lawsuit, promote and monitor equality, initiate the adoption and amendments of regulations in the area of discrimination, and recommend measures aimed at ensuring equality to public bodies.

More specifically, according to the Art. 33 of the Law on Prohibition of Discrimination, the Commissioner is authorised to: a) Receive and review complaints pertaining to violations of provisions of this Law, provide opinions and recommendations in specific cases; b) Provide information to the person lodging a complaint concerning his/her rights and the possibility of initiating court proceedings or some other proceedings for the purpose of protection, or recommend reconciliation; c) File charges pertaining to violations of rights guaranteed by this Law on his/her own initiative, and with the agreement and on behalf of the person discriminated against, unless proceedings before a court of law have already been initiated or concluded by passing an enforceable decision; d) File misdemeanour charges on account of violations of rights guaranteed by this Law; e) Submit an annual report and special reports to the National Assembly on the situation concerning the protection of equality; f) Warn the public of the most frequent, typical and severe cases of discrimination; g) Monitor the implementation of laws and other regulations, as well as initiate amending of regulations for the purpose of implementing and developing protection against discrimination, and provide opinions concerning the provisions of draft laws and other regulations related to the prohibition of discrimination; h) Establish and maintain cooperation with bodies and organs authorised to ensure equality

²² Ombudsman, Section: Gender Equality, Sub-Section Recommendations, http://www.ombudsman.rodinaravnopravnost.rs/index.php?option=com_content&view=category&layout=blog&id=21&Itemid=26&lang=sr and Sub-Section Opinions, http://www.ombudsman.rodinaravnopravnost.rs/index.php?option=com_content&view=category&layout=blog&id=14&Itemid=27&lang=sr (available only in Serbian, Accessed on 6th June, 2013)

²³ General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in Situations of Violence against Women in the Family and in Intimate Partner Relationships was adopted by the Govt. in November 2011. More info on the Protocol is provided elsewhere in this report (See: Chapter on violence). Translations of General Protocol into English is available at: <http://www.undp.org.rs/index.cfm?event=public.getFile&fileid=409A53C1-9565-542E-5CE622461850D873> (Accessed on 1th June, 2013)

and the protection of human rights on the territory of an Autonomous Province or a local government; i) Recommend measures to public administration organs and individuals, aimed at ensuring equality.

The Commissioner has acted upon complaints and issued recommendations related to cases of discrimination on various grounds, including national identity, sex/gender, sexual orientation and gender identity, disability, age, and other basis. As implied in the collection of selected recommendations of the Commissioner²⁴, provisions of the CEDAW Convention have been invoked in, for example, the recommendation related to the complaint of M. Dj. against the Faculty of Law against discrimination based on sex (No. 202/2012, dated 24.02. 2012). The claimant stated that the above-mentioned university institution refused to re-issue her diploma due to the change of name following her gender reassignment from male to female.

In her 2011-annual report²⁵, the Commissioner concluded, “Gender discrimination is one of the most prevalent types of discrimination in Serbia”.

The Commissioner has often acted upon complaints related to the rights of Roma. Some of her decisions dealt with the cases of discrimination in the area of employment, education, including **cases of segregation in schools** (See Chapter on education in this report for more information on these recommendations), and other areas.

She also, in her 2011-report, condemned **attacks and hate speech** against Roma and concluded that **discrimination against Roma is the most prevalent in employment, education, health care and housing** (See: Box below).

Attacks, hate speech and discriminatory acts against Roma: Assessment of the Commissioner for the Protection of Equality (2012)

“The most disturbing, however, is the position of the Roma national minority in Serbia. They are exposed to open and prevalent hate speech and frequent attacks: Roma boy was attacked in front of the Trade school in Belgrade; hate graffiti were written at the house of Roma coordinator in Zrenjanin and the deputy of the public prosecutor in Zrenjanin afterwards refused to accept the criminal charge against anonymous persons for writing hate graffiti; Roma family was attacked in Banatsko Karadjordjevo, three Roma youngsters were attacked by knife at the birthday party in Cacak; hatred graffiti and Swastikas were written in Roma settlement in Pozega; about ten waste bins in Knjazevac were written with hate sentences against Roma; the windows of the hair shop owned by Roma woman were broken in Cacak; young Roma man was beaten in public bus in Belgrade.

The Commissioner for Protection of Equality informed public in 2011 on several occasions that public attitudes and statements enforcing and causing racial hatred towards Roma national minority are severe form of discrimination. She also invited representatives of the public administration to show publicly that they will not tolerate hatred, intolerance, violence or discrimination on any given ground and she invited citizens to condemn similar practices. However, many ethnically motivated attacks against Roma that were also recorded in previous years were not investigated or sanctioned in a proper way. In addition, many cases of causing national, racial and religious hatred and intolerance are not adequately handled by the authorities and their processing has been slow and inefficient. Effective measures against neo-Nazi and fascist organizations and associations advocating hatred and intolerance towards national minorities have not been taken in order to stop their work.

Discrimination against Roma national minority is mostly prevalent in employment, education, health care and housing. The problem of lacking personal documents is still prevalent problem for the Roma displaced from Kosovo and Metohija. This problem hinders fulfilment of their basic human rights.” (2011-annual report of the Commissioner for the Protection of Equality, pages 34-35).

►►► The omnipresent problem: Good laws are not enough or, does Serbia has a “political will” to implement its laws (?!?)

• **In spite of certain improvement in legislation related to elimination of discrimination against women in general, and Roma women/girls in particular, problems in implementation of laws are prevalent. Improvements in policy framework do exist, but on the other hand – the implementation is slow or insufficient**, sometimes due to a lack of (or, insufficient) budget resources, or a lack of trainings for officials who should implement newly-adopted legal framework, or undeveloped capacities of institutions. Thus, **the legal practice lags far behind the adopted legal solutions in many areas.**

Advanced policy in the area of gender equality was due to cooperation with (or, pressure of) international organizations, EU bodies, etc. However, the government did not undertake a coordinated effort to decrease

²⁴ Commissioner for the Protection of Equality (2012). *Collection of Selected Recommendations of the Commissioner for the Protection of Equality*. Belgrade: Commissioner for the Protection of Equality (in Serbian and English). The English translation of this publication is available at: http://www.ravnopravnost.gov.rs/index.php?option=com_jdownloads&Itemid=0&view=finish&cid=335&catid=530&lang=en (Accessed on 25th May, 2013)

²⁵ Commissioner for the Protection of Equality (2012). *Regular Annual Report of the Commissioner for the Protection of Equality for 2011*. (in Serbian and English), page 27. English version is available at: http://www.ravnopravnost.gov.rs/index.php?option=com_jdownloads&Itemid=0&view=finish&cid=332&catid=516&lang=en (Last accessed on 8th June, 2013)

gender discrimination or to implement long-term strategies for improving the status of women and achieving substantive equality (only NGOs have raised public awareness of the relevance of these issues), while solution of problems of groups suffering from different forms of intersectional discrimination, such as Roma women, receive an insufficient attention and limited funds.

Women's NGOs often express an opinion that many laws related to gender issues have been only adopted due to Serbia's ambition to join the EU in the future, while the capacities of institutions have not been developed accordingly. On the other hand, in media and public, one can often hear statements that some (old or newly-adopted) laws have not been implemented, due a lack of "political will" (!?!). **We may also add a cynical remark of one journalist, who says that Serbia already has all the laws we need, and only one is missing: the law that will have only one provision, stating that - all adopted laws should be implemented.**

Indeed, much is needed before we may conclude that legislation is translated into practice....

- In support of the above-mentioned conclusion about poor implementation of legal solutions in the area of gender equality and improving the rights of Roma, we may quote assessments of EU officials. **The European Commission in its reports on Serbia. i.e. related to progress of Serbia in joining the EU, as well as its opinion on Serbia's application for membership in the EU (2010²⁶, 2011²⁷, 2012²⁸) recognizes that "as regards anti-discrimination policies, the legal and institutional framework is largely in place", but at the same time, mentions problems in implementation of the laws and repeatedly stresses that Roma are one of the groups most exposed to discrimination.** For example, in its recent reports on Serbia (for 2011 and 2012), the European Commission provided the following assessments regarding the rights of Roma, and especially, Roma women.

a) "In practice, those most exposed to discrimination are Roma, women, persons with disabilities and the LGBT population. They are frequently victims of intolerance, hate speech and even physical attacks. Public officials have been reluctant to publicly condemn such incidents." (European Commission, 2011, page 28).

b) "The Roma population, and especially Roma women, are the most discriminated against in the labour market. The Roma minority continues to face discrimination, social exclusion and high unemployment. Roma women and children are still frequently subject to family violence, which often goes unreported" (European Commission, 2012, page 18).

►►► **"Hard facts" are difficult to find: A lack of (gender-disaggregated) records on disadvantaged groups of women, including Roma**

- **The official statistical data** do not identify areas in which women are less represented or unequal, but this has not been recognized as an indirect and systematic discrimination (e.g. in education, employment, social and healthcare protection, etc). The records kept by institutions/services financed from the state budget are mostly gender-aggregated and not sufficiently accessible, so it is difficult to obtain relevant and reliable indicators of indirect discrimination against women. Considerable progress made by the National Employment Agency and the Statistical Office of Serbia in terms of development of gender-disaggregated indicators ought to be emphasized. The Statistical Office of Serbia has published three relevant books (under the general title "Women and men in Serbia"), which involved gender-disaggregated data (in 2005, 2008 and 2011).

Though, the official statistical data fail to provide reliable information about status of women belonging to **minorities and disadvantaged groups**: Roma women, refugees and displaced women, migrant women, foreign citizens, women with disabilities, women from rural areas, older women, women in prison and detention, women with psychiatrically altered behaviour, poor women, single mothers, lesbians, female children, etc. In the 2011-annual report of the Commissioner for the Protection of Equality²⁹, this problem is highlighted (page 27),

²⁶ European Commission (2010). *Serbia 2010 Progress Report*, accompanying the Communication from the Commission and the European Parliament, and the Council, Enlargement Strategy and Main Challenges 2010-2011, Brussels, 9 November 2010, SEC(2010) 1330

²⁷ European Commission (2011). *Analytical Report*, Accompanying the document Communication from the European Commission to the European Parliament and the Council: *Commission Opinion on Serbia's application for membership of the European Union*, Brussels, 12.10.2011, SEC(2011) 1208

²⁸ European Commission (2012). *Serbia 2012 Progress Report*, accompanying the Communication from the Commission and the European Parliament, and the Council, Enlargement Strategy and Main Challenges 2012-2013, Brussels, 10.10.2012, SWD(2012) 333 final, <http://ec.europa.eu/enlargement/countries/strategy-and-progress-report/> (Accessed on 3rd June, 2013)

²⁹ Quoted before

“It should be said that there is no gender-sensitive statistics in Serbia – collecting and processing data on gender basis. Some significant improvements have been made only by National Employment Service and the Republic Statistics Office, but they are still insufficient for continual monitoring, research and analysis of data about the position of women and men. Statistics also lack information about the status of women belonging to minority groups, such as Roma, refugees and IDPs, migrant women, women with disabilities, women in rural areas, older women, women in prisons and custody, women with mental illnesses, poor women, single mothers, lesbians, girls etc.”

Having in mind that official records on **Roma women and girls are limited, most data on their position (included those presented in this report), particularly in the field of education and reproductive health, have been obtained in Multiple Indicator Cluster Surveys (MICSs) carried out by UNICEF and Statistical Office of Serbia. The MICS3 and MICS4 included a general sample and a sample from Roma settlements. The findings imply immense differences between general population and Roma population on numerous relevant indicators** (more details are provided in respective chapters of this report).

►►► Gender equality mechanisms: Can problems of Roma and other disadvantaged groups of women be given higher priority?

- **Gender equality mechanisms at the national, regional (i.e., in the Autonomous Province of Vojvodina) and local levels have been established, but they are under-staffed and under-resourced and mostly do not have mandatory powers to influence government policy.** The existing institutional mechanisms for gender equality do not have mandate to take binding decisions, which leaves them on the margins of decision-making and makes them dependent on executive, legislative, or other bodies.

In the opinion of the Roma Women’s Network, in a processes of creating future programs and plans for functioning of national and local gender equality bodies, a far greater attention should be paid to problems of Roma women and girls, as well as problems of other groups of women suffering from various forms of intersectional discrimination.

►►► Policy or “wishful thinking”: Problems in coordination and implementation of strategic policy documents on the rights of Roma women and girls

The state adopted numerous relevant wide-ranging strategic policy documents, including nationalized Millennium Development Goals, the Poverty Reduction Strategy, National Strategy for Improving the Position of Women and Advancing Gender Equality (Official Gazette of the Republic of Serbia, 15/09³⁰) and several strategies that (only) partially cover certain issues relevant for achieving substantive equality. Issues related to Roma are addressed through separate strategies, including the Strategy for Improvement of Status of Roma in the Republic of Serbia (Official Gazette of the Republic of Serbia, No. 27/09), the Poverty Reduction Strategy, the National Strategy for Refugees and Internally Displaced Persons, the Migration Management Strategy, The National Strategy for Improving the Position of Women and Promoting Gender Equality, the Strategy for Reintegration of Returnees under the Readmission Agreements, the Strategy against Human Trafficking in the Republic of Serbia, etc. Numerous problems in implementation of strategies related to the rights of Roma, as well as to gender equality, are highlighted in the text that follows.

The Strategy for the Improvement of the Status of Roma, and the accompanying National Action Plan, which were adopted in 2009 and covered the period 2009-2011, included a chapter on the position of Roma women. By the end of the 2011, the Strategy and the corresponding NAP were revised and extended (covering the period 2012-2014), with participation of Roma women’s NGOs; however, the NAP was adopted with a great delay. **Eventually, the revised and extended NAP was adopted in mid-June 2013.** However, most likely, the implementation of this NAP will be dependent on donors’ funds - namely, **according to unofficial information** we have obtained, the budget allocated by the Government for the entire period of implementation is one million RSD which amounts to app. 9000 EUR. No further comment is needed.

³⁰ Adopted by the Government of Serbia in February 2009. The National Action Plan (NAP) for the Implementation of this National Strategy for the period 2010-2015 was adopted in 2010.

- Since the political changes in 2000, the government(s) of Serbia should be accredited for development of numerous national strategies/plans, which covered a wide range of issues. While recognizing the importance of developing and adopting such strategies, our aim is to draw attention to complex issues:
 - a) Problems in **implementation and coordination** of diverse strategies and/or action plans at the national level
 - b) Marginalization of women's NGOs in drafting strategic documents relevant for realization of women's rights (consultations with NGOs are insufficient and not inclusive).

Currently, **108 National Strategies** are listed on the Government of Serbia official Website³¹ (probably, the list is not complete), and many of them have not been accompanied with corresponding action plans. In addition to "overarching" strategies (such as National MDGs, Poverty Reduction Strategy, etc.), many sector-specific strategies are also developed. Based on available information, we were not able to determine the total number of strategies/action plans at the local level (LAPs). Some of the listed strategies are **directly or indirectly linked to realization of women's rights, and/or the rights of minority groups (including Roma)**.³²

Strategies that address (at least, partially) rights of Roma and/or women's rights involve, for example: the Strategy for Improvement of Status of Roma in the Republic of Serbia (Official Gazette of the Republic of Serbia, No. 27/09), the Poverty Reduction Strategy, the National Strategy for Refugees and Internally Displaced Persons, the Migration Management Strategy, The National Strategy for Improving the Position of Women and Promoting Gender Equality, the Strategy for Reintegration of Returnees under the Readmission Agreements, the Strategy against Human Trafficking in the Republic of Serbia, etc.

In the process of designing the first National Action Plan for Improving the Position of Women and Promoting Gender Equality (which has started in 2006, while the latest was prepared in 2011), women's NGOs - members of Roma Women's Network were not widely included.

Having in mind a large number of **crosscutting issues**, as well as a certain **over-lapping** of measures that have been planned in some of these strategies, a question might be raised - **how the processes of implementation of these strategies have been coordinated**. However, mostly, **reports on implementation are not publicly available**.

In can be concluded that the crucial issue is not only whether the certain strategies/action plans on Roma and/or gender-equality issues are well designed and adopted or not. We highlight the following gaps:

- a) Often, **strategies are not accompanied with budget allocation plan**, or, very limited budget has been planned. These strategies have been (often) created with support of **foreign donors**; yet, (often) data about budget allocated by the Government for the implementation are not publicly available;
- b) Many of the strategies are **gender-neutral**; gender-responsive budgeting is absent (e.g., the Strategy for Development of Social Protection is not focused on women as target group, not even in the area of protection of women from domestic violence; further, violence against women is treated separately from violence against children in these documents, which shows a lack of recognition of gender aspects of violence);
- c) Mostly, national strategies/NAPs **have not been harmonized with strategies at the local (municipal) level (LAPs)**. However, several municipalities can be mentioned as examples of good practice in relation to LAP on issues related to Roma rights: Barajevo, Lazarevac, and Pirot. In these towns/cities, local plans were developed on the initiative and with substantial contribution of Roma women's NGOs.
- d) Implementation of strategies has been faced with difficulties in establishing **coordination between responsible ministries and other actors**, as well as in creating effective mechanisms for **monitoring/evaluation**, timely **reporting** and establishing **cooperation with NGOs**. Inter-sectoral coordination and cooperation with NGOs are essential for implementation, but the mechanisms for such coordination are very weak or non-existent (on the other hand, policies/practices of the Team for Implementation of the Poverty Reduction Strategy can be mentioned as a good practice example in this area).

³¹ Webpage of the Government of Serbia, Section: Strategies of the Government of Serbia, http://www.srbija.gov.rs/vesti/dokumenti_sekcija.php?id=45678 (available only in Serbian), Accessed on 30th May, 2013

³² Overview of different recent national strategies is provided in: Government of Serbia (2011). *First National Report on Social Inclusion and Poverty Reduction in Serbia - The Status of Social Exclusion and Poverty Trends in the Period 2008 – 2010 and Future Priorities*, March 2011 (in English), <http://www.inkluzija.gov.rs/wp-content/uploads/2011/04/First-National-Report-on-Social-Inclusion-and-Poverty-Reduction.pdf> (Accessed on 28th May, 2013)

- e) In practice, **problems of various disadvantaged groups of women and girls are often addressed “jointly”**, which might lead to neglecting or overlooking the specific needs of particular vulnerable groups of women – e.g., certain tenders of gender equality bodies for NGO projects are planned to encompass different vulnerable groups. **Addressing problems of disadvantaged groups in abstract, general terms, “vulnerable groups as a whole” contributes to invisibility of each particular disadvantaged group and diminishes possibilities for recognizing their specific needs and problems.**

Comment on the state report ▶▶▶ An example of above-described practice of addressing the problems of disadvantaged groups “jointly” can be found in the state report of Serbia (para 31), in which it is stated, “31. In order to support the activities of minor³³ non-governmental organizations, the Directorate issued a public tender for the organizations interested in the submission of project proposals for the improvement of the status of women who face double and/or multiple discrimination in the Republic of Serbia. A large number of organizations applied to the tender (there were 115 project proposals received) of which nine projects were selected to be financed from the budget of the Directorate for Gender Equality and additional funds provided by the UNDP through the project of Strengthening the Role of Civil Society in Shaping Poverty-related Policies and Practices (this project was financed by the Delegation of the European Commission).”

▶▶▶ **Marginalization of Roma women’s groups in policy creation**

- **Numerous lobbying/advocacy activities of the women’s movement contributed to a process of achieving compliance of domestic legislation with international standards, particularly in the field of gender-based violence and political participation. The women’s movement (one of the “oldest” in Eastern Europe) was rather strong in the nineties.**

However, women’s NGOs, particularly Roma women’s NGOs, have been marginalized by authorities in recent years.

▶▶▶ **There is no systematic and consistent policy of temporary special measures targeting Roma women/girls and other disadvantaged groups of women**

- The Law on Prohibition of Discrimination stipulates that the special measures introduced to achieve full equality are not considered as discrimination, but as protection and progress of persons or groups of persons who are in an unequal position. Many affirmative actions are contained systematically in the Law on Prevention of Discrimination against Persons with Disabilities, Law on Vocational Rehabilitation and Employment of Disabled Persons, the Law on Protection of Rights and Freedoms of National Minorities, the Law on National Councils of National Minorities, the Law on Gender Equality, Labour Law, Law on Employment and the Unemployment Insurance, Law on State Officials etc.

However, there is no systematic and consistent policy of temporary special measures that would contribute to achievement of substantive equality, as envisaged by the CEDAW Convention and General Recommendations of the CEDAW Committee (in particular, GR 28).

Certain affirmative action measures addressing people of Roma origin were introduced, primarily, in the field of education, and to a lower extent, in employment (e.g., active measures for the unemployed; more information on these issues is provided in respective chapters of this report).

♣♣♣ **Recommendations for improving measures and policies aimed at achieving substantive equality**

Several actions might be undertaken by the Government in order to solve the above-mentioned problems:

- **Reviewing the results of implementation** of the National Action Plan for Implementation of the National Strategy on Improving the Position of Women and Promoting Gender Equality (measures related to Roma women and girls), and allocating specific budget funds for implementation of activities related to Roma women and girls;
- Improving mechanisms for implementation and **coordination** of National Strategies/Action Plans related to women’s rights, and minority rights, in order to assure **accountability** of the state for implementation of measures that are defined in response to cross-cutting issues covered in these strategies;
- Improving a process of implementation of strategies through developing an efficient mechanisms for **designing, monitoring and following up of activities at the local level (LAPs);**

³³ It might be assumed that the intended term was: NGOs dealing with minority issues. When we made a cross-checking, it turned out that (in English version of the state report), this term was wrongly translated. The Serbian version, under para. 31 mentions “smaller NGOs”.

- Re-analysing **problems in establishing cooperation with the civil sector and international organizations; Establishing special procedures for consultative process on drafting policy documents** - for example, we suggest that each and every strategy/national action plan should not involve only the names of NGOs that participated in consultations (since this is not the indicator of meaningful participation), but also about the number and content of amendments submitted by NGOs and information whether these were adopted by the Government or not;
- In order to ensure transparency and efficiency of implementation, the monitoring/evaluation of relevant strategies should be improved, using well-developed indicators for measuring progress in implementation, as well as for analysing budget expenditures. In particular, it is relevant to assure both: **internal, inter-ministerial** (by government officials) and **external, i.e., independent monitoring and reporting mechanisms** (by reps. of experienced NGOs, independent experts, etc.), supplemented with clear, transparent, publicly-known procedures for selection of expert teams that would be responsible for monitoring/evaluation;
- Encouraging gender equality bodies, and other responsible bodies at the national and local levels to amend their tenders and procedures for collaboration with the civil sector, i.e. to **address the issues and problems of disadvantaged groups separately, rather than “jointly”** (in a sense described in the previous text);
- **Reviewing and revising national strategies in order to create more systematic and consistent policies for improvement of the position of groups exposed to intersectional discrimination (including, but not limited to, temporary special measures), as envisaged in the CEDAW Convention, and General Recommendations of the CEDAW Committee (in particular GR 28). Such measures, however, need to be “genderised” and supplemented with clear monitoring, follow-up and evaluation policies.**

PROTECTION OF ROMA WOMEN AND GIRLS FROM GENDER-BASED VIOLENCE (Implementation of the General Recommendation 19 of the CEDAW Committee)

√√√ Positive steps: Signing the Council of Europe Convention

A relevant positive step should be emphasized: in April 2012, Serbia signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. However, we express concern and regret regarding a fact that the Convention has not yet been ratified.

√√√ Positive steps: The first national strategy on combating violence against women

The first³⁴ national strategy on combating violence against women was created, with a crucial contribution of women’s NGOs, and adopted by the Government in April 2011. The draft version of the Strategy, developed by the Working Group in which women’s NGOs were represented (including SOS Helpline in Romany and Serbian languages “Osvit” from Nis) addressed all forms of violence against women and included a range of measures accordingly; however, in the final version adopted by the Government³⁵, only measures related to domestic violence against women remained. Some measures planned in the Strategy have been implemented, such as the adoption of the General Protocol³⁶ that regulates conduct and collaboration of institutions in cases of domestic violence against women. Funds for implementation of the Strategy remain an open issue - to our knowledge, no budget has been allocated for these purposes (the NAP accompanying the Strategy has been developed, but not yet adopted).

³⁴ Prior to its adoption, the only relevant national strategic document was related to gender equality in general, i.e. the National Strategy for Improving the Position of Women and Advancing Gender Equality and the corresponding National Action Plan for the period 2010-2015 (Official Gazette of the Republic of Serbia, 067/2010). This “umbrella” Strategy and NAP included sections on gender-based violence, http://www.gendernet.rs/files/Publikacije/Publikacije/Nacionalna_strategija_za_poboljsanje_polozaja_zena_i_unapredjivanje_rodne_ravnopravnosti_i_Akcioni_plan.pdf (in Serbian, Accessed on 3rd April, 2013)

³⁵ *National Strategy for Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationships* (Official Gazette of Serbia, 27/2011), Translation into English available at: <http://www.gendernet.rs/rpage.php?chapter=35&id=49> (Accessed on 25th May, 2013)

³⁶ Official title: General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in the Situations of Violence against Women within the Family and in Intimate Partner Relationships, Translation into English is available at: <http://www.undp.org.rs/index.cfm?event=public.getFile&fileid=409A53C1-9565-542E-5CE622461850D873> (Accessed on 10th June, 2013)

►►► KEY ISSUES AND CONCERNS ►►►

►►► **Admittance of Roma women into shelters for victims of domestic violence needs to be monitored, in spite of certain improvements**

In its Concluding Comments, the CEDAW Committee (2007), expressed concern about “instances of *de facto* discrimination against Roma women threatened by domestic violence who have been excluded from safe houses on account of the admission criteria applied”. Further, the Committee requested the State party to “review and monitor the application of admission criteria used by safe houses for victims of domestic violence in order to ensure that these do not exclude Roma women”.

In response to requirements of the Committee, the Government of Serbia has undertaken **steps to review the regulations regarding admission criteria** applied in case of Roma women, and a representative of Roma women’s NGO participated in that process.

In order to follow up the implementation of Committee’s recommendations, activists of Roma women’s NGOs conducted a qualitative survey (Manic, 2011³⁷), based on interviews on a sample of 115 individuals. The sample included 51 Roma women – victims of domestic violence (aged: 17 to 60 years from different parts of Serbia) on one hand, and representatives of institutions and NGOs, on the other (such as coordinators of safe houses, social workers, members of gender equality bodies, public prosecutors’ offices, and Roma women’s NGOs that work with victims of gender-based violence). The survey analysed the experiences of Roma women – domestic violence victims who required help of institutional mechanisms for victims’ protection and/or Roma women’s NGOs in the period 2008-2010. Out of the total number of interviewed women, 28 of them tried to gain access into safe houses, and seven among them testified being refused because they were not citizens of Serbia and/or had no identity papers/personal documents. One of them says as follows,

“I was refused in May 2009 because I am not Serbian citizen and also I don’t have any personal documents. I called the police after being beaten up, the police took me to the Centre for Social Work, and my partner was held in custody for more than 12 hours.”

According to testimonies of other women, they were not refused based on admittance criteria, but in a more “subtle” manner; i.e. four women claimed being “discouraged” by social workers or other officials. For example, a woman claimed,

“I wanted to go into a safe house in July 2009, but when the worker from the Centre for Social Work came with the police to my house, they told me that would be difficult. They said, ‘You are not a potential resident of the safe house; they accept into the safe house much worse cases than yours’. I had no idea where the safe house was located, so I did not try to go there myself.”

Women who did not try to enter safe houses decided so for various reasons; mostly, due to an attitude that “safe house is not a solution for their problems”, or simply due to a lack of information or - a language barrier (not speaking Serbian language well). However, it should be noted that some of them claimed that other Roma women, who previously stayed in such houses, advised them not to go:

“A friend of mine from the settlement told me that she was refused to enter into the shelter because she had six children. I have many children, too, so maybe I won’t be accepted into the shelter. Also, I don’t have any income, and what can I do after staying only one or two months in the shelter? I decided not to try to go there”.

Women who were admitted to safe houses (and were interviewed during their stay) mostly expressed satisfaction (explaining they got a chance to “rest and think what to do next”). Several women stated that other women - residents in the shelter, insulted them on the grounds of ethnic origin.

In a process of preparing this report, we gathered victims’ testimonies and the latest impressions of activists of Roma women’s NGOs engaged in providing services to women victims of gender-based violence. It turned out that **certain improvements regarding admittance of Roma women to safe houses have occurred in recent years, but the situation in this area should be carefully monitored.**

Similar warning is recorded in the annual report of the Commissioner for the Protection of Equality (2011; pages 30-31),

“Women from marginalized and multiple discriminated groups are mostly exposed to gender-based violence. According to research data of women Roma organization, the main cause for Roma women – victims of violence not to address public authorities and services is the fear of not having the adequate protection from the perpetrator of violence. Data also shows that Roma women are in less favourable position for using safe-homes because of the rules set to use such social service. In addition, when Roma women report violence, they are sometimes harassed by the police.”

³⁷ Manic, Marija (2011). *Report on Safe Houses in Serbia*. Nis: Centre for Roma Women’s Rights, internal documentation

The following story (provided by Roma women's NGO that assist survivors of gender-based violence) describes the recent case of a Roma woman, victim of domestic violence who needed placement into the safe house run by Centre for Social Work.

There is no space ...

Roma woman V.M (age 39) reported severe physical and psychological violence to our NGO. She lived in town X with her husband and two children. He was unsuccessfully treated in psychiatric hospital because of pathological jealousy. He claimed that he is not guilty, that it's his wife's fault. He continued drinking, beating her in front of kids and insisting on sexual intercourse even though she rejected him because she couldn't bare his touch anymore. This situation lasted for years and worsened in time..... He was coming home drunk insisted on having sex in front of the children; she struggled, refusing him, but he was beating her until she fainted. When she regained consciousness, she realized that she was raped because her clothes were torn and she was bleeding. She didn't have parents so she complained to her cousins but they didn't support her at all. She wasn't allowed to have friends; no one ever visited them because husband was against it. She tried to escape couple of times but he always managed to find her. When she realized that there is nobody who could help her, woman withdrew, isolated herself, stopped caring about kids, even though one of the children ended up in psychiatric hospital ward because of the violence it has survived and seen.

She thought that she has to suffer because of the kids and she believed that her husband would kill her if she reports him to someone. We received phone call from V.M who told us the entire story and said that she can't stand living in that house and wants to report him through our organization. We informed her that she has to report everything to the police and social services first and then to contact us again. The next day she phoned us again saying she reported all the violence to the police and social services and she wants to go to the shelter.

We called social services, explained the case and were told to call shelter in town X.

Psychologist XY from the shelter listened and then asked about the nationality of woman and children. We said that they are Roma, she told us to call again in half an hour. After thirty minutes when we called, we were told that they can't help, that there's no space and that women should find some other way. After two days, upon the intervention of the Provincial Secretariat for Gender Equality, we received phone call from the shelter saying that they can accept the woman but not the children, what she, of course, refused. She found placement with some distant relatives by herself and we recommended her a women's organization in that town.

She became an activist of our NGO and we are very proud of her.

The case described below illustrates obstacles faced by another Roma woman who needed placement into safe house run by the state, in a city in the Autonomous Province of Vojvodina. The events described occurred in 2012, as described by Roma women's NGO that has assisted this woman.

A long way to a safe house: obstacles, and more obstacles

Roma women from town M came to the office of our SOS helpline to report violence that she has been enduring for years. She was surviving physical and psychological violence from her ex partner. He is about ten years younger than her. She has three kids with him (two sons and a daughter) and one older daughter born outside marriage who is married and lives in a town K. Husband was in jail plus is an alcoholic and whenever he drinks he abuses children and her. He cursed, insulted and psychologically abused the daughter. Since she couldn't stand it anymore, she went to social services and reported him for abusing the entire family and particularly mother and daughter especially at nights. The daughter made her mother leave the house.

She filed and gained custody for her younger son and daughter. Because of the poverty and indigence daughter left school, very soon got married and moved to France. House in which this woman lived in cohabitation with her partner doesn't have the construction license, it's not legalized, she bought construction materials or worked for used bricks or tiles, the only thing that was new was the structure.

Court didn't discuss the issue of the house, she didn't have legal counsellor (she finished three grades of elementary school, and poorly reads and writes). Partner and the older son continued living in that house, and there are indications that the boy who is eleven also drinks with his father and it is unclear whether he goes to school or not. Women went to live with her oldest daughter in town K because she had nowhere else to go. She lost her right to welfare because she left the town. She came to us because she is afraid that her ex partner will come to molest her because he already did something similar, he broke all the windows on her father's house. Her father had a stroke and she fears that his condition will worsen if her ex partner goes to her father's house. In her own words, she is afraid to go to anyone's house in the town M because her ex partner will abuse anyone. And the rest of her family doesn't want to get involved or to take her in.

Whenever her partner was physically abusive, she was calling the police and reporting physical violence. Once he was beating her so badly that he broke two of her ribs and she reported that to the police and social services. Police officers took perpetrator in custody and held him there until he was sober. She has chronic bronchitis, heart problems and hernia.

Steps taken:

Manager of the shelter for domestic violence victims required that the main Centre for Social Work should give the instruction to place woman in the shelter. She confirmed that there is free space at the Safe house and that staying in a

shelter is free of charge. Then I called another Centre for Social Work with social worker who was fully aware of this women's case. I explained the situation and she asked for the phone number of the first Centre for Social Work and told me to call again in an hour. When I called again social worker said that she phoned Centre for Social Work but they told her that they cant take any measures without their director. Then she phoned another safe house, but there she got an answer that the stay in the Safe house has to be paid for and she said that Centre for Social Work cant afford to pay those expenses. And, when she phoned the first Safe house, she was told that the safe house saves space primarily for women who are living in that municipality.

Social worker suggested that the women comes back, that she will receive single financial aid and help in renting a flat and that her welfare will be renewed. Women accepted that but she didn't have money to go back, so our association covered her travel costs. She went to the Centre for Social Work, received single financial aid but hasn't left any contact information and we don't know what was happening with her further on.

►►► Roma women (still) rarely report violence to institutions; for this reason, services of women's NGOs are even more important

As research studies and experience of Roma women's NGOs that assist survivors, low level of reporting is due to a lack of victims' trust in institutions. In recent years, the police seemed to become more responsive to women's claims and pressed criminal charges against perpetrators more often than before. However, the proportion of reported cases that fail to result in prosecution and conviction, or any sanction for the perpetrator, is high. For example, in 2009, the Deputy Prosecutor General of Serbia informed professional circles about analyses of legal practice in cases of domestic violence. Notably, the analyses have shown: domestic violence cases are more likely to lead to dismissals than other types of criminal cases (for up to 50%), or non-guilty verdicts (for up to 30%).

Cases of domestic violence among Roma that are reported to institutions probably still represent only "the tip of the iceberg." On the other hand, women who have decided to report violent incidents to responsible institutions are (often) not granted the efficient and timely protection. Furthermore, women's NGOs often report that **Roma and women with disabilities have been faced with particular difficulties in obtaining protection in institutions.**

Women suffering from intersectional discrimination should have other available options, including women's NGOs that might play a role of "intermediaries" between these victims and institutions. In the Box below, it is described how a Roma women's NGO has successfully managed to play such a role in a grave case of various forms of gender-based violence and thus prevented, in collaboration with the police, further victimization of a young Roma woman with disabilities.

However, **sustainability of service-oriented women's NGOs has been seriously jeopardised in recent years.** Due to decrease in available funds of foreign donors, SOS helplines specialised for women victims of gender-based violence, especially those in small towns, work on voluntary or semi-voluntary basis. The Law on Social Protection (Official Gazette 24/2011) stipulates that such services (defined as counselling, therapy and socio-educational services) should be funded from budgets of local governments. Recent detailed analysis of the work of services for VAW survivors (Brankovic, 2012³⁸) revealed, however, that such services have rarely received any grant or help from local governments.

Responding to silent screams

This is about physical, sexual and psychological violence. This is about a girl who dated a man for a few years. She thought he was in love with her. As a child, she had some serious health problems and spent the first years of her life in a wheelchair. She also used to have seizures, which left their consequences; her disabilities are still very visible.

The girl says, "*I spent three years with him. I thought he loved me. When we got married, everything was wonderful for a week. But then, he started going out without me. It was a very cold winter. I had to sleep in a cold room, with no electricity. He started disappearing for days, before coming home angry and a bit drunk. He'd wake me up wanting to have sex, but I wasn't able to do it because I was tired, hungry and cold. When I refused, he'd slap me a couple of times. With my weak body, it takes only one slap for me to fall down. One day, I accidentally overheard him talking on the phone. He was talking about me. I did not say a word. After a while, people told me that he was already married once before and that he used to beat that woman very badly. They told me that he had sold his daughter – the girl had been taken across the border. I realized that he spent all these years with me in order to seduce me, to make me love him so that he could sell me to the people across the border. He told me once that we should go abroad, illegally. I kept silent, but I called the SOS hotline - they'd given me a cell phone number to call any time, day or night.*"

³⁸ Brankovic, Biljana (2012). *Mapping Capacities of Specialized Organizations for Supporting VAW Survivors: The First Step towards Establishing the National SOS Helpline*. Belgrade: Project: Combating sexual and gender-based violence/ Gender Equality Directorate, Ministry of Labour and Social Policy of the Republic of Serbia / United Nations Development Programme (UNDP), (in Serbian)

The girl contacted us for the first time due to a health problem; afterwards, she contacted us again, since he started to beat her soon after they got married. She then realized that she might have an even bigger problem... Before, we had domestic violence cases that involved collaboration between institutions, but this turned out to be a human trafficking case. Our biggest accomplishment was to inform the police about the suspicion of trafficking, and to get their collaboration: they were ready to help the victim and take her to a safe place even before knowing all the details. True enough, this comes under their job description, but they're not always willing to help when the persons involved are Roma. Ultimately, a pimp was arrested, which saved the lives of the young girls who could have become his next victims. We were in touch with the police the whole time, and they kept us up to date on every single detail. I guess that's what you can call full collaboration. After everything that happened, we spent the next five months working with that girl. We noticed that these events had left severe consequences on her. Whenever she started talking about something else, sooner or later she would go back to this subject; she kept blaming herself, although she was not the guilty one here, but the victim. Later, she started a new life elsewhere. She says, „*My life had just begun anew. My life goes on, but I still ask for support from the SOS hotline. Frankly, I don't know what would have happened to me if it wasn't for their help.*”

A story of Roma women's NGO that assist survivors of gender-based violence (Brankovic, 2009³⁹)

►►► **How to ensure that new regulations (by-laws) in the area of social protection will not negatively affect Roma women's NGOs as well as Roma women and girls – survivors of violence?**

Responsible authorities started a process of developing by-laws and other regulations that should accompany the new Law on Social Protection, which came into force in 2011 (Official Gazette of the Republic of Serbia, 24/2011). As an integral part of these processes, the Government has initiated standardization of social services and development of minimum quality standards for various social services.

While recognizing relevance of standardization of services, Roma Women's Network was concerned about a draft document regulating standards for counselling and support services, i.e. the Rulebook on Minimum Standards for the Provision of Counselling, Therapy and Socio-Educational Services in Social Protection (Ministry of Labour and Social Policy, 2011; 2012). Upon adoption, the standards should acquire the status of **by-law** in line with the Law on Social Protection (adopted in 2011).

Women's NGOs⁴⁰ criticised the draft standards, based on 15 years of experience in providing specialized services to victims of all forms of gender-based violence. In particular, **Roma women's NGOs**, engaged in providing services to Roma women and girls – victims of violence, **had an impression that this document might have a far-reaching impact, and even contribute to termination of services provided by civil sector**. Draft standards required high education of counsellors as a pre-condition for service provision. Such requirements primarily affect Roma women's NGOs: **activists engaged in counselling and supporting victims mostly do not possess high education, and thus should be excluded from service provision**. Their years-long experience might thus be neglected and denied.

Further, analyses (e.g., Brankovic, 2012⁴¹) implied other problems. In spite of the fact that Serbia signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, **the draft standards, in many aspects, contradicted requirements defined in the Convention**. For example, while the Convention made a clear distinction between “general” services for victims of gender-based violence (e.g. health-care, social protection), and “specialized” services, which should be run by NGOs and funded by the state, the above-mentioned draft document actually subsumed specialist services into general ones (social protection) and defined the standards within the framework of social protection. Licensed social workers, even, gained the role of “supervisors” in service-oriented organisations, including NGOs. In the draft, standards for SOS helplines for victims of domestic violence were presented **alongside with some other counselling services that must not be applied in cases of gender-based violence** (such as, reconciliation, mediation, systemic family therapy). Similarly, **solutions in the above-mentioned draft, in some other areas, contradicted the principles for providing services to victims of gender-based violence, as recommended by the Council of Europe** (Kelly and Dubois, 2008⁴²).

³⁹ Brankovic, Biljana (2009). *Responding to Silent Screams: Mapping of Provisions of NGOs in Serbia in the Area of Gender-Based Violence*. Belgrade: United Nations Country Team in Serbia, United Nations Gender Theme Group (in English and Serbian); English version available at: <http://rs.one.un.org/organizations/6/Responding.pdf> (Accessed on 2nd April, 2013)

⁴⁰ Autonomous Women's Centre, http://www.womenngo.org.rs/images/pdf/vesti-12/Komentari_na_prvi_nacrt_Pravilnika_o_STiSE_uslugama_dec_2011.pdf and http://www.womenngo.org.rs/images/pdf/vesti-12/Komentari_na_drugi_nacrt_Pravilnika_o_STiSE_uslugama_juni_2012.pdf (in Serbian; Last accessed on 25th May, 2013)

⁴¹ Quoted before

⁴² Kelly, Liz, and Dubois, Lorna (2008). *Combating violence against women: minimum standards for support services*. Strasbourg: Directorate General of Human Rights and Legal Affairs, Council of Europe

Recent developments regarding the above-mentioned draft standards indicate that a process might take a different direction. The government has recently agreed to create a Working Group mandated to create a new document on standards (related only to specialized SOS helplines for victims of gender-based violence). One Roma women's NGO, SOS Helpline in Romany and Serbian languages "Osvit" from Nis, represents Roma women's NGOs in this Working Group. As the process of drafting has just commenced, outcomes remain uncertain.

♣♣♣ Recommendations

- **Bearing in mind that Serbia has signed (although not yet ratified) the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, it would be recommendable to take a pro-active approach and start projects aimed at achieving compliance of Serbian legislation and polices with the Convention**
- **Adopting the National Action Plan for implementation of the National Strategy for Preventing and Combating Violence against Women in the Family and Partnership Relations (the Strategy was adopted by the government in 2011, but the NAP has not been developed yet), and obtaining funds for its implementation**
- **Encouraging local governments to establish a specific budget line for supporting specialized services for women victims of gender-based violence (such as SOS helplines, counselling centres) run by women's NGOs**
- **Establishing a team, composed of representatives of state officials, safe houses and women's NGOs (including SOS helplines for Roma women) responsible for monitoring and reporting to public on specific problems faced by women victims of VAW who are exposed to various forms of intersectional discrimination (based on ethnic origin, disability, refugee/IDP status, etc.). In particular, the team might focus on:**
 - a) **Implementation of measures for combating violence against women (as planned in the above-mentioned Strategy) and results achieved with respect to these particular groups of women**
 - b) **Levels of reporting cases of violence to institutions, as well as institutional response, including admittance to safe houses**
- **Developing and adopting the new, separate document on standards for SOS helplines (related specifically to violence against women survivors), relying on internationally recognized standards for VAW support services and adapting/amending them for the national context. In an ongoing process of drafting the new document (in which one Roma women's NGOs) is included, proposals of Roma women's NGOs should be taken into consideration and due attention should be given to:**
 - a) **Requirements of the Council of Europe Convention, and the principles recommended in the Council of Europe-study on minimum standards for VAW support services (Kelly and Dubois, 2008)**
 - b) **Specific problems of Roma survivors of VAW, and specific position of Roma activists/counsellors in specialized services for victims (e.g., avoiding clauses that might indirectly discriminate against Roma activists and/or affect their work)**

PARTICIPATION OF ROMA WOMEN IN PUBLIC LIFE (Art. 7)

√√√ Positive steps: A decision to increase participation of minorities in public administration

- **Firstly, the following fact should be highlighted (and acknowledged): in 2006, the Government of Serbia adopted measures for increasing participation of minorities in public administration (Official Gazette of Serbia, 40/2006). The implementation is, though, another issue (See in the text that follows).**

√√√ Positive steps: Direct elections for National Minority Councils

- **Serbia currently has 19 National Minority Councils (NMCs), the highest-level advisory bodies of national minorities, which are autonomous elected bodies that have the exclusive right to manage issues of education, culture, official usage of language, and public information for each of Serbia's national minorities. The first councils were established in 2003, in line with the 2002-Law on the Protection of Rights and Freedoms of National Minorities. However, in 2009, the Serbian Parliament passed a new Law on National Minority Councils, which clarified the NMCs' competences in education, culture, official usage of language, and public information while also implementing a more transparent and more democratic system of **direct****

elections to select members of NMCs. During the process, certain problems emerged, related to formation of the Bosniak Minority Council, which caused the response of the above-mentioned independent bodies (Ombudsman and Commissioner for the Protection of Equality). Still, our point here is related only to a new system of establishment of these bodies: **possibilities for political parties' influence are decreased**, since council's members are not directly appointed or indirectly "imposed" by political parties or other "power structures", but - elected.

Current members of the **National Council of the Roma National Minority were elected directly**⁴³ in 2010, for a four-year term. In total, 30,811 individuals of Roma nationality participated in the elections (as recorded in the research of Roma Women's Centre "Bibija", 2011⁴⁴).

▶▶▶ KEY ISSUES AND CONCERNS ▶▶▶

▶▶▶ Negligible participation of Roma women in decision-making bodies

A lack of education, gender-role stereotyping in traditional Roma families and discriminatory attitudes of general population are linked to another huge problem: an extremely low participation of Roma women in public life, especially in decision-making bodies.

- However, it is **difficult to monitor and collect data on Roma (especially, women) who hold decision-making posts in the national or provincial/local decision-making bodies**. Until recently, i.e. prior to the latest 2012-elections and the establishment of the new government, one Roma woman held a position of the State Secretary in the Ministry of Human and Minority Rights, Public Administration and Local Self-Government. She was appointed by her political party, which was the main partner in the ruling coalition in the mandate of the previous government. Based on data available to us, she was **the state official with the highest rank among Roma women in Serbia** (Roma Women's Centre "Bibija", unpublished).
- The above-mentioned **Roma National Minority Council is composed of 35 members, out of whom 13 are women** (as recorded in the above-mentioned research of the Roma Women's Centre "Bibija", 2011). Council has several committees for specific areas, including education, the official usage of national minority language, public information, and culture. One of the Vice-Presidents of the Council is a woman. A woman is also the President of the Committee for Education (ibid.).
- Roma women have been also included in another **advisory body** of the Government. In 2008, the Government established the Council for Improvement of the Status of Roma and Implementation of the Decade of Roma Inclusion, composed of 22 members, out of whom four were women. During the mandate of the previous Government, the President of the Council was Deputy Prime Minister, while members were government officials responsible for the implementation of different parts of the relevant national strategy on the improvement of the status of Roma, as well as representatives of Roma NGOs and the above-mentioned National Minority Council. During the mandate of the new Government (which was created upon 2012-elections), the composition of the Council was changed. Recently, in June 2013, a new President of the Council has been appointed (a member of the National Parliament and the leader of Roma Party, which participates in the ruling coalition). The founding meeting of the Council was held in mid-June 2013. Therefore, at present, we do not possess information about the role and future plans of this advisory body, or about the gender structure of its newly-appointed members.
- The Ministry of Human and Minority Rights, Public Administration and Local Self-Government (also, during the mandate of the previous government) was responsible for the implementation of strategies related to the status of Roma. Under this Ministry, the (above-mentioned) Council for Improvement of the Status of Roma and Implementation of the Decade of Roma Inclusion was created. Further, within this process, as implied in recent analysis (Peric, 2012⁴⁵), the so-called "Roma coordinators" were employed at the level of local self-governments. Out of 56 employees, 18 of them were Roma women (ibid.).
- **The research survey** on participation of Roma and other minorities in public administration (Minority Rights Centre, 2010⁴⁶) **did not provide gender-disaggregated data**; nevertheless, some findings

⁴³ Under the previous system, NMC members were selected through a process of indirect elections, in which a college of electors from each national minority voted candidates onto the Council. However, under the new system, NMC members are directly elected - but only if a certain, high percentage of the members of that national minority register in a special list to vote in the elections. If not, the old system continues to apply. In other words, public involvement in the elections is of much greater importance under the new, more transparent system

⁴⁴ Roma Women's Centre Bibija (2011). *Political Participation of Roma with Emphasis on Political Participation of Roma Women – Serbia*. Belgrade: Roma Women's Centre Bibija (available only in Serbian)

⁴⁵ Peric, Tatjana (2012). *Achieving Human Rights of Roma Women in Serbia: An Analysis of the Implementation of Existing Institutional Measures*. Nis: Women's Space (in English)

⁴⁶ Minority Rights Centre (2010). *Research on Participation of Roma in Public Administration*, available at: <http://www.mrc.org.rs/images/stories/panel/Konferencija%20ROMI%20U%20JAVNOJ%20UPRAVI.pdf> (in Serbian; Accessed on 27th April, 2013)

might be revealing in the context of this report. Using the Law on Free Access to Information of Public Importance, the survey covered a considerable number of bodies/organs at all levels of public administration: 73 at the national level (24 ministries, 28 directorates/inspectorates, 18 agencies, three independent state bodies); 22 bodies/ institutions at the provincial level (in the Autonomous Province of Vojvodina), and 63 local administrations. Not all public institutions provided data relevant for the research, and some of them (18) did not respond to the request, while the Ministry of the Interior was not included in the analysis. Although incomplete, the obtained data were intriguing (See: Tables 1 and 2). Based on responses of the institutions, only eight individuals of Roma origin were identified in public administration at the national level (seven worked as civil servants and one as a clerk, i.e. a member of technical staff), one in provincial administration, and 50 of them in local administration (out of whom 19 worked as so-called “coordinators for Roma issues/minority issues”).

Table 1: Representation of national minorities (including Roma) in 51 bodies/ministries/ institutions at the national level and 19 bodies/institutions at the provincial level

Job classification	National administration			Provincial administration		
	Total number	National minorities	Roma	Total number	National minorities	Roma
Clerks (technical staff)	1,152	13	1	281	36	0
Civil servants	15,523	715	7	697	108	1

Based on: Survey of Minority Rights Centre, 2010 (quoted above)

Note: no gender-disaggregated data are available in this source

Table 2: Employees in 61 local administrations throughout Serbia: representation of national minorities (including Roma)

Total number	National minorities	Roma
10,156	706	50

Based on: Survey of Minority Rights Centre, 2010 (quoted above)

The reasons for incomplete findings were the following. Only nine out of 51 bodies/ministries/institutions at the national level possessed records on ethnic structure of employees (Tax Administration, Treasury, Custom Administration, Ministry of Defence, Ministry of Foreign Affairs, Ministry of Education and Sports, Ministry for Kosovo and Metohija⁴⁷, Commissariat for Refugees, and Ombudsman of the Republic of Serbia), while the remaining 42 national bodies/ministries/institutions responded that they: a) do not possess such evidence; b) do not possess complete data; or c) do not have members of national minorities among the employees. All institutions included in the survey responded that they were familiar with the above-mentioned conclusion of the Government of Serbia on the measures aimed at increasing the representation of minorities in public administration.

- The regional survey (Majetic, 2011⁴⁸) supported a conclusion that Roma women have been **almost completely excluded from decision-making processes and political life** in Serbia.

- In the above-mentioned research of Roma Women’s Centre “Bibija” (2011), which was conducted as part of the regional survey, several issues were emphasized, based on a detailed review of legislative and policy framework and analysis of questionnaires:

- a) Relevant legal changes, such as **introduction of quota system into electoral laws, which led to significant improvement in representation of women in parliaments “did not affect Roma women at all”**.

- b) International organizations, which funded projects on Roma issues promoted a policy and practice of employing Roma in public administration, including national and local governments, advisory bodies, project-based coordinating bodies, etc. Around 60 Roma coordinators (out of whom, 17 women) were engaged as local coordinators of Roma-related projects at the local/municipal level. The Ministry of Human and Minority Rights, Public Administration and Local Self-Government engaged (during the mandate of the previous government) three advisors (two men and one woman) under SIDA-funded projects. However, the following should be highlighted: **all decision-making posts in executive bodies occupied by Roma people (both men and women) were related to the rights of Roma**, thus indicating a lack of trust of authorities in their competence and capabilities to deal with other issues (ibid.). The only exceptions were Roma – members of large political parties.

⁴⁷ Note: this Ministry does not exist any more

⁴⁸ Majetic, Mladen (2011). *Political Participation of Roma with Emphasis on Political Participation of Roma Women In the Countries of the Region*. Sarajevo: CARE North-West Balkans (in English)

- **We must also emphasize: efforts to include Roma people, especially women, in decision-making processes at national and local levels were primarily initiated by international organizations.** Such projects have mostly commenced in the year 2000, and many of them have already ended.
- Surveys and interviews conducted for the purpose of this report by Roma Women's Centre Bibija from Belgrade, Women's Space from Nis and other organisations – members of Roma Women's Network, revealed that **Roma women who have been engaged in politics at the local level (in local assemblies and other political bodies) have been faced with numerous obstacles.** The following stories might serve as illustrations that these women have been also faced with prejudices (even) among colleagues – members of their own political parties.

Roma women in politics: A story of F.M.

“My name is F.M. and I am representative of Roma national minority in the local parliament. I am politically active for the past fifteen years and I'm advocating for Roma rights. I was supported by my associates upon nomination, but during the time I was in the parliament I was hampered to present proposals that would help in improving position of Roma people.

As a Roma woman, since I joined the political party I had to work double in order to be noticed and respected. I became city councillor in the local parliament because of the positive discrimination; since the president of the party's municipal board was a sensible person.

My colleagues didn't support my efforts to advocate for adoption of my propositions considering Roma population and improvement of position of Roma at the Assembly and they were always telling me 'We'll discuss your proposition later, now we have more important things on the agenda'.

Also, same as my colleagues, when voting on some topic, I was forced to vote for my political party propositions, ordered to vote same as the majority of my colleagues. I would like to point out to the double discrimination that I faced during my mandate, because Roma women face double discrimination; gender and ethnic discrimination.

Based on my own experience, I can say that woman in politics has to work twice as man and especially if she is a Roma woman.

I'm not very satisfied with my presentation during the election campaign, because same as other members I had my leaflet but didn't have my presentation in the media because party only wanted Roma votes without any intention to help Roma people or support me with adopting proposition that could help in solving Roma issues.”

Roma women in politics: A story of E.

“My name is E. and I'm politically engaged for the past ten years, I was a member of local parliament as a representative of Roma national minority.

I became a member of the local assembly with the help of positive discrimination; however, I didn't have any support while proposing solutions regarding Roma issues because I was constantly discriminated as a Roma woman in politics who advocated for Roma rights.

Since joining the party, I had to work harder to be respected and appreciated because my voice wasn't acknowledged when it comes to making propositions on the party meetings. Other members of political party involved me as a representative of Roma population included me in electoral campaign, only because they wanted me to ensure Roma votes and gave false promises to Roma they will help in solving their problems.

I am doing all I can to help Roma, that's why I joined political party, because I'm one of few Roma women involved in politics, who are trying to do the best they can to help improving position of Roma population. I would also like to mention the discrimination I faced when my daughter, who graduated from high school applied for volunteering in a certain institution, even though some of my colleagues from the political party were employed in that institution. I was told that my daughter couldn't volunteer because competition is already finished and the clerk added, “How come you didn't know that the deadline is over and that we don't accept Roma volunteers”.

After that I realized that my colleagues still see me as a Roma woman whose only role is to help ensure Roma votes on elections while they don't provide any support to Roma population and don't allow me to address the media to point out certain Roma issues and ask for help in solving those issues.”

√√√ Good practice example: Self-organisation of Roma women's groups and their aims to influence national and local policies

While representation of Roma women in official decision-making bodies remains a problem, Roma women have become increasingly active in grass-root NGO movement.

In December 2004, Roma women's NGOs established the Roma Women's Network. Its long-term goals were to increase visibility of Roma women's activism, to **put gender issues on the agenda of mainstream**

Roma movement (which has been dominated by male leaders), but also – to **encourage full recognition of intersectional discrimination within the women’s movement.**

Network members participated in drafting various policy documents of the Government. Bearing in mind that national strategic documents have not been adequately implemented at the local level, one of the strategies of Network members was to „genderize“ local policies, and to increase participation and influence of Roma women at the local level. Successful examples of such activities are illustrated below.

√√√ **Good practice examples: Roma Women’s NGOs initiated drafting Local Action Plans for improving the status of Roma women**

Roma women’s grass-root organisations initiated changes at the local level, which can be, in our opinion, viewed as promising examples of successful influence on local policies.

Roma Women’s Centre “Bibija” initiated the idea to write Local Action Plan (LAP) aimed at improving status of Roma women and girls in Barajevo, a suburb of Belgrade (one of the most impoverished Belgrade municipalities, with a large proportion of Roma population; Peric, 2012). In September 2007, “Bibija” signed a Memorandum of Cooperation with the municipality, with a subsequent Decision to start drafting the LAP. Numerous partners were involved in drafting: local self-government, Centre for Social Work, National Employment Service, primary health-care centre, NGOs (including Roma women’s NGOs), the local police, etc. The local Assembly adopted the LAP in December 2007, which was **the very first document of this kind in Serbia.** In 2010, the LAP was revised and extended; current version covers the period 2010-2015. It focuses on education (the needs of Roma women and girls are emphasized, including continuation of schooling and provision of additional trainings), employment, health care, social care and housing. Barajevo municipality has allocated certain funds for its implementation (that amounted to app. 250,000 RSD at the annual level); but, projects funded by UNDP, OSCE and other donors have been implemented, in collaboration with “Bibija”. Based on the assessment of the local Roma official (national minorities representative), tangible results were achieved: secondary school enrolment of Roma girls increased, and also - the attendance of Roma women in adult education, as well as the rates of reporting domestic violence by women in Roma communities (Peric, 2012).

Roma women’s NGO “Women’s Space” from Nis started three parallel projects aiming to initiate **creation and adoption of LAPs for Roma women in 15 municipalities in Serbia** during January and February 2010 (ibid.), in collaboration with other Roma women’s NGOs. In many of these towns/cities, LAPs led to tangible results in the area of education, health, employment and other areas. The most successful results have been reached in Pirot, Lazarevac, and Leskovac (ibid.).

♣♣♣ **Recommendations**

- **As we are highly concerned about the negligible representation of Roma women in decision-making positions, we suggest to the Government to address this issue through affirmative action measures, in accordance with relevant national strategies, including those on advancing gender equality and improving the status of Roma. One such measure could be the 30% quota for less represented gender in bodies and organs responsible for the issues of national minorities in bodies and organs founded by the Republic of Serbia**
- **Reviewing the policies of gender equality bodies, and inclusion of Roma women’s rights, and the rights of other women exposed to intersectional discrimination, among priority issues addressed by these bodies**
- **Putting the issues related to women’s human rights on the agenda of the Roma National Minority Council and developing capacities of its members in the area of gender equality**

ACCESS OF ROMA GIRLS AND WOMEN TO EDUCATION (Art. 10)

√√√ **Positive steps in legislation and policy**

Regarding access of Roma children to education, positive legislative and policy changes should be mentioned:

- Primarily, a new Law on Foundations of the Education System was adopted in August 2009 (Official Gazette of the Republic of Serbia, 72/09), and,
- Secondly, the obligatory preparatory pre-school program (PPP) for six-year-olds was introduced in the school year 2006/2007, and became an integral part of obligatory education, as stated in the law (Ministry of Education of Serbia, 2008; Govt. of Serbia, 2007). Since 2009, the preparatory pre-school program (PPP) was extended to nine months.

- Last but not the least, the Ministry of Education suggested that Romani language should be introduced as an elective primary-school subject in 70 municipalities across Serbia in September 2013. As clarified by President of Roma National Council (Mihajlovic, 2013⁴⁹), standardisation of Roma language was the main pre-condition for its introduction into schools. Therefore, this body, in collaboration with experts, has undertaken steps towards standardisation of Roma language, and this long-lasting process should be soon finalised. The Council thus selected 70 municipalities with the highest percentage of Roma population in which primary schools students can choose Roma language as an elective subject. However, it remains an open question whether school authorities can hire enough qualified teachers of Roma language. The Council's President (ibid.) announced that a preliminary assessment of this body indicated that relevant number of Roma-speaking professionals with necessary qualifications (a university degree) might be interested to teach Roma as an elective subject in primary schools. Bearing in mind that this plan of the Ministry of Education has not yet been implemented, we cannot foresee which obstacles might be expected.

The above-mentioned Law on Foundations of the Education System provided **basis for the inclusion of children who had previously been excluded into the mainstream education system** – children with disabilities, Roma, children from extremely poor families etc. The Law introduces a variety of reforms intended to improve educational outcomes for all children. It also includes a number of provisions supporting inclusive education, promotes educational equity and justice, quality and efficiency within the education system, and envisages mechanisms for individual and group assistance to students who need additional support for learning and social participation. The Law has eliminated the legal framework that allowed regular schools to remain inaccessible and pursue discriminatory policies with respect to children's right to education (SCIENTER and Centre for Education Policy, 2010⁵⁰).

Roma NGOs viewed introduction of the obligatory, six-month pre-school program as relevant change, since participation of Roma in pre-school education has been extremely low for many years. Hence, it was expected that such preparatory program might provide a “head start”, and help Roma children to overcome language barriers.

Although recent legislative and policy improvements provided basis for applying inclusive principles in education, it should be highlighted that a proper, gender-sensitive monitoring system should be established in order to provide reliable information on education of disadvantaged groups such as Roma (enrolment and dropout rates).

Recent data gathered here point to disturbing conclusions regarding the implementation of inclusive education principles. The focus will be on pre-school and primary school enrolment, attendance and dropout.

▶▶▶ KEY ISSUES AND CONCERNS ▶▶▶

▶▶▶ Many Roma, especially girls, do not achieve the right to pre-school and primary education

- Participation of Roma children in pre-school education has been very low for many years (See below a comparison of general and Roma population, based on official statistics and UNICEF research studies: Multiple Indicator Cluster Surveys – MICSs).

Table 3: Enrolment rates in pre-school education, General population, Ages: 3-6 years, 2009

Boys	Girls
41,39%	41,57%
Total: 41,48%	

Created using source: Stat. Office of Serbia, data collected under MONEE project of UNICEF, 2009

Table 4: Pre-school attendance, General population and population living in Roma settlements; Ages: 3-5 years (36-59 months)

	General population	Population in Roma settlements
MICS3 (2006)	32,5%	4%

⁴⁹ Roma language will be introduced into schools, Statement of Vitomir Mihajlovic, President of Roma National Council, TV B92, http://www.b92.net/info/vesti/index.php?yyyy=2013&mm=05&dd=26&nav_category=12&nav_id=717292 (in Serbian; Accessed on 29th May, 2013)

⁵⁰ SCIENTER and Centre for Education Policy (2010). *Mapping Policies and Practices for the Preparation of Teachers for Inclusive Education in Contexts of Social and Cultural Diversity – Serbia Country Report*, Working Document, January 2010, Authors: Sunčica Macura-Milovanović, Ibolya Gera, Mirjana Kovačević. European Training Foundation (in English)

MICS4 (2010)	44%	8%
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Created using sources: MICS3 (2006⁵¹) and MICS4 (2011⁵²)

- As reported in MICS3 (Statistical Office of Serbia, Strategic Marketing Agency and UNICEF, 2006), 32,5% of the general population of children, i.e. every third child aged between 3 and 5 years (between 36 and 59 months of age) was attending some form of organized early education program. Among Roma, coverage was only 4% (**the attendance was eight times lower than in the rest of the population**). As stressed by the authors of MICS3, findings implied that the pre-school system favoured the better-off, the richest, and working families in the main urban centres.

- Findings of the latest MICS4 survey (Statistical Office and UNICEF, 2011) implied that involvement of Roma children in pre-school education is (still) extremely low. **Only 8% of children from Roma settlements attend pre-school.** Urban-rural differences in attendance are present – 10% in urban areas, compared to 4% in rural ones. Among children aged 36–59 months, attendance to early childhood education programmes is more prevalent among children whose mother has secondary education (25%). No gender differences in pre-school attendance are found, but differences across socio-economic status of the families are pronounced: notably, while about every eighth child from the richest and middle quintile attend such programmes, among poorer quintiles, only about one in 20 children attend preschool (ibid.). Reasons for non-attendance, as explained by interviewed parents/caretakers were as follows: there was someone at home to take care of the child (54%), but various access issues were also listed (43%). Among parents/caretakers who named access issues as the main reasons, 27% found cost the main obstacle to attendance. This percentage grows to 39% for children of single mothers and among parents with only primary education, and to 44% in the poorest quintile of families.

- Further, **data on involvement of Roma in obligatory pre-school preparatory program (PPP) are incomplete and discouraging.** Relevant state documents, such as the Second Progress Report on Implementation of Poverty Reduction Strategy (Government of Serbia, 2007⁵³) admitted problems in coverage of disadvantaged children,

“Unfortunately, no data is available on the participation of children from vulnerable groups.

The coverage of children with total preschool education is still low” (ibid.). Latest, more precise data related to PPP, by regions of Serbia, are also available in a publication devoted to pre-school education in the school year 2009/10, which also includes demographic data on the total number of children in corresponding generation (Statistical Office of Serbia, 2010). It should be stressed that regional differences were notable and rather consistent with previously described MICS3 data; e.g., in Autonomous Province of Vojvodina, coverage of girls by obligatory program was 95,79%, in Belgrade – 86,93%, whereas certain regions of Southern and South-Eastern Serbia had the lowest coverage of girls - 67,58%, and 51,78%, respectively. Further, relevant general data on pre-school education (by age groups: below 3 yrs. and 3-7 yrs.) were also published (ibid.), but could not have been used for the purpose of this report (data were not gender-disaggregated). Still, a relevant fact from this source (ibid.) should be mentioned, as it clearly points out to **insufficient capacities of pre-school institutions to meet the needs (demand)**. In the school year 2009/10, in total 13791 children were not admitted, due to a lack of capacities, while 8346 were enrolled in spite of a fact that a particular pre-school institution was over-crowded.

- The recent official data** on coverage by obligatory pre-school preparatory programs (PPP) **clearly indicate that legislative provisions on PPP have not yet been universally implemented.** Even, the latest available official data reveal **a certain decrease in coverage by the PPP** (Statistical Office, 2011⁵⁴). In the school year 2009/2010, 87,8% of general population of children of the indicated age⁵⁵ were covered by PPP, while a year before (in the school year: 2008/2009), the coverage was 91,8% (See Table 5). In this, and other official statistical sources available to us, no data on inclusion of Roma children into PPP can be found. Therefore, data on PPP-attendance, obtained in the MICS4 (Statistical Office and UNICEF, 2011) will be quoted. Findings that pertain to **general population** indicated that 97% of children who attended the first grade of primary school at the time of the survey had attended the PPP the previous year (and no gender

⁵¹ Statistical Office of the Republic of Serbia, Strategic Marketing Agency and UNICEF (2006). *Multiple Indicator Cluster Survey, 2005 – Monitoring the Situation of Children and Women*. Belgrade: UNICEF, available in Serbian and English

⁵² Statistical Office of the Republic of Serbia and UNICEF (2011). *Serbia Multiple Indicator Cluster Survey 2010: Monitoring the Situation of Children and Women, Final Report*. Belgrade: UNICEF (in English), http://www.childinfo.org/files/MICS4_Serbia_FinalReport_Eng.pdf (Accessed on 8th April, 2013)

⁵³ Government of Serbia (2007). *Second progress report on the implementation of Poverty Reduction Strategy in Serbia*. Belgrade: Government of Serbia, in Serbian and English

⁵⁴ Statistical Yearbook, 2011, Section: Education, http://webzrs.stat.gov.rs/WebSite/repository/documents/00/00/47/37/05_Obrazovanje.pdf (in Serbian and English), page 91 (Accessed on 15th April, 2013)

⁵⁵ The indicated official source does not provide gender-disaggregated data

differences in PPP-attendance were found). Figures on population in Roma settlements were significantly different: **only 78% of children in Roma settlements who attended the first grade of primary school had attended the PPP the year before.**

Although the proportion of Roma girls who attended the PPP was lower in comparison to boys (77% and 79%, respectively), these **gender differences in PPP-attendance were not statistically significant.** However, differences across areas (rural or urban) were far larger and statistically significant: 65% versus 83%, respectively.

- Knowing that Roma children have been officially identified as so-called “vulnerable category” in many state strategic documents, as well as that PPP is defined in legislation as obligatory, we suggest to ask the Government **which concrete measures have been undertaken to increase the involvement of Roma children, and girls in particular, into obligatory pre-school preparatory programs.**

- Roma NGOs in Serbia repeatedly pointed out to **disturbing trends with respect to primary education of Roma children** – low enrolment and attendance rates. Since in publicly available official sources, which are based on administrative records (school records), no data on students’ ethnic background are available, we mostly relied on other official, research-based sources, such as UNDP survey, as well as Multiple Indicator Cluster Surveys (MICSs), conducted by Statistical Office of Serbia and UNICEF.

Table 5: Pre-school and primary education coverage⁵⁶: Percentage of general population, 2008/2009 and 2009/2010

	Pre-school education coverage, %	Coverage by pre-school preparatory program (PPP), %	Primary education coverage, %	Drop-out from primary school, %	Completion rate ⁵⁷ , primary school, %
2008/2009	40,63	91,80	98,53	0,29	94,91
2009/2010	51,61	87,82	96,98	0,57	94,26

Created using source: Statistical Office of Serbia, 2011⁵⁸,

Note: no gender-disaggregated data were available in this source

- Regarding primary education, the survey focused on Roma and refugee/IDP population, which was conducted on 2254 persons (UNDP, 2006⁵⁹) found that overall enrolment rate was 74% among Roma; enrolment of girls was 1% lower than that of boys (yet, the survey did not include so-called street children, who have been largely absent from school!). It was noteworthy that only 1% of surveyed refugee/IDP and Roma households received stipend or scholarship assistance (ibid.).

- MICS-3 (Statistical Office of Serbia and UNICEF, 2006⁶⁰) revealed relevant data with respect to net intake rate⁶¹ in primary education, and net primary school attendance rate among Roma children, especially girls (as compared to general population). Out of children from general population who were of primary school entry age (children that were to turn 7 in the observed calendar year), 94 % were attending the first grade of primary school (ibid.). The only significant difference concerning intake rate in primary education was found in the case of Roma. Findings were disturbing: **only 66 % of Roma entered primary school on time.** Further, analyzing the percentage of children of primary school age who were attending primary or secondary school, MICS3 revealed that the vast majority of children of primary school age were attending school (98 % of children that were to turn 7 to 14 in the observed calendar year). However, Roma children represented a disadvantaged group. **The rate of primary school attendance among Roma was significantly lower, at 74 %.** In addition, MICS3 revealed that on average, in general population there were no significant differences between boys and girls concerning primary education attendance, but data on Roma children were significantly different: **76% of Roma boys compared to 71 % of Roma girls were attending primary school.** Further, among Roma, the child’s age had a strong influence on the school attendance rate. **The attendance rate was lowest in the first grade. The maximum was reached between the ages of 8 and 10, and after that, a serious drop was visible at the age of 11 with girls, and at the age of 12 with boys.** The difference between the rate of primary education and the primary school attendance

⁵⁶ Definition, as provided in the Statistical Yearbook, 2011: *Education coverage* represents the ratio between the number of enrolled students in a selected level of education and the relevant age group

⁵⁷ Definition, as provided in the Statistical Yearbook, 2011: *Completion rate* is the ratio between the number of pupils who completed a certain educational level and the number of enrolled pupils

⁵⁸ Statistical Yearbook, 2011, Section: Education, http://webzr.stat.gov.rs/WebSite/repository/documents/00/00/47/37/05_Obrzovanje.pdf (in Serbian and English), Accessed on 15th April, 2013

⁵⁹ United Nations Development Programme – UNDP Serbia (2006). *Under risk: Social vulnerability of Roma, refugees and internally displaced persons in Serbia*. Belgrade: UNDP, in Serbian

⁶⁰ Statistical Office of the Republic of Serbia, Strategic Marketing Agency and UNICEF (2006). *Multiple Indicator Cluster Survey, 2005 – Monitoring the Situation of Children and Women*. Belgrade: UNICEF, in Serbian and English

⁶¹ Net intake in primary education measures the number of children of school entry age who entered first grade of primary school in relation to the total number of children of school entry age (Statistical Office and UNICEF, 2006; 2011).

rate indicated that there were certain children who start their education later than expected. This occurrence was more frequent among Roma children, since the difference between rates was higher in their case than the average (8 to 5%).

- In addition, the findings of MICS3 implied relevant data on **gender parity index (GPI)**. Gender parity for primary school (when general population of children was concerned) was **close to 1.0**, indicating no difference in the primary school attendance of girls and boys. However, among **Roma living in Roma settlements**, MICS3 highlights that **GPI for primary education was 0.94**.

- The most recent Multiple Indicator Cluster Survey – MICS4⁶², conducted in 2010 by Statistical Office of Serbia and UNICEF (2011), included in total 1711 households in Roma settlements, in which the following number of residents were interviewed: 2118 women, 877 men and 1604 mothers or caretakers of children under 5 years of age. Therefore, the latest available data, obtained in the MICS4 (Statistical Office and UNICEF, 2011) clearly indicated that **universal access to primary school has not yet been achieved in Serbia**. Having in mind that that universal access to primary education might be considered as one of the most important Millennium Development Goals, it should be highlighted that net intake rates and attendance rates of children from Roma settlements are (still) far below the national average. In **general population in Serbia**, of those children who are of primary school entry age, **95% are attending the first grade of primary school**, and statistically significant gender differences exist (in favour of girls, i.e. 98% of girls enter first grade on time, as compared to 91% of boys). However, among **children from Roma settlements**, **only 91% of those who are of primary school entry age attend the first grade of primary school**. Significant gender differences among Roma children are found, but in favour of boys: **93% of boys and 89% of girls enter the first grade of primary school on time**. Children’s involvement in primary education is timelier in urban areas (92%) than in rural ones (89%). The net intake rate is lower among children from the poorest quintile (76%) and among those whose mothers have no education (85%). However, the latter results should be treated with caution due to the small number of cases (ibid.).

- With respect to primary school attendance, the results of MICS4 are as follows. **As compared to general population, which (almost) reached the universal access to primary school** (See: Table 6), **attendance rates of children from Roma settlements are far below the national average – only 86,5% of Roma girls and 90,4% of boys of primary school age (7 to 14 years) attend primary school** (gender differences among Roma children are statistically significant; ibid.). **In population living in Roma settlements, even lower attendance is recorded among Roma children living in rural areas (83%), then, those children whose mothers have no education (79%) and the children living in households within the poorest quintile (79%; ibid.)**. The presented results clearly confirm that some Roma girls (as compared to boys) do not achieve their right to primary education.

In our opinion, these disturbing findings require implementation of urgent measures by the Government of Serbia, such as awareness-raising programs for Roma parents, programs aimed at assisting Roma children, especially girls, at school, more extensive affirmative action measures, etc.

The above-mentioned trend - that (almost) every fifth child from Roma settlements in rural areas does not attend school, represents the “reproduction” of the cycle of poverty and social exclusion. The same trend is present among Roma children whose mothers have no education, or who live in the extreme poverty.

Table 6: Primary school attendance, Serbia, 2010 (General population versus children living in Roma settlements): Percentage of children of primary school age (7 to 14 years) attending primary or secondary school (adjusted net attendance ratio)*

	Male (%)	Female (%)	Total (%)
General population	98.1	99.3	98.7
Children living in Roma settlements	90.4	86.5	88.5

Created using source: Statistical Office and UNICEF (2011). MICS4, conducted in 2010

Legend: *Ratios presented in this table are “adjusted” since they include not only primary school attendance, but also secondary school attendance in the numerator (Stat. Office and UNICEF, 2011). This adjustment should be made since some children of primary school age (7 to 14 years) are already in the secondary school, while on the other hand, some children have not entered primary school on time, and thus are older than their schoolmates are.

- Findings of MICS4 (Statistical Office and UNICEF, 2011) regarding dropout from primary school are even more distressing.

In Serbia, grade 8, which is the last grade of primary education, corresponds to ISCED2 level. Findings on general population imply the following: of all the children starting grade one, the majority (99%) will

⁶² The Republic of Serbia MICS was conducted in 2010 as part of the fourth global round of MICS surveys (MICS4).

eventually reach the last grade (grade 8). It should be noted that this number includes children who repeat grades but eventually reach the last grade.

Net primary school completion rate⁶³ (in general population) is 92%, whereas in Roma settlements it is – only 35%. The problem of high dropout rates of Roma and other disadvantaged groups of children was recognized in the Second Progress Report on Implementation of Poverty Reduction Strategy. As explained in this report, “The dropout rate is high for other vulnerable groups as well, therefore it is necessary to develop mechanisms preventing dropout of children from schools and providing for their return into the regular schooling system” (Government of Serbia, 2007)⁶⁴.

- Another relevant indicator needs to be compared across groups of children (general population versus children from Roma settlements; Statistical Office and UNICEF, 2011) – Gender Parity Index, GPI.⁶⁵ In general population, the Gender Parity Index (GPI) in Serbia is 1.01 for primary and 1.02 for secondary schools. Among children living in Roma settlements, the GPI for primary school is 0.96. Among children whose mothers have primary education, the GPI is 1.00 and in the richest quintile, it is 1.01. The GPI for secondary school is 0.72 meaning that girls are disadvantaged in secondary education.

- Different strategic documents of the Government have recognized a problem of low enrolment, low attendance and high dropout rates of Roma children, especially girls, BUT measures implemented by institutions seem to be insufficient. State institutions have not applied a proper strategy to address this phenomenon, primarily, through establishing cooperation with Roma families. Even, **misdemeanour charges** have been occasionally brought against Roma parents who failed to send children to school. In available sources, we did not manage to find data on the total number of such misdemeanour charges, but evidence gathered by NGOs - members of our Network implied that some parents were sent to prison, since they had no money to pay the fine. In our opinion, such repressive measures can be only seen as **counter-productive** and inefficient.

- **With respect to secondary school attendance, differences between general and population from Roma settlement are immense: about 89% of children between the ages of 15 and 18 are attending secondary or higher school** (secondary education is not obligatory in Serbia). **However, only 19% of children from Roma settlements are attending school at that age.** In both cases, children from wealthier households are more likely to attend secondary school or higher.

- **Data on affirmative action measures, aimed at improving the educational status of Roma are incomplete;** such measures need to be expanded in order to achieve long-term results. For example, in 2006, 143 Roma students were enrolled in secondary schools, and 100 of them entered state colleges and universities, due to application of affirmative action measures (no gender-disaggregated data were reported), as stated in the Second Progress Report on the Implementation of the Poverty Reduction Strategy in Serbia (Govt. of Serbia, 2007).

Experiences of Roma women who left school are described below. The stories are based on interviews conducted in Roma settlements.

K.O. (Age 40); Education: completed primary school; Returnee from Germany (based on on re-admission agreements with EU countries)

“I finished only elementary school. We were seven children in the family, six daughters and one son. All daughters finished education with elementary school, since we early lost our mother, our only job was to get married and become housewife, while brother of course continued education. He was the only one to have further education, the rest of us had other chores. Now I regret, I should have continue going to school after the elementary education. Now our income is consisted of what my husband makes, he is in trade business, what I make cleaning other people’s homes and we spend some time in Germany as well. We were receiving decent welfare for the kids there.”

⁶³ Authors of the MICS4 survey clarified that such indicator is more relevant in Serbian context, as it does not imply misleading conclusions, “For the purposes of analysis, the net primary school completion rate is a much more relevant indicator for Serbia. It is the ratio of the total number of students of primary school graduation age entering the last grade of primary school for the first time, to the number of children of primary school graduation age at the beginning of the current (or most recent) school year.” (Stat. Office and UNICEF, 2011).

⁶⁴ Government of Serbia (2007). Second progress report on the implementation of Poverty Reduction Strategy in Serbia

⁶⁵ The ratio of girls to boys attending primary and secondary education (ibid.)

►►► Low adult literacy rate among Roma

- According to recent MICS4 survey (Statistical Office and UNICEF, 2011), the literacy rate for women and men in **general population** of Serbia, aged between 15 and 24, is over 99%, and is lower only among persons with just primary education (94%⁶⁶).

Literacy rates of women and men in Roma settlements (ibid.) are substantially below the national average. Only slightly over three quarters of Roma are literate (77% of women and 78% of men). **The worst situation is among women and men from the poorest quintile in Roma settlements where less than half are literate** (49% of women and 46% of men), compared to both 89% respectively in the richest quintile. Of those who stated that primary school was their highest level of education, 83% of women and 76% of men were actually able to read the statement shown to them. Comparing the 15–19 age group with the 20–24 age group, younger women seem to have a higher literacy rate (by approximately eight percent) but unfortunately, younger men do not (they have a four percent lower rate than the 20–24 age group).

- Having these striking findings in mind, it would be recommendable to **encourage the Government of Serbia to address the huge gap in literacy between the Roma and general population through adult literacy programmes**, and to pay particular attention to the needs of Roma women. Low literacy levels among Roma women are associated with numerous consequences, including lower school attendance of their children, low usage of contraception, economic dependence from husbands, higher tendency towards early marriage of their children, etc. (some of the consequences in the area of education, access to healthcare and harmful traditional practices are discussed in other sections of this report).

►►► Experience of Roma women’s NGOs confirms that Roma children are exposed to maltreatment and/or violence by other children in schools

- Prejudices against Roma in general population are strong and prevalent. Sometimes, school authorities do not successfully prevent and/or react on such cases.

- **It should be highlighted that commissioner for the Protection of Equality on numerous occasions issued recommendations in cases of discrimination against Roma children in education**⁶⁷, such as Recommendation 07-00-00402/2012-01, dated 22nd March 2013; Recommendation 463/2012; Recommendation 461/2012; Recommendation 358/2012; Recommendation 84, dated: 20th January 2012; Recommendation 88, dated 17th January 2012.

One 13-year-old Roma girl, interviewed for the purpose of this report, testifies about her experiences in school.

M.K. (Age: 13)

“I am in the fifth grade. There are two other Roma girls in my class and we get along well. We are all friends in my class. I failed one year but it’s much better for me now than in the previous class. Then, they teased me, called me names, called me a Gypsy.

Teachers are good now, nobody insulted me so far. Teaching Assistant is helping me a lot, sometimes even if we have five lessons, I stay for the sixth to learn so I can improve my grades. I failed one year because I skipped school.

I stayed home to help my Mom and to take care of my brother. He is sick, has epilepsy and he is restless. I have to watch he doesn’t fall, or get out to the street alone, or do something bad. Grandmother is also sick so I have to take care of her too, serve her feed her. When my Mom is with my brother I clean the house, wash dishes...”

►►► No “second chance” for young mothers?

- No proper measures have been undertaken to offer programs that would enable continuation of education to Roma girls who left primary school due to early marriage and pregnancy. As highlighted in one analysis (UNICEF, Report to Committee on the Rights of the Child, 2008⁶⁸), **available adult education programs are not adapted to the needs of young mothers from Roma population**. Since there are no proper second chance education for children, those who drop out before completion school or those who do not enrol on proper age could enrol to school for adults, evening schools. Education programs and methods in these schools are not fitting for children and this is the reason why children who dropped out rarely

⁶⁶ In this MICS study, literacy was assessed on the ability of women and men to read a short simple statement, or on school attendance. Of respondents from the general sample who stated that primary school was their highest level of education, 94% of both women and men were actually able to read the statement shown to them (ibid.)

⁶⁷ Commissioner for the Protection of Equality Website, Section: Opinions and Recommendations, Discrimination on grounds of national origin, <http://www.ravnopravnost.gov.rs/sr/nacionalna-pripadnost?limitstart=0> (in Serbian; Last accessed on 10th June, 2013)

⁶⁸ UNICEF, Serbia Country Office (2008). *UNICEF comments on child rights issues in Serbia, Report presented to the Pre-session Working Group of the United Nations Committee on the Child Rights*, UNICEF Serbia Country Office

continue education. Although education is viewed as a key factor in breaking the cycle of poverty, the poverty itself, discrimination and hostile attitudes, ignorance and non-respect of different cultures and traditions (particularly in case of Roma and Vlachs) are the key reasons for low education coverage of disadvantaged groups (ibid.).

The story, based on the interview with a young Roma woman, illustrates experience of leaving school.

N.A. (Age: 27); Education: Incomplete primary school

"I am married for ten years. I got married before I turned 17. I didn't finish elementary school, only six grades of it. I left school because I didn't attend classes regularly, had bad grades and helped my parents and brothers with the chores at home and at the flea market.

I regret that now, my parents didn't support me to get education, my father didn't mind when I quit school, mother tried to make me go back, but then the NATO bombing started and after that I stopped going to school for good.

I would like to finish school now, I heard there's a possibility, I know about the Program 'Second chance', but because of the chores around the house and the children, I don't have enough time for that."

►►► **Tendencies towards "historic regression"?**

- Due to numerous problems in access to education, Roma women's NGOs even identify tendencies towards historic regression in educational status of Roma women, as compared to socialist times. For example, the oldest Roma Women's NGO Bibija identified numerous Roma families living in settlements, in which mothers completed primary school and were functionally literate, while their daughters were illiterate or semi-literate.

Illustrations of this problem are provided below, based on interviews with Roma women.

A.M. (Age: 45)

"I was born in Belgrade in Tito's time and since everybody had to go to school at that time, those who had something to wear and those who didn't, I went too. My parents were illiterate but they knew, if my siblings and I don't go to school, somebody will knock at their door asking why aren't the children going to school. And it was known; we had to finish elementary school, and not to drop out after 4th grade. I have three sisters and two brothers, I'm youngest, all of us finished elementary school, brothers continued to get vocational education and we, girls quit after 8 grade. When my sisters and I went to school, our father was called to PTA meetings where he was told that girls should also continue further education. But he kept insisting 8 grades were enough because we'll get married anyway.

There were those who got married early, when they were 14 or 15 but not as many as today. It wasn't allowed then to take girls who are still in elementary school, they had to finish first and then to get married. I wanted to stay in school, to become hairdresser. My head teacher kept saying that I have to talk with my father and make him let me stay in school but beauty school was far from the place where we lived and father wouldn't hear about it. She told me it's a pity and that I was a born hairdresser. But my father wouldn't yield. Head teacher and principal were unsuccessful in persuading my sisters to stay in school. Father insisted that he knows the law and that we have to finish only elementary school and the rest is our choice. He used to say that we'll get married so we don't need school, its enough for women to know how to sign her name. We didn't feel the same but nobody asked us.

When I see situation today, I think we were lucky to go to school at least eight years. When I got married, I couldn't decide much what's good and what's not for my children. But I think my mother was able to much more for us than we can do for our daughter. All my children were born during war and bombing, in Milosevic time. That was the worst time this settlement remembers, poverty, we were more hungry then we had anything to eat, we waited for some aid, someone with the packages, selling old stuff, our own stuff so we could survive. No one thought about school then, and nobody was particularly interested in Roma. Everybody wanted to get rid of us.

My husband and his father decided that our daughters shouldn't go to school. I have two daughters and three sons. They are all adults now and there is no point now in whining because they didn't go to school. Daughters don't have a day in school, one son finished primary school and other two finished four grades. Nobody asked me, if it was up to my decision all of them would have gone to school and not just elementary but some vocational school too. No one ever came to our house to ask how many kids we have, where are they going to school, why are they skipping, why aren't the girls going. If I didn't go to school, my father would have ended up in jail. That was the time back then. Now, it's if you want you go, if you don't want you don't go.

I wanted for at least one of my daughters to become hairdresser, that was my biggest wish. However, they didn't have a chance. They both got married when they were 17; they have grown children now. That's it... I regret it: I finished school, while my children are illiterate."

LJ. S. (Age: 50)

"I had a hard life... I was born in a village near Belgrade. My mother delivered me at home, ambulance came, they looked the mother and the baby and left. My mother delivered all of five of her children this way. One boy and four girls. It was hard, only father worked and we helped mother with the chores, sometimes worked for wage, made lunch, take care of younger siblings. Do the housework; there is no other job for female child. However, when the time we start school came we all had to go. School was far, we had to walk but we had to go. If you don't go, they come for the father and then he pays the fine or goes to jail. My parents wouldn't think of not sending us to school. They were afraid of the police and those from social services. So I had to do the housework, help my mother and go to school. But I liked school, it was great when we walked to school and returned all together.

We were all kinds of kids, Roma and not and we were somehow all together in group. We went to same class, borrowed books and played together. Sometimes we got into fight, they tell us "Gypsies", we tell them "Hillbillies", on occasions teachers get involved too, and the parents as well, at the end we all get punished, and tomorrow we again go to school all together. It was like that back then, insulting on any basis wasn't allowed. But we were also better kids then they are now. We would never think of throwing rocks or kill each other. We fought a bit, but when new day comes start all over again. My sisters and I finished all 8 grades that way. My brother went farther and became a tinsmith. Father was very proud when he got vocation and found a job for him but then the war began and then bombing. But we, girls didn't go further then 8th grade. All girls in settlement finished only elementary school. Older people said that's enough, girls don't need school. I cried when my father said: " You don't need more then 8 grades, and that's too much." I cried aloud to the head and other teachers. They wanted to help, asked father and mother to come to school but they never went so I was left with only 8 grades.

There, and now when I think, my daughters, I have four daughters and two sons, all adults, not one finished school. Daughters went to the 4th grade and sons barely 7 grades nobody has vocation. What makes me even more sad is that my grandchildren don't go to school either. One day they do go, the other don't and it's like nobody cares about that.

It wasn't like that in my time. If we skipped school, the very next day someone would have shown up on our doorstep to ask our parents whether we are sick or something's wrong with us. Sometimes, mother pulled us put of school to help her with housework or other chores but she couldn't do it all the time. My teacher use to say: " you have to let her to school because we'll have inspections and what am I supposed to say where is the kid, I don't want to lie for you, if they see kids aren't in school, they'll come to your home and then you see what are you going to do."

And so my mother says to my father that children have to go to school. That's the way it was. But when time came for my children to start school nobody asked do we have books, where are we living, what's our situation. So when they didn't go to school no one came to see what's going on with them. Those were hard times, severe poverty, but anyway, there should have been someone who was suppose to care about our kids, to ask if they are alive and why aren't they in school. But nobody did.

There, that's how it is.. Now I read subtitles from Spanish TV series to my grandkids, because they don't know how to read."

►►► **Marginalized among marginalized: Over-representation of Roma in special education**

- All data presented above refer to regular schools, but it should be added that many Roma were enrolled in so-called special schools⁶⁹ or "special classes" for children with intellectual disabilities in mainstream primary schools. Analysis conducted under cross-national survey of UNICEF: TransMONEE project (Brankovic, 2011⁷⁰) indicated that boys outnumbered girls in these schools, and other research-based sources (Open Society Institute, 2010; See below) confirmed such conclusion However, data cannot be compared to percent of relevant population (boys/girls) with disabilities in respective years (such data are not publicly available).
- It is important to highlight that relevant sources (UNICEF, Report to Committee on the Rights of the Child, 2008⁷¹) estimated that "over a half of students in special schools come from the Roma population, which represents a dramatic disparity with the share of Roma in the general population". A comprehensive research survey (Open Society Institute, 2010⁷²), which attempted to include all 48 special schools that existed in Serbia at that time (19 special primary schools, 28 primary and secondary education schools, and one special secondary school) clearly confirmed that **Roma students have been over-represented in special schools** (ibid.; See Table 7). As revealed in the survey, most of these special schools were established for children with intellectual disabilities, while in 15% of the classes in such schools, children with multiple disabilities were also enrolled).

⁶⁹ Definition: Special education refers to education of mentally and physically handicapped children and youth. Regularly, such children are enrolled at the compulsory enrollment age, but also beyond the established age (Stat. Office of Serbia, *Women and Men in Serbia*, 2008.) Note: this official definition uses the term handicapped children, rather than children with disabilities.

⁷⁰ Brankovic, Biljana (2010). *National Gender Analytical Report: Serbia – Trans MONEE Project 2010*. Belgrade: UNICEF – Serbia and UNICEF Innocent Research Centre, Florence, Italy, 1-69 (in English)

⁷¹ UNICEF, Serbia Country Office (2008), Reference already provided before

⁷² Open Society Institute (2010). *Roma children in Special Education in Serbia: Overrepresentation, Underachievement, and Impact on Life*. Budapest: OSI (in English)

Table 7: Representation of Roma children in special schools, the 2007/2008 academic year and the 2008/2009 academic year

	2007/2008	2008/2009
Total number of students	5639	5579
Roma students	1683 (30%)	1775 (32%)

Created using research survey of the Open Society Institute (2010)

*Note: As clarified in the above-indicated research survey, data were collected in 85% of special schools in the 2007/2008 academic year, and in 88% of special schools in the 2008/2009 academic year

The survey did not manage to include all regular schools in Serbia with so-called “special classes”, but it covered 21 such schools (mostly, for children with intellectual disabilities). In total, as reported by schools, 273 students attended special classes in the 2007/2008 academic year, out of whom 103 were Roma (or 38%). Similarly, in the academic year 2008/2009, Roma students made up 38% of all students (the total reported number was 330, and 126 of them were Roma). Specific gender-disaggregated data were not provided in this source, but it was generally concluded that, “At both the primary and secondary levels, there is a larger percentage of Roma boys attending special schools than Roma girls.” (ibid.). The survey also revealed that students from special schools had very poor chances to find employment upon graduating from such schools: “Most interviewed experts agree that school-leaving certificates from special schools do not allow for further schooling in mainstream schools. Of the former Roma students in focus groups who had completed special secondary education, 71 percent had never held a job, and 76 percent were unemployed at the time the research was conducted” (ibid.).

The problem of over-representation of Roma students in special education requires a comprehensive analysis and identification of all contributing factors and a clear definition of programs and measures that would provide an effective response.

►►► **Marginalized among marginalized: over-representation of Roma in residential institutions**

- As recorded in the Second Progress Report on Implementation of Poverty Reduction Strategy (Government of Serbia, 2007), “A high percentage of Roma children and youth accommodated in social care institutions (30%) causes worry and calls for the development of special measures of support to families from this target group. It is estimated that Roma comprise some 30% of the overall number of children and adolescents in the social welfare institutions for accommodation, which is high relative to the total population of Roma children, which is a particular indicator of inadequate implementation of programs of support to Roma parents and families by the Centres for Social Work. It is alarming that the number increases in the process of de-institutionalization and/or due to the total decrease in the number of children and adolescents in social protection”.

- It should be noted that the Initial state report to Committee on the Rights of the Child (2008) did not include gender-disaggregated data on residential versus alternative forms of care. The Committee in its List of Issues asked for such data, by ethnicity, gender, and age of the child. In the response, the Government of Serbia (2008b) provided data of the Ministry of Labour and Social Policy that refer to children separated from their parents and placed to all types of residential institutions (for children without parental care, children with disabilities and maladjusted children)⁷³, as well as children placed to foster care, or being adopted, domestically or internationally.

NGOs also point out that very strict rules, which include an approval of the responsible Ministry, make the procedure of international adoption safe from the point of view of child trafficking for adoption. However, since couples from Serbia (waiting to adopt a child) do not want to adopt children of Roma origin or children with disabilities, international adoption can be one of the solutions for this problem, along with programs for development of alternative forms of child protection (Alternative report to CRC, 2008).

Comment on the state report ►►► We would like to highlight that the Government of Serbia, in the latest 2010-report to the CEDAW Committee⁷⁴ **failed to provide recent statistical data on access of Roma, particularly girls, to education at any level (pre-school, primary and secondary school, etc).** Instead of data, under the Section: *Status of National Minorities*, para. 65, the report provides general remarks in which the problem of dropout from primary school was entirely explained by attitudes of Roma parents.

⁷³ The expression *social care institution* includes all forms of institutional placement prescribed by the Law on Social Care and Provision of Social Security of Citizens (homes for children and youth, care centers for infants, children and youth, home for disabled children and institutes for children and youth upbringing)” (Govt. of Serbia, Written replies to CRC, 2008b)

⁷⁴ Government of Serbia, *The Second and the Third Periodic Reports on the Implementation of the Convention on Elimination of All Forms of Discrimination against Women*, November 2010

Further, data about the Roma Education Assistants Programme in the state report were limited, but a strong conclusion was made: “One of the results of this type of support is that female pupils did not leave school, which was not the case before” (para. 66). We did not manage to find the original source quoted in the state report (research-based evaluation, conducted in 2009, para 66.), but other sources, including evaluation research (See in text that follows) did not support the conclusion in the state report.

However, the results achieved through programmes that have been implemented for many years can be mentioned as good practice examples in addressing problems of Roma children in education system.

√√√ Examples of good practice - The Roma Teaching Assistant Programme

- This Programme started in Serbia in 2002 as a pilot programme carried out by different NGOs. From 2007 to 2009, the Programme was coordinated and funded by the Organisation for Security and Cooperation in Europe (OSCE). Since 2009, the Ministry of Education has been responsible for the coordination of the programme.

In September 2010, the name of Roma assistants has been changed to "pedagogical assistants" and their target group is no longer only Roma but all children from marginalised groups. The programme is now financed by the European Union and it is entitled “Education for All - Increasing the Availability and Quality of Education for Children from Marginalised Groups”.

Evaluation research (Bataglia and Lebedinski, 2011⁷⁵), which analyzed school performance and drop-out of Roma children in schools that were involved into the Programme, as compared to control group, found **positive impact of this Programme**, i.e. school performance of Roma children improved, and drop-out was reduced.

Interestingly, **the impact was more favourable in schools with lower percentage of Roma children**: “the Higher and more systematic impacts are obtained in schools with a lower number of Roma: the higher is their number, the lower the impact of the programme on the outcomes of interest. **This seems to be especially the case for female and migrants**, for whom **being in a school with a lower number of Roma turns out to be more favourable**”.

A Pedagogical Assistant interviewed for the purpose of this report describes an example of good practice.

M. J., Pedagogical Assistant

“In May 2010, I visited Roma families and provided them with information on their children’s improvement in school. In the same time, I was visiting families whose children were preparing to start preschool or first grade. People from the settlement told me the new girl moved in; who is 10 years old and never went to school. Her mother informed me that they do have all necessary documents, but that their family has been frequently moving in search for better living conditions, and therefore she didn’t have the opportunity to enrol her into school.

In the morning, I informed school director about data I collected, because it’s my obligation to inform school staff about the situation. I told him this girl’s story. He said that he would discuss the matter with school council and the education inspector. And the next day he said that we could enrol the girl.”

▶▶▶ Tendencies towards segregated education?

- The above-listed conclusions of researchers (Bataglia and Lebedinski, 2011) raise an important issue of **potential tendencies towards segregated education**. There are no systematic, policy-driven tendencies towards segregated education. Yet, certain primary schools (e.g., those closer to Roma settlements) have higher percentage of Roma. Although it has been insufficiently researched, the existence of segregated classes in village schools has been noted in some research (Open Society Institute EU Monitoring and Advocacy Program, 2007⁷⁶). Other analyses (Roma Education Fund, 2007⁷⁷) concluded that, “Due to low attendance, segregated education in the system is not yet a major issue, except in special schools, which are mainly composed of Roma students.”

⁷⁵ Bataglia, Marianna, Lebedinski, Lara (2011). *Equal access to education: An Evaluation of the Roma Teaching Assistant Programme in Serbia*, May, 2011, See: http://www.edge-page.net/papers2011/Paper_BATTAGLIALEBEDINSKI.pdf (in English), Accessed on 27th May, 2013

⁷⁶ Open Society Institute, EU Monitoring and Advocacy Program, Education Support Program, Roma Participation Program (2007). *Equal Access to Quality Education for Roma: Serbia, Vol. I: Bulgaria, Hungary, Romania, Serbia, Monitoring Report*, <http://www.opensocietyfoundations.org/reports/equal-access-quality-education-roma-vol-1> (in English, Accessed on 7th June, 2013)

⁷⁷ Roma Education Fund (2007). *Advancing Education of Roma in Serbia: Country Assessment and the Roma Education Fund’s Strategic Directions*, http://www.mp.gov.rs/resursi/dokumenti/dok4-eng-Serbia_report_ref.pdf, in English and Serbian (Accessed on 29th September, 2012)

- Nevertheless, an evaluation finding that Education Assistant Programme has had lower impact in school with higher percentage of Roma indicates certain negative tendencies towards segregated education. In schools with high percentage of Roma students, early dropout of Roma girls was more difficult to prevent, (even), in spite of targeted intervention, such as Roma Teaching Assistant Programme.

Segregation in education – decisions of the Commissioner for Protection of Equality

In her practice, the Commissioner for Protection of Equality addressed the problem of segregation in education. Upon complaint submitted by one NGO, related to segregated classes in the primary school V.K. from N., the Commissioner recommended that school authorities in the city of N., in collaboration with the Ministry of Education, should develop a comprehensive plan of action aimed at overcoming a problem of segregated classes in the indicted school, in line with National Strategy for Improving the Status of Roma in Serbia (Recommendation 358/2012).⁷⁸ Similarly, in the Recommendation 88 of 17th January 2012⁷⁹, the Commissioner addressed the problem of segregated pre-school classes in the village V –B. , and concluded that the school in the indicated village was responsible for breaching the Law on Prohibition of Discrimination, due to establishing classes for Pre-school Preparatory Programme composed of Roma children – IDPs.

♣♣♣ Recommendations:

- **Reviewing data on access of Roma (especially, girls) to obligatory pre-school preparatory programme (PPP) and primary school and developing measures (based on field/community work, i.e. collaboration with Roma parents) aimed at increasing access, including expanding the Programme of "Pedagogical Assistants".** The impacts of the latter Programme should be systematically analysed through external, independent evaluation.
- **Creating and organising special modules of training for pedagogical assistants that would include topics on gender equality, as well as sensitization for specific problems of Roma girls (such as, pressures by the parents to accept harmful traditional practices, such as early marriage, arranged marriage, forced marriage, selling brides). In order to achieve applicability and quality of the trainings, Roma women's NGOs should be included in a process of designing and/or organizing such trainings**
- **Tendencies towards segregated education should be carefully monitored, and strategy for its prevention should be created, since such problem might become more pronounced due to a (potential) increase in enrolment of Roma children into schools.**
- **Developing gender-sensitive rulebook on application of affirmative action measures in education, including criteria for applying**
- **Students who used affirmative action measures should be adequately followed up, so that the long-term impact of these measures can be properly assessed**
- **Developing specific adult education and adult literacy programmes, tailored to the needs of Roma women, including young mothers who left school due to early marriage**

ACTIVE EMPLOYMENT MEASURES – THE IMPACT ON ROMA WOMEN (Art. 11)

▶▶▶ KEY ISSUES AND CONCERNS ▶▶▶

▶▶▶ Roma as priority group on paper and in practice

Roma are defined as one of priority groups for inclusion in active employment policy measures, according to National Employment Strategy 2005-2010. Further, as part of implementation of the Decade of Roma Inclusion, the Strategy for Improvement of the Position of the Roma in the Republic of Serbia was adopted, which included integral measures and activities in the employment sector. The funds allocated in the 2010-budget of the Republic of Serbia for implementation of active labour market programmes were in total RSD

⁷⁸ Commissioner for the Protection of Equality Website, Opinions and Recommendations, in Serbian, <http://www.ravnopravnost.gov.rs/sr/nacionalna-pripadnost/pritu%C5%BEba-r-protiv-vi%C5%A1e-lica-i-institucija-zbog-diskriminacije-po-osnovu-nacionalne-pripadnosti-u-oblasti-obrazovanja> (Accessed on 1st May, 2013)

⁷⁹ Commissioner for the Protection of Equality Website, Opinions and Recommendations, in Serbian, <http://www.ravnopravnost.gov.rs/sr/nacionalna-pripadnost/pritu%C5%BEba-d-z-r-d-m-protiv-pu-m-n-p-zbog-diskriminacije-na-osnovu-nacionalne-pripadnosti-u-oblasti-obrazovanja> (Accessed on 1st May, 2013)

3.7 billion⁸⁰, while estimated funds planned for Roma amounted to RSD 65 million. In the period January-October 2010, the costs of Roma inclusion into active labour market programmes and their employment amounted to approximately RSD 102 million (Government of Serbia, 2011⁸¹).

- Activities of the Ministry of Economy and Regional Development aimed at improving the position of Roma in the labour market include active job search and job fairs, trainings and vocational trainings, employment subsidies, self-employment subsidies, and public works. Women, and especially Roma women, are poorly represented in such programs, and often, uninformed about their existence - for example, as many as 76% of unemployed women in general population have never heard of any active labour market measures, while only 13% have participated in a National Employment Service programme and stated that these programmes have not improved their employment prospects (Cvejić, S. et al., 2010; in: Government of Serbia, 2011⁸²).

- A recent detailed analysis, based on official data provided by the Ministry and National Employment Service (Muller, 2011⁸³) indicated that in 2009, in total 88 Roma took part in trainings and vocational trainings, out of whom, only 17 were women (thus, women made up 19% of all participants in the program). Similarly, in 2009, women made up 21% of participants in public works (out of in total 590 participants, 125 were women), and one third of beneficiaries of subsidized self-employment (out of 79 beneficiaries, only 25 were women). On the other hand, in the same year, Roma women were somewhat better represented in other active employment programs, such as trainings for active job search (in total, 134 women were involved, which made up 45% of the program participants) and job fairs (281 women participated, i.e., they made up 36% of participants).

- Some relevant government policy documents (Government of Serbia, 2011⁸⁴) recognize a problem of lower involvement of women in active employment measures, and stress that it is necessary to reach the following goal: “The share of women in active labour market programmes must be proportionate to their share in registered unemployment”. The same document also emphasizes that “The largest number of able-bodied Roma lack the adequate education necessary for success in the labour market. Because of their exclusion from the labour market and a lack of income generation, the Republic of Serbia loses some 231 million EUR in productivity and 58 EUR in fiscal contributions at the annual level, according to World Bank assessment “Economic Price of Roma Exclusion” (ibid.).

It can be concluded that **active employment policy should be re-shaped to adapt better to the needs of Roma women, since they represent one of the most disadvantaged groups at the labour market.** The Government reported recent improvements in that respect, i.e. higher interest of Roma in active employment measures. Still, the figures are not particularly encouraging, i.e., these measures reach out to a small number of women when compared to the estimated very high unemployment rate of Roma women in Serbia.

As recorded in the above-mentioned 2011-report of the Government specifies, “In 2010, some 2,000 Roma were employed... Roma interest in participating in active labour market programmes increased in 2010. By October 31, 2010, **117 Roma, including 38 women**, received self-employment subsidies. A total of **66 Roma, including 30 women**, were employed through subsidies to employers. In the period January 1–October 31, 2010, the information system of the National Employment Service recorded 22,160 cases of in which Roma utilised one of the measures of active labour market programmes (it must be noted that one person may participate at several active employment programs, as recorded by the National Employment Service info system). Of this number, 2,964 Roma (2,313 women) were included in group information activities, 750 Roma (286 women) visited job fairs, and 436 Roma (120 women) participated in trainings for entrepreneurship.” (Government of Serbia, 2011).

- In accordance with National Employment Action Plan for 2012⁸⁵ (Ministry of Economy and Regional Development, 2011⁸⁶), the Government allocated a budget for active employment measures, “A minimum of RSD 5,650,000,000 is required in 2012 for the implementation of the planned active labour market programmes and the co-funding of programmes envisaged by local and regional employment action

⁸⁰ RSD = Serbian Dinar (local currency). Note: 1 EUR = app. 110 RSD (as per end of May 2013)

⁸¹ Government of Serbia (2011). *First National Report on Social Inclusion and Poverty Reduction in Serbia: The Status of Social Exclusion and Poverty Trends in the Period 2008 – 2010 and Future Priorities*, March 2011, <http://www.inkluzija.gov.rs/wp-content/uploads/2011/04/First-National-Report-on-Social-Inclusion-and-Poverty-Reduction.pdf> (in English), Accessed on 23rd March, 2013

⁸² Reference provided before

⁸³ Muller, Stephan (2011). *National Policies towards Romani Women in the Western Balkans – Country Paper on Serbia*. CARE North-West Balkans. (in English)

⁸⁴ Reference provided before

⁸⁵ The National Employment Action Plan for 2012 was adopted on 13th October, 2011 (Government’s Conclusion 05 101-7599/2011, Official Gazette of the Republic of Serbia No. 79/11).

⁸⁶ Ministry of Economy and Regional Development of the Republic of Serbia (2011). *National Employment Action Plan for 2012*, http://www.lokalnirazvoj.rs/assets/files/National%20Employment%20Action%20Plan_2012_eng.pdf (in English; Accessed on 7th June, 2013)

plans. Active labour market policies are funded by the budget of the Republic of Serbia, the budget of the autonomous province and local governments, gifts, donations, legacies, loans, contributions to the unemployment insurance system and other sources. Self-employment grants were planned for opening a store, a cooperative, or any other form of business venture, by one or several unemployed individuals that establish a partnership or start a company, if the founder registers as an employee of the company. In 2012 the grant will amount to RSD 160,000 per individual, paid out as a lump sum, except for persons with disabilities, for whom the grant is RSD 200,000 per individual.”

The latest available data on implementation of active employment measures indicate the following. National Employment Service reported⁸⁷ that in 2012, **in total 1265 Roma people, out of whom 45,6% women** (registered as unemployed with the NES), **attended so-called motivational trainings** created to assist them in finding employment. Further, **in total 981 Roma participated in vocational training programs, but only three persons of Roma nationality were employed through subsidies to employers; additionally, 11 Roma people received self-employment subsidies** (gender-disaggregated data on implementation of the latter measures were not reported in the indicated source).

Comment on the state report: ▶▶▶ The state report briefly mentions active employment measures, but presented data are rather vague, i.e. include only the total number of **services** used by Roma (including women) at the National Employment Agency. In interpreting these data, it is relevant to have in mind that the same beneficiary can use several, different types of services provided by the National Employment Agency (as clearly explained in the above-mentioned source of the Government, 2011).

Thus, in our opinion, it would be important to kindly ask the Government to clarify data quoted in the report, for example, to provide gender-disaggregated information on the **impact** of active employment measures (such as, the total number of Roma women employed annually), the number of female beneficiaries of **various types** of programs (such as, job fairs, self-employment subsidies, trainings for entrepreneurship, trainings for active job search, etc), as well as information on allocation of funds for such measures (whether the measures are financed by the national budget or donor funds).

Comment on state response (2012) to the List of Issues and Questions of the CEDAW Committee

▶▶▶ The CEDAW Committee, in the latest List of Issues and Questions, asked the Government of Serbia to provide data on temporary special measures aimed at increasing the participation of disadvantaged groups of women, such as Roma women, in the labour market and in decision-making positions.

The Government of Serbia, in its 2012-responses⁸⁸ to the List of Issues and Questions of the CEDAW Committee mentioned that “Roma persons” have been treated as a priority group in active employment programs, and provided some data about these programs (para. 3, page 6).

However, the Government further explained that numbers of Roma registered as unemployed in the National Employment Service (NES) has increased; more specifically (ibid. page 6),

“The data on the increasing number of the Roma registered in the unemployment registry in the NES indicate to a positive change in attitudes of the Roma to work and employment. It is apparent that employment promotion and campaigns for raising awareness about the importance and advantages of employment and work over receiving social aid have given positive results.”

Facts about the increasing numbers of Roma who have been registered as unemployed might be intriguing. It is, however, even more intriguing - why the Government quoted these facts in response to the question of the Committee about “temporary special measures aimed at increasing the participation of disadvantaged groups of women, such as Roma women, in the labour market and in decision-making positions”. Is this an example of implementation of temporary special measures?

Stories of Roma women who tried to find employment, or participated in above-described programs on active employment are provided below, based on interviews. Please note that among our beneficiaries, we were able to find only one woman who attended programs for opening small business, but was rejected when she applied for a start-up loan (Story No.4). Further, a husband of one beneficiary described experience with such programs from his perspective (story No. 3).

⁸⁷ National Employment Service, *Annual report of the National Employment Service for 2012*, http://www.nsz.gov.rs/live/digitalAssets/0/900_izvestaj_o_radu_nsz_za_2012_godinu.pdf (in Serbian; Accessed on 1st June, 2013)

⁸⁸ In response to the Question 1 of the CEDAW Committee, the Government of Serbia stated “At the request of the Division of Case-law in the Supreme Court of Cassation, appellate courts submitted information that the courts competent for the areas of appeals did not register cases in which the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter referred to as: Convention) has been invoked by individuals or directly applied or referred to in court proceedings. Also, there were no cases in which women claimed their rights in courts by invoking provisions on non-discrimination against women and gender equality.” (Replies of Serbia to the list of issues to be taken up in connection with the consideration of its combined second and third periodic reports, CEDAW/C/SRB/Q/2-3/Add.1, 23 July, 2012).

1. **V.J.** I'm 40 years old, registered in employment agency for 15 years. I graduated from beauty school. Every three months, I regularly go the employment bureau. I'm working at the market place for a long time, have a fruit and vegetables stand there but I am not employed. My son was called for some trainings at the bureau. I went with him to try enrolling to some training that would improve my working status. They offered me training for hairdresser. I accepted. I finished the training successfully and got a diploma. But, this training didn't help one bit. In the meantime, I was sending my CV whenever I thought I was qualified for the job but nobody ever called me. I am unemployed and lost hope that I'll ever find a job. Son went through the training for making a CV but that didn't help him to find a job. I am still selling fruit and vegetables at the market place and I think it will remain that way in the future.

2. **S.M.** I am 27 years old. I am married and have two small children. I finished beauty school for hairdressers and I am going regularly to the employment bureau. After graduating from high school I applied to the bureau hoping that will be the easiest way to find a job but nobody ever called to offer me any job. In the meantime, I am working at home because I don't have money to open beauty parlour. I am registered in the employment bureau for 5 years. They called me last year to go to the training for writing CVs. I finished the training and made my CV. That gave me more hope that I will find the job even though I was trying to find something for a long time, The training unfortunately didn't bring me luck in finding a job, although I am sending CV whenever I see I'm qualified for the job. After this training, nobody called me ever again, nor was interested in my employment. I'm still unemployed and at the bureau. I don't think they are doing anything useful except for certification of health cards.

3. **Z.M.** I am 29 years old. I'm registered seven years in the employment agency. I finished geodesy school. I'm married and have two kids. For the past 5 years, I am working on "black market" because that's the only way I can provide for my family. Every three months I am going to the bureau. In all those years, no one ever called me, or offered any job but they called me last year offering training for starting small businesses. I accepted the invitation delightfully. I finished the training, opened my own company and applied for start up credit. I was rejected with the explanation that there was many applications and limited budget. I think it was something else but it's over now. After rejection, I had to shut down the company because I didn't have financial assets. After that, nobody ever called me or offered anything. I am supporting my family by working on a "black market" because that's the only choice I have.

4. **V.M.** I am 37 years old. Married and have three kids. I'm registered in the employment bureau since 1992 where I regularly go every three months. Last year (2012) I heard in news on TV something about self employment and decided to see into it. My appointment was scheduled in a week and then I gained all the necessary information about self-employment. My idea was to start a fast food stand but I was suggested it was "déjà vu" and that it's maybe better to make it a vegetarian food stand. I accepted the idea and was offered a non-refundable credit in the amount of 100 - 150.000.00 RSD. However, when I was filing out the paperwork I read that my obligation is to open, equip and capacitate stand for working, after what inspection goes out to the field to determine whether I meet the working terms and that the credit I am applying for depends on their assessment. I gave up from that idea because I think it's too complicated.

5. **S.J.** I am 33 years old. I was working for a few years as a cleaning woman in Mercedes Benz. I was very satisfied with my job and the way other employees treated me since I was the only Roma woman among them. Last year new younger director came, nobody new him. Everyone was scared for their job but nobody lost job except me. After five days, new director told me "Well, you know, Germans ordered us not to employ Roma." So, I got fired without any logical explanation. They had no other reason to let me go, I was good employee, did my job properly. I haven't complained to anyone. Where to complain?

♣♣♣ Recommendations

- **Re-shaping the programmes of active employment measures implemented by the state to better meet the needs of Roma women**
- **Establishing an efficient system to monitor and evaluate an impact of active employment measures implemented by the state**

ACCESS OF ROMA WOMEN AND GIRLS TO HEALTH-CARE; PROBLEMS RELATED TO REPRODUCTIVE HEALTH (Art. 12)

√√√ Positive steps: Improvement in legal provisions

- Health Insurance Law (Official Gazette of the Republic of Serbia, 17/05) grants medical insurance to a rather wide scope of „vulnerable categories“ of citizens, and it explicitly prescribes that persons of Roma nationality who do not have permanent or temporary residence registered due to their traditional way of life may be beneficiaries of health care⁸⁹.

On the other hand, it is important to mention that reference to reproductive rights in the Constitution is made through the article on the “freedom to procreate”, which might particularly affect Roma women. The Constitution (2006), in a respective chapter referring to human rights, contains an intriguing provision that guarantees a “freedom to procreate”. Namely, the Article 63 reads,

“Everyone shall have the freedom to decide whether they shall procreate or not.

The Republic of Serbia shall encourage the parents to decide to have children and assist them in this matter.”

Having in mind that the CEDAW mentions a free choice on the number of children and calls for access to family planning, this constitutional provision allows open space for different interpretations, due to apparently “neutral” provision (“everyone shall have the freedom to decide....”).

√√√ Positive steps: The impact of “Roma Healthcare Mediators” projects

- Based on our experience, projects and efforts undertaken under framework of Roma Decade achieved the best results in the area of health-care. Projects implemented in this area helped Roma people to exercise their healthcare and health insurance rights.

The model of developing a network of **Roma Healthcare Mediators**, which has been applied across the region and elsewhere, can be viewed as example of good practice, in our experience.

The Healthcare Mediators project, which has started in Serbia in 2008, contributes to solution of long-lasting, burning problems with respect to access to health care by Roma population, through better prevention of illnesses, due to higher access to health care, an increased vaccination of children, higher access to prevention programs and counselling, higher health awareness, better family planning and birth control, better implementation of systematic check-ups of children, better understanding of links between social and health-care rights and procedures, etc. In 2009 and 2010, in total 75 health mediators (all of them – women⁹⁰) were engaged in 59 towns/cities across Serbia.

- As reported by UNICEF, the project “Connecting”, implemented by Ministry of Health, UNICEF and private company Telenor, contributed significantly to realisation of Roma rights in Serbia. The results were reached in the field of health-care provision, but in other areas as well, including education. Minister of Health summed up the results of this, and other projects related to Roma Healthcare Mediators: “Since the beginning of the Roma Healthcare Mediators project, 120 708 Roma have been registered, 8238 children have been vaccinated, 4924 Roma women have visited a gynaecologist, 14468 Roma have selected a doctor, and 1333 children have been admitted to school” (UNICEF, 2011⁹¹).

Within the larger survey on implementation of strategy related to the position of Roma, the Ombudsman of the Republic of Serbia (2011⁹²) provided **an independent monitoring and assessment of these projects**. Field survey was conducted in 47 Roma settlements in 30 cities/towns across Serbia, in collaboration with Roma NGOs. Experts from Ombudsman’s Office accompanied Healthcare Mediators during their visits to Roma settlements and thus had a chance to observe their contacts with inhabitants. During the field survey, Roma people in settlements were asked to assess the work of Mediators. It was concluded that **participants in the survey assessed their work highly positively**, and 62,7% of them confirmed that Mediators had

⁸⁹ Note: provisions related to so-called vulnerable categories of persons, defined in Article 22 of Health Insurance Law came into force on January 1st, 2007

⁹⁰ Healthcare Mediators are women with completed primary education at a minimum, for whom this project represented an employment opportunity. Their training included public health, chronic non-infectious diseases prevention, communication skills, hygiene, infectious diseases prevention, vaccination, rights in the area of healthcare and health insurance, domestic violence, and human trafficking.

⁹¹ Webpage of UNICEF – Serbia, Annual results of the project *Connecting* presented. 26th May, 2011, http://www.unicef.org/serbia/media_17175.html (in English), Accessed on 1st March, 2013

⁹² Ombudsman of the Republic of Serbia (2011). *Results of the Research on the Implementation of the Strategy for Improvement of Status of Roma in the Republic of Serbia*, draft version (available only in Serbian)

visited them regularly (researchers also indicated that the latter percentage could be most likely assessed as higher, since some participants did not know the word “Healthcare Mediator” and thus claimed she had not visited them, in spite of evidence to the contrary). The researchers (ibid.) further analysed the results of the projects using official data obtained from the Ministry of Health. The Ministry informed Ombudsman’s Office that by May 2011, Healthcare Mediators contacted and registered in total 36,975 women, 34,765 men and 48,968 children, which enabled the Ministry to create assessment of chronic illnesses in Roma population, and in particular, the health status of children and women. The Ministry also summarised the results of the projects in the following manner: the Healthcare Mediators contributed to vaccination of 8238 children and 696 adults; further, due to their work 2,297 women received check-ups during pregnancy, 693 women were sent to mammography examination, and 5,387 women have selected a gynaecologist. Healthcare Mediators made in total 138,106 visits to Roma families and organised 5740 workshops.

This survey/analysis (ibid.) also reviewed financial sources for the projects and concluded:

“In spite of good results of Healthcare Mediators in protecting health and raising awareness of Roma population in the area of healthcare, their status remains uncertain. In 2011, 75 of them have worked in 45 municipalities. Out of this total number, the Ministry of Health funded the work of 60 of them - under the Programme “Action Plan for Healthcare of Roma” funds were provided for 45 of them, while the Programme “Healthcare Mediator” provided the funds for 15. The remaining 15 Mediators were funded through the Programme “Provision of Advanced-Level Services at the Local Level”, implemented by the Government of Serbia (based on the loan provided by the European Bank for Reconstruction and Development – EBRD, in total 32 million EUR) in the period 2009-2012.”

- According to information we (unofficially) obtained from responsible state officials, the total number of mediators might be decreased in the future. **We express concern regarding the insecure status of Roma Healthcare Mediators** (there is no budget line for their salaries, as the Government of Serbia relies on donor funds for such purposes, including OSCE, Fund for Open Society, UNDP).

In our opinion, the implementation of the Healthcare Mediators project has been faced with obstacles: the number of mediators is far lower than needed (in some municipalities with a significant number of Roma, no mediators are engaged); the existing mediators are not full-time employed (since their engagement has been somewhat dependent on donor-funded projects), and, finally, additional in-service trainings of mediators are clearly needed.

▶▶▶ KEY ISSUES AND CONCERNS ▶▶▶

▶▶▶ Problems in implementation of legal provisions are still prevalent

NGO that provides assistance to persons without legal documents, including Roma, noted that Article 6 of Rules on Contents and Scope of Rights to Health Care from Compulsory Health Insurance and on Participation in Costs (Official Gazette of the Republic of Serbia, 7/09 and 82/09) derogates the application of this legal provision by stating that the insured must provide a personal statement that he/she is a person of Roma nationality, as well as his/her registration of temporary residence. In this way, persons who do not have their residence registered, for instance due to the fact that they live in an illegal Roma settlement, are actually deprived of exercising their right to use health care services (Praxis, 2011⁹³).

▶▶▶ Old problems: Skilled attendance at delivery and antenatal care are inaccessible to some Roma women

- Both official statistical sources and those provided in research surveys (e.g., MICS3, Statistical Office of Serbia and UNICEF, 2006) imply that skilled attendance at delivery is almost universal in Serbia (See: Tables 8 and 9). As reported in MICS3, medical doctors assisted in 87% of the deliveries and an auxiliary midwife assisted in 10% of the cases. With 99% of women, skilled personnel assisted at the delivery. Regarding delivery in medical facility, the percentage was approximately the same. However, MICS3 revealed that **Roma women from Roma settlements were behind the national average** – 93% of them were delivered by skilled personnel (ibid.).

⁹³ Praxis, Health Booklets for Internally Displaced Persons from Kosovo instead of Health Certificates, http://www.praxis.org.rs/index.php?option=com_content&task=view&id=139&Itemid=73 (Accessed on 1st September, 2012)

Table 8: Deliveries in medical facilities, General population; Statistical Office of Serbia, 2002-2009

	2002	2006	2007	2008	2009
Medical facility	76639	70333	67546	68430	69898
Other place	1462	664	556	653	401

Created using source: Statistical Office of Serbia, Statistical Yearbook 2010⁹⁴

Table 9: Births attended by skilled personnel, General population; total numbers and percentages, 2002-2009

Attended by skilled personnel	2002	2006	2007	2008	2009
Yes	77438 (99.2%)	70790 (99.7%)	67951 (99.8%)	68894 (99.7%)	70160 (99.8%)
No	663 (0.8%)	207 (0.3%)	151 (0.2%)	189 (0.3%)	139 (0.2%)

Created using source: Statistical Office of Serbia, Statistical Yearbook 2010

- Concerns regarding the position of Roma mothers are also expressed in the report of UNICEF to the Committee on the Rights of the Child (2008). While recognizing that coverage of pregnant women with antenatal care was almost universal, as well as skilled attendance at delivery (99%), and that almost 80% of deliveries take place in Baby Friendly Hospitals, the report highlighted a fact that pregnancy and delivery of Roma mothers was poorly managed and monitored, comparing to the national average – 15% of them did not receive any antenatal care and 7% of deliveries took place without a skilled attendant present, as mentioned above.

- The latest, MICS4-findings (Statistical Office and UNICEF, 2011) revealed significant differences between general population of women and women in Roma settlements with respect to antenatal care coverage (See: Table 10). Therefore, **the latest findings clearly confirm that antenatal care is still inaccessible to some Roma women, in spite certain improvements in recent years.** On the other hand, an encouraging indicator should be stressed: **most women in Roma settlements delivered babies at hospitals** (See Table 11).

Table 10: Antenatal care coverage in Serbia, 2010: women aged 15–49 who gave birth in the two years preceding the survey by type of personnel providing antenatal care (general population of women versus women in Roma settlements)

	Medical doctor	Nurse/ Midwife	No antenatal care received	Number of women who gave birth in the preceding two years
General population	98.9	0.1	1.0	543
Women in Roma settlements	94.0	0.6	5.5	440

Source: MICS4 (Statistical Office and UNICEF, 2011)

Table 11: Deliveries in medical facilities: General population of women and women in Roma settlements, 2010, percentages

	Public sector health facility	Private sector health facility	Home	Other	Number of women who gave birth in the preceding two years
General population	98.4	1.4	0.1	0.1	543
Women in Roma settlements	99.3	-	0.5	0.2	440

Source: MICS4 (Statistical Office and UNICEF, 2011)

The story about the experience of a Roma woman at a maternity ward in a large city hospital is described below.

Mirsada (Age 28)

“ I’m on the delivery table, nurse is telling me not to do anything, not to push, to be still. I told her that I cant, that I have to push, and doctor who was at the delivery told her the same. Doctor and nurse argued whether I should push or not. She took scissors and cut me, doctor said: “ Don’t do that, are you crazy.” She yelled: “Gypsies are like this, like that.” She insulted me. It hurt a lot. After birth, doctor came to sew me up but he said she cut badly and that it was really hard for him to put stitches. I lost a lot of blood because of that. They took me to the room and then the nurse who yelled at me came and said: “ What do you think, don’t you think that you’re a Gypsy and we’ll pet you here. It was good when you did those things and when you have to give birth you are whining.”

I was just looking, without saying a word. I was scared. My husband called me after that and after I told him everything he said to complain. I went to see my obstetrician and he signed some paper and then gave it to the nurse to sign but she ripped it up. He took then another paper, wrote something and went to the director, and the they threw her out, she got fired. The main doctor and my obstetrician came after that to check up on me.

I said to myself because of all this, I would never have another delivery in the hospital X.”

⁹⁴ Statistical Office of Serbia, Statistical Yearbook 2010, <http://webzrzs.stat.gov.rs/WebSite/repository/documents/00/00/21/63/god2010.zip> (Last accessed on 10th May, 2013)

The following story illustrates the experiences of a young Roma woman who delivered her first child at the age of 15.

M.S. (Age 18)

“I am very young but I have two kids. My first child was delivered with C –section when I was 15. I had to, that’s what they told me, I didn’t know anything at that time, what’s C –section, my mother in law new and she consoled me and explained everything. I have all documents, health mediator and a nurse who is Roma woman helped me a lot because I was a minor. I didn’t go to see the doctor regularly, I didn’t have time because of the housework and other chores, I am taking care of my mother and father in law because they are very old. When the delivery started, nobody was at home so I went to the hospital alone. I came to the nurse at the reception and told her that I’m in delivery and she said to wait there until she calls a doctor. When my husband came and saw that I can’t stand, he started shouting at the nurses to get a doctor right away or he’ll call the police. Doctor came in a second and checked me and that how I gave birth. Delivery almost started in a waiting room. My husband at first threatened to sue nurses and doctors but then we became afraid that they might do something to the baby so we were quiet. Afterwards they were nice, nurse was yelling a bit, but she was yelling at everyone in the room, to move something, or clean something, and we are just laying, unable to get up. My mother in law told me that she gave birth at home, and that in every village there is a midwife who comes to the house with some other women and they deliver the baby. It was like that in the old days, now they don’t do it anymore.

Second time when I went to hospital to give birth it was horrible, they behaved disgustingly, called me names, saying that child came to have a child; I will never forget those terrible insults. All the doctors and nurses have changed since the previous delivery. They were insulting other women as well but not like the insulted me as a Roma woman. Some women cried. Since we are very poor and we are living in small house, visiting nurse wouldn’t go inside. She just came, asked something and left. She told me what to do, standing on the doorstep, if it wasn’t for my mother in law I wouldn’t now how to deal with the baby.

Doctor was telling me about contraception couple of times but I am not using it. My husband doesn’t want to hear about it, he says that’s nonsense. I am unemployed but cleaning other women’s houses.”

►►► Child mortality in Roma settlements is still higher than in general population. The highest infant and under 5 mortality rate is among Roma children whose mothers have no education

- Note: The module on child mortality was used in MICS4 only for Roma settlements because there are no data in the regular statistics and it is estimated that values are higher than the national average (Statistical Office and UNICEF, 2011). The infant mortality rate is estimated at 14 per thousand, while the probability of dying under age 5 (U5MR) is around 15 per thousand. These estimates have been calculated by averaging mortality estimates obtained from women aged 25–29 and 30–34, and refer to mid-2007. There is a difference between the probabilities of dying between males and females. The infant mortality rate among boys is 18 and among girls 9, and the under-five mortality rate among boys is 19, compared to 10 per thousand among girls.

- The highest infant mortality rates (26 per thousand) and under-five mortality rates (29 per thousand) are among Roma children whose mothers had no education.** It is important to mention that mothers of almost 20 percent of Roma children had no education (Statistical Office and UNICEF, 2011). The infant mortality rate is estimated at 14 per thousand, while the probability of dying under age 5 (U5MR) is around 15 per thousand. These estimates have been calculated by averaging mortality estimates obtained from women aged 25–29 and 30–34, and refer to mid-2007.

Table 12: Child mortality in Roma Settlements (in 2010): Infant and under-five mortality rates, Model — East, by child’s gender, area (urban or rural) and mother’s education.

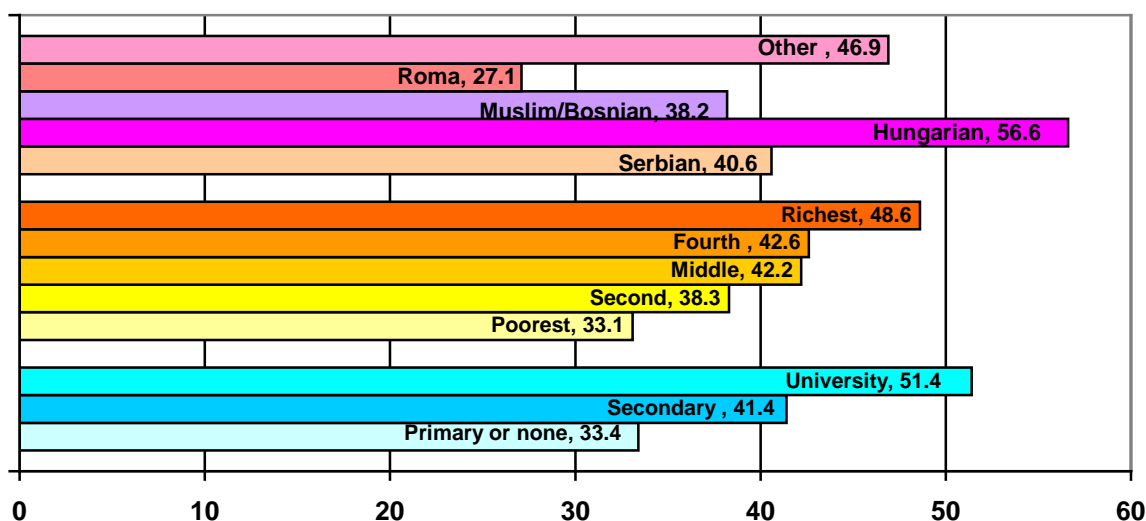
	Infant mortality rate	Under-five mortality rate
Child’s sex:		
Male	18	19
Female	9	10
Area (urban or rural):		
Urban	14	15
Rural	12	13
Mother’s education:		
No education	26	29
Attended school	11	12
Total	14	15

Source: MICS4 (Statistical Office and UNICEF, 2011)

►►► **Use of contraceptives is still very low**

As reported in MICS3 (Statistical Office of Serbia and UNICEF, 2006), contraceptive prevalence ranged from 27 % in Central Serbia to 54 % in Eastern Serbia. In East and Southeast Serbia, which have been considered underdeveloped parts of the country, women have predominantly used traditional contraceptive methods, while in Belgrade and Vojvodina, the most developed areas, modern methods of contraception were prevalent. Significant differences were found across groups with respect to educational level, age, ethnicity, and wealth index. Contraceptive prevalence of both traditional and modern methods seemed to increase with age, up to the age of 40, and then there was a pattern of decreased contraception use. **Women’s educational level, ethnicity and wealth index** were significantly linked to contraceptive prevalence (See Graph 1). With respect to educational level and wealth index, links were straightforward: it increased with educational level. Further, as the educational level increases, the proportion of using modern methods – particularly the condom – increases, and the proportion using withdrawal as a method decreases. Similarly, women from the richest households were using modern contraceptive methods more than average. The use of any contraceptive method decreased as poverty increased. Differences across ethnic groups were also found. **Only one in four married Roma women used any contraceptive method, usually withdrawal (every fifth). Only 4% of Roma women used modern methods;** condom usage was extremely low.

Graph 1: Use of contraceptives (traditional or modern), by ethnical background, wealth index and educational level, in percentages; Created using source: MICS3 (Stat. Office of Serbia and UNICEF, 2006).



- The latest data on contraceptive use (MICS4; Statistical Office and UNICEF, 2011) among women in Roma settlements showed similar trends: traditional methods are pre-dominant in Roma settlements and are used by 58 % of women, with even higher prevalence in rural areas (65%). The most popular method is the withdrawal method, which is used by half of the married women in Roma settlements; the next most popular is lactational amenorrhoea method, which is applied by 7% of married women. Only 3% of women reported use of the male condom, while use of all other methods is either not present or does not exceed 1% (ibid.).

- We point out to other important findings: adolescent Roma women (who got married as minors!) are less likely to use contraception than older women from Roma settlements are. Only 41 % of married or in-union women aged 15–19 currently use a method of contraception compared to 59% of 20–24 year olds and 78% of women aged 35–39. Direct links between women’s educational level and contraceptive prevalence were confirmed. **The percentage of women from Roma settlements using any method of contraception rises from 53% among those with no education to 70% among women with secondary education.** Modern methods are used by only 6% of all women in Roma settlements with a slightly higher percentage of users among women with secondary education (11%) and women from the richest quintile (10 %). As noted in MICS4, current use of contraception (traditional or modern) was reported by 61% of women in general population of Serbia currently married or in a union.

♣♣♣ Recommendations

- **Securing the continuation of Roma Healthcare Mediators projects, increasing the number of Roma Healthcare Mediators, securing funds for their full-time employment, and organising additional in-service trainings for them with a specific focus on gender equality issues**
- **Organising awareness raising programmes for Roma women and girls on reproductive health issues and family planning**

Experiences of Roma women in health-care institutions are quoted below. The stories were obtained in interviews.

Jelena (Age 36)

“I had four deliveries and never had any problems. I always took care of myself and the child. I have all documents that we got when we moved to town B. Before that, we lived under the Gazela bridge in Belgrade and had no documents.

Last delivery, I am on the table, I didn't scream or anything like that, I behaved normally because I knew what to expect. Nurse shouted at me saying that hospital is not Gypsy slum and I cant behave that way , then she took the sheet and started to strangle me. The obstetrician was there and he told her: why are you behaving like that, you see that she is good, you could suffocate her and go to jail because of that. Then they told me that I could report her. I didn't want to do it because I was afraid. I didn't have any contact with her after that, she didn't come near me. Doctors told me that I can report her and that if I would to do that, she would be fired. I didn't do it. I didn't get any advices from other doctors except that I should come for a check up in a month. They told me that everything is fine with the baby and that I just have to massage her legs and to take her to paediatrician. I thought I should do it because maybe she has crooked legs. I took the baby and after three days, I lost her. They found that the child had heart conditions and she suffered three heart attacks in a row. They could have found that out in hospital and not just to check me out without any warning. During pregnancy, I was in hospital because of maintenance of pregnancy. Doctors performed all possible analysis and found nothing. Pathologist report said the child died of heart attack but the inspector in charge said that we shouldn't take the report because I was already too upset.

Nine years have passed since that...”

Biljana (Age 39)

“I went regularly to the hospital, on every check up, I didn't have any problems. I have all the documents that we got when we moved to Barajevo. Before that, we lived under the Gazela bridge and I didn't have documents. I didn't get any advice on what to do during pregnancy. When contractions started, I went to hospital X and was admitted. I was fully dilated and had contractions they told me to push; I pushed two or three times and couldn't do it anymore. One of the women doctors told me: 'Well of course, Roma came to screw with us.' I replied that it is not my intention and that I have experience since this isn't the first time I'm in labour But, she insisted that they should tie me down and cut. Regardless of my disagreement, they did a C – section. It hurt a lot after they sewed me up. I asked them for painkillers but nobody wanted to give me something to ease the pain. I had to call my husband to bring the drugs. During the stay in hospital, I was under the impression that the doctors and nurses are treating me differently then other women. Nobody gave me any advices on how to protect myself or something about the baby. They acted as if I didn't exist. I couldn't wait to leave the hospital. When I got out, I went to see my gynaecologist. He explained what to use for the wound to heal faster. I would never have another labour there. It would be terrible If I would have to deliver in that hospital again. I'm scared just to walk by that hospital.”

EQUALITY IN MARRIAGE AND FAMILY LIFE (Art. 16)

▶▶▶ KEY ISSUES AND CONCERNS ▶▶▶

▶▶▶ No efficient institutional measures have been undertaken to prevent harmful traditional/customary practices (early marriage, betrothal of minors, arranged marriage, forced marriage, “selling brides”)

Legal provisions

- The Constitution of Serbia, 2006⁹⁵ (Official Gazette of the Republic of Serbia, 98/2006) regulates the marital rights in Article 62 (Right to enter into marriage and equality of spouses), and in Article 65 (Rights and duties of parents). The Article 62 provides for equality between marriage and extramarital community. It specifies the same rights regarding entering into marriage, its duration and dissolution, but does not refer to the same responsibilities during marriage and its dissolution (CEDAW Convention, Art. 16c). Similarly, the provision does not refer to marriage of minors, i.e., prohibition of betrothal and/or marriage of minors (CEDAW Art. 16.2), as assessed in the comparative analysis of gender equality provisions in Constitutions, provided by UNIFEM (2007⁹⁶). The rights related to marriage are specified in the Constitution of Serbia (2006) in the following manner (Art. 62),

“Right to enter into marriage and equality of spouses

Everyone shall have the right to decide freely on entering or dissolving a marriage.

Marriage shall be entered into based on the free consent of man and woman before the state body.

Contracting, duration or dissolution of marriage shall be based on the equality of man and woman.

Marriage, marital and family relations shall be regulated by the law.

Extramarital community shall be equal with marriage, in accordance with the law.”

The Article 65 of the Constitution states,

“Rights and duties of parents

Parents shall have the right and duty to support, provide upbringing and education to their children in which they shall be equal.

All or individual rights may be revoked from one or both parents only by the ruling of the court if this is in the best interests of the child, in accordance with the law.”

- **The Family Law**, adopted in 2005 (Official Gazette of the Republic of Serbia, 18/05), regulates marriage and marital relations, extra-marital relations, the parent-child relationships, adoption, foster care, guardianship, child support, property relations in the family, protection from domestic violence, proceedings related to family relationships and personal names. According to the Family Law, the legal minimum age for marriage is 18 years for both men and women (Art. 23, para. 1 of the Family Law defines **that a person who has not attained 18 years of age cannot get married**. However, para. 2 of the same Article stipulates that the court may, for justified reasons, provide **a permission for marriage to a juvenile who has attained 16 years of age**, and attained physical and mental maturity necessary for exercising marital rights and duties. Centre for Social Work is mandated to submit to the court expert opinion on the physical and mental maturity of a minor.

Thus, the court may grant an exemption from the age of 16, if it deems that both parties have the physical and psychological maturity to marry. **This provision goes against the letter and spirit of CEDAW and CRC**, as stressed, for example, in one comparative analysis of compliance of domestic legislation in Eastern Europe and Central Asia with CEDAW Convention (UNFPA; Rangita de Silva de Alwis, 2009⁹⁷).

- **The Family Law (Art. 24) also mentions a “free will” as a precondition for marriage**, i.e. marriage can only be contracted on the grounds of free consent of future spouses. **Further, the Family Law contains provision on forced (coercive) marriage, i.e., marriage made under coercion or threat (Art. 38)**. The coercion is defined as follows: if the spouse or third party, through force or threat, caused a justified fear in the other spouse, so that the other spouse agreed to marry out of fear.

Forced marriage is not criminalized as a separate criminal offence in Serbia, but in practice, it has been sometimes treated as a form of trafficking, especially if the child is exposed to abuse, and/or taken abroad for labour or sexual exploitation, or is forced into beggary. Further, **certain provisions in the Criminal Code**

⁹⁵ The official translation of the Constitution of Serbia (2006) into English is available; See: http://www.parlament.rs/upload/documents/Constitution_%20of_Serbia.pdf.pdf (Accessed on 25th April, 2013)

⁹⁶ UNIFEM, Kristin Van der Leest et al. (2007). *Engendering Constitutions: Gender Equality Provisions in Selected Constitutions. A Comparative Study accompanied with Case Studies in Bosnia and Herzegovina, Kosovo, Montenegro, Serbia*. Bratislava: UNIFEM Central and Eastern Europe

⁹⁷ United Nations Population Fund, Rangita de Silva de Alwis (2009). *Advancing Equal Rights for Women and Girls: The Status of CEDAW Legislative Compliance in Eastern Europe and Central Asia*. New York: United Nations Population Fund - UNFPA

can be used in cases when an adult cohabiting with a minor (Article 190 of the Criminal Code). The law stipulates that such adult shall be punished with imprisonment up to three years. The penalty specified in paragraph 1 of this Article shall be imposed also on a parent, adoptive parent or guardian who enables or induces a minor to cohabit with another person. If the offence specified in paragraph 2 of this Article is committed for gain, the offender shall be punished with imprisonment from six months to five years. If a marriage is concluded, prosecution shall not be undertaken, and if undertaken it shall be discontinued.

- On this point, we might mention (once more) that Serbia has recently (in April 2012) signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011), which explicitly requires that forced marriage should be criminalized (Article 37, para.1⁹⁸).

Factual situation and policy framework

- There are numerous problems in implementation of legal provisions with respect to enforcement of minimum prescribed age of marriage. The CEDAW Committee, in its 2007-Concluding Comments (CEDAW/C/SCG/CO/1, para. 36), emphasized, **“The Committee urges the State party to enforce the legal minimum age of marriage, which is set at 18, and to undertake awareness-raising measures throughout the country on the negative effects of early marriage on women’s enjoyment of their human rights, especially their rights to health and education.”**

- In spite of clear recommendations of the CEDAW Committee, we emphasize that no substantial progress can be identified in the area of undertaking institutional measures to prevent early marriage or in raising awareness of its negative effects in the period 2007-2012. Roma women’s NGOs repeatedly emphasized the importance of addressing the problem of arranged and forced marriages, and “selling brides” through adequate institutional measures. However, **the problem of early marriages among Roma population and some other minorities** (e.g., Vlachs in Eastern Serbia) **has been largely neglected and overlooked by institutions.** Our experience, based on extensive field work in Roma settlements, shows that such practice has (often) been accepted by Centres for Social Work as “tradition among Roma”, which could not or should not be prevented. In Roma settlements, girls below the age of 18 mostly cohabit, i.e. live in extra-marital union. However, cohabitation raises the same women’s human rights concerns as legal marriage.

- Further, arranged marriage, marriage of minors and forced marriage have not been perceived as forms of gender-based violence in public/media, which is not in line with international documents and relevant analyses at the level of UN, including the UN Secretary General In-depth Study on violence against women (2006⁹⁹). Similarly, **early marriage and the custom of “selling brides” have been rarely (even) mentioned in strategic policy documents of the Government, in spite of clear recommendations of the CEDAW Committee, including the General Recommendation 29.** The relevant exception in this area is the National Action Plan (NAP) for the Implementation of the National Strategy for Improving the Position of Women and Advancing Gender Equality in the period 2010-2015 (Official Gazette of the Republic of Serbia, 067/2010)¹⁰⁰. National Strategy for Improving the Position of Women and Advancing Gender Equality (Official Gazette of the Republic of Serbia, 15/09) was adopted by the Government of Serbia in February 2009. The National Action Plan (NAP) for the Implementation of this National Strategy for the period 2010-2015 was adopted in 2010. Note that the NAP covers the period from 2010 to 2015, thus, is still in force.

This NAP, under the Section: Preventing and combating violence against women and improving protection of victims, specifies the following activity:

„Activity 5.1.1.4.: Establishing efficient mechanisms for recognizing, preventing and solving the following problems: marriages of minors, arranged marriages and the practice of ’selling brides’“.

The Ministry of Human and Minority Rights and the Ministry of Labour and Social Policy were listed in the NAP as the main implementers of the above-mentioned activity; the deadline for implementation was the year 2012, and the state budget was specified as source for funding the activity. To our knowledge, no state resources were allocated for the implementation of this activity, and thus an issue might be raised whether the Government undertook any steps towards the implementation of this relevant measure, as proposed in its

⁹⁸ Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Art. 37, para 1).

⁹⁹ United Nations Secretary General (2006). *In-depth study on all forms of violence against women*, A/61/122/Add.1

¹⁰⁰ Both documents (the National Strategy and the corresponding NAP) are available only in Serbian: http://www.gendernet.rs/files/Publikacije/Publikacije/Nacionalna_strategija_za_poboljšanje_polozaja_zena_i_unapređivanje_rodne_ravnopravnosti_i_Akcion_i_plan.pdf (Accessed on 1st May, 2013)

own strategic document. Roma women's NGOs have fully supported the implementation of such complex measures aimed at addressing early marriages and harmful traditional practices.

- A recent extensive analysis/survey of services for victims of different forms of gender-based violence (including forced marriage) in state and civil sector (Brankovic, 2012¹⁰¹), revealed that only women's NGOs across Serbia provided assistance and support to Roma and other minority girls/women who were victims of forced and arranged marriages. However, one Centre for Social Work can be mentioned as an example of good practice: Centre for Social Work from Bajina Basta recently implemented the project aimed at preventing arranged marriages of minors in rural areas surrounding this town, and organised a comprehensive awareness-raising campaign at the local level. The project did not involve Roma communities, as this municipality has only a tiny Roma population, but the Director of this Centre confirmed that unregistered arranged marriages of minors aged 14 to 16 has been deeply rooted in customary/traditional practice in rural areas in this region of Serbia, indicating that such customs should not be attributed to Roma communities only (ibid.).

- Recently, **data on early marriages in general population were published in relevant official statistical source** (Statistical Office of Serbia, 2011¹⁰²). In the oldest surveyed age group (women 45-49 yrs.), nearly 20% of all women in general population, aged 45 to 49 years got married before the age of 18, and additional 3% entered marriage before the age of 15. In age groups 35-39 and 40-44 years, percentages of early marriages (below 18 and below 15 years) were similar, while in the younger age groups (20-24, 25-29 and 30-34 years); percentages of women married before the age of 18 were below 10%. The same source provided relevant data on the total number of women from **general population** who got the first child before the age of 18 (See Table 13). We might reasonably assume that some of these women were from Roma population, although data on ethnic background were not provided in this source.

Table 13: Live births by mother's age and marital status, 2005 and 2010, General population, Statistical Office, Vital statistics

Mother's age	2005		2010	
	Married	Unmarried	Married	Unmarried
Below 15 yrs.	-	60	-	59
15-19 yrs.	2329	2899	1404	2705

Created using source: Statistical Office of Serbia (2011). *Women and Men in Serbia*¹⁰³

- **Organisations that provide support and assistance to victims of trafficking in Serbia, such as ASTRA: Anti-Trafficking Action from Belgrade, reported in 2011¹⁰⁴ that Roma and other girls of Serbian origin/nationality are sometimes forced into marriage in Germany or other EU countries.** As reported by German women's NGO Terre des Femmes¹⁰⁵, which provides support to victims of forced marriage, honour crimes, female genital mutilation (FGM) and trafficking, the German Federal Ministry of Families, Senior Citizens, Women and Youth commissioned a survey on prevalence of forced marriage in Germany in 2011. The survey was conducted by the Lawaetz Foundation in Hamburg, in cooperation with Terre des Femmes e.V. and Thorsten Schaak from the office for socio-political consultancy in Bremen. The results, published in November 2011, showed that more than 3.400 persons were threatened or affected by forced marriage every year – 93% of whom were girls and women. In 2008, almost one third of them were minors, and 40% were aged 18-21 years. According to this survey, among the girls forced into marriage in Germany, some were born in Serbia, Kosovo or Montenegro. For the purpose of the survey, 3443 victims were interviewed in 830 counselling centres and shelters throughout Germany. In around 60% of the cases, girls were under threat of forced marriage, while the rest of them were already married. The survey showed that many young women who had to marry a partner chosen by the family in Germany were of migrant

¹⁰¹ Brankovic, Biljana (2012). *Mapping capacities of specialized organisations that support victims of gender-based violence: The first step towards establishing the national SOS helpline*. Belgrade: Project Combating Sexual and Gender-Based Violence, Ministry of Labour and Social Policy and UNDP

¹⁰² Statistical Office of Serbia (2011). *Women and Men in the Republic of Serbia*. Belgrade: Statistical Office of Serbia, <http://webzrzs.stat.gov.rs/WebSite/repository/documents/00/00/52/52/WomenAndMen.pdf> (Available in Serbian and English, Accessed on 22nd April, 2013)

¹⁰³ Statistical Office of Serbia (2011). *Women and Men in Serbia*. Belgrade: Stat.Office, edition in English and Serbian is available at: <http://webzrzs.stat.gov.rs/WebSite/repository/documents/00/00/52/52/WomenAndMen.pdf> (Last accessed on 10th June, 2013)

¹⁰⁴ See, for example, Webpage of ASTRA, Belgrade, Many girls from Serbia among Victims of Forced Marriages, 17th November 2011, <http://www.astra.org.rs/eng/?p=964>, in English (Accessed on 24th March, 2013)

¹⁰⁵ Summary of the results of the survey commissioned by the German Federal Ministry of Families, Senior Citizens, Women and Youth can be found on the Webpage of Terre des Femmes, See: http://www.zwangsheirat.de/index.php?option=com_content&view=article&id=293&Itemid=128 (Accessed on 30th August, 2012)

origin: around 23% of them were born in Germany, 23% in Turkey and 8% of them were born in Serbia, Kosovo, or Montenegro (ASTRA, 2011).

- As mentioned above, forcing into marriage in practice has been sometimes punishable as a form of trafficking. However, **records on victims of forced marriages (as identified by institutions) are scarce**. Agency for Coordination of Protection of Victims of Human Trafficking¹⁰⁶ (established in 2004), is responsible for coordination of all activities aimed at victims' protection, support and assistance. Thus, it can be expected that data of the Agency represent the most complete and reliable official statistics on number, age and gender of identified victims. However, in practice, that is not the case. As mentioned in NGO analysis (ASTRA, 2008), "number of clients that get in contact with the Agency is significantly lower than number of (potential) victims contacted by the police, which makes the Agency uninformed regarding the real number of (potential) victims". The latter observation can be confirmed by comparing data of Centres for Social Work (presented later) and the Agency. In 2009, CSWs recorded 168 victims, while the Agency recorded 107 victims and 20 potential victims (Table 14). Further, data of the Agency are not regularly published, i.e. are not publicly available¹⁰⁷.

Table 14: Identified victims and potential victims of trafficking, Agency for Coordination of Protection of Victims of Human Trafficking, 2004-2007 and 2009. Note: Records **by gender and age groups** were not available

	2004 (1st March - 31st Dec.)	2005	2006	2007 (Jan 1-June 30)	2009
Total number of victims	38	53	62	22	127
Identified victims of trafficking	28	28	39	17	107
Potential victims of trafficking	9	26	23	5	20
Victims of domestic violence	1	2			
Type of exploitation*:				*	
Sexual exploitation	25	24	30	9	66
Labour exploitation			3		18
Forcing into beggary	1	1	3	4	14
Forced marriage	2		3	3	6
Victims' age					
Minors (under 18 yrs.)	18	11	34	10	59
Young adults (over 18 yrs.)	20	42	28	12	68
Victims' gender					
Males	4		2	2	23
Females	34	53	60	20	104
Victims' citizenship					
Serbia and Montenegro ¹⁰⁸ /Serbia	20	32	46	16	116
Macedonia			4	1	1
Moldova	4	8	3	1	1
Ukraine	6	6	3	1	
Bulgaria	1	1	2	1	
Bosnia and Herzegovina			2		1
Romania	6	3	1		3
Albania			1		1
Iraq	1				
Croatia		1		1	
Congo		1			
Russia		1			
China				1	

¹⁰⁶ In March 2004, within the national anti-trafficking mechanism (which part is the National Team for Combating Human Trafficking), the Agency for Coordination of Protection of Victims of Human Trafficking was established under the auspices of the Ministry of Labor, Employment and Social Policy. The Agency was set up as a result of a joint project of this Ministry and OSCE Mission to the Republic of Serbia. Agency's role is to coordinate all organizations and institutions involved in combating trafficking in human beings in Serbia.

¹⁰⁷ Annual reports of the Agency were not available. For this reason, it is not possible to provide evidence on victims by gender and age groups for the entire period, from 2004 (when the Agency was established) until 2010. Data quoted here (for the period 2004-2007) are gathered/obtained from the Agency for the purpose of research study (Brankovic, 2007c). 2009-data are quoted using the report of the Ministry of Interior (Statistics on trafficking, 2009), as in this police report, data of the Agency are provided, but only for 2009

¹⁰⁸ Until 2006, Serbia and Montenegro were parts of the same state.

Dominican Republic						2
Czech Republic						1
Montenegro						1

Created using the following sources: Data for the period 2004-2007 were provided by the Agency for the purpose of research survey (Brankovic, 2007c). 2009-data of the Agency are quoted from the report of the Ministry of Interior

*Note: in 2007, one case of trafficked baby was recorded. In 2009, two cases of forcing into committing of criminal acts, and one case of illegal adoption were recorded.

- Police records on victims of trafficking in the year 2009 are also presented below, to illustrate the number of victims – adults and minors – of forced marriage, as identified in these records (See: Table 15.). As can be seen in the Table 15, in total six victims of forced marriage were identified in criminal charges brought up by the police in that year.

Table 15: Police records on criminal charges related to trafficking: Types of exploitation of the victims recorded as injured party in criminal charges brought by the police, by gender and age group (classified in 2 age groups: minors, under 18 or young adults – over 18), 2009

Type of exploitation	Male minor	Male adult	Female minor	Female adult	Total
Sexual exploitation			27	26	53
Labour exploitation	4	3	1	4	12
Exploitation for the purpose of committing criminal offences	2	1			3
Exploitation for the purpose of forcing into beggary	9		4	1	14
Forced marriage			2	4	6
Trafficking in organs and body parts					
Total	15	4	34	35	88*

Created using source: Report of the Ministry of Interior, Statistics on trafficking, 2009.

*Note: as indicated in the police reports, in several cases, victims suffered multiple forms of exploitation (sexual exploitation + beggary, or forced marriage + sexual and labour exploitation).

- The most recent relevant research-based data on early marriage are available in MICS4 survey, which was conducted in 2010 and published in 2011 (Statistical Office and UNICEF, 2011). Data pertaining to **general population in Serbia** showed that the proportion of women aged between 15 and 49 who got married before the age of 15 is very low (1%). Around 5% of women aged 15 to 19 are currently married or in union. This practice is more common in rural areas, among the less educated and especially among Roma. Early marriage seems to be more common among women than men aged 15 to 29. Further, 8% of young women aged 15 to 19 are married to a man 10 or more years older. The percentage is similar (9%) among married women aged 20 to 24. Comparison across gender (i.e. comparing early marriages of girls/women and boys/men aged between 15–29 years in Serbia), indicate that more women than men get married before the age of 15 or 18. However, data on population in Roma settlements revealed disturbing trends. **Almost 17% of women aged 20–49 in Roma settlements were married before the age of 15, and 54% of them married before the age of 18. Nearly half of the young women aged 15–19 years are currently married or in a union (44%). This proportion varies between urban (40%) and rural (52%) areas, and is strongly related to the level of education, too.** (Statistical Office and UNICEF, 2011). Further, comparing early marriages of women and men in Roma settlements, notable across-gender difference was found: 44% of women aged 15–19 years are currently married or in union, and only 19% of men of corresponding age (ibid.).

Table 16: Early marriage, Roma Settlements, 2010: Percentage of women aged 15–49 years who first married or entered an extra-marital union before their 15th birthday, Percentages of women aged 20–49 years who first married or entered an extra-marital union before their 15th and 18th birthdays, Percentage of women aged 15–19 years currently married or in union

Area	Percentage married before the of age 15*	Number of women aged 15–49 years	Percentage married before the age of 15	Percentage married before the age of 18**	Number of women age 20–49 years	Percentage of women 15–19 years currently married/in union***	Number of women aged 15–19 years
Urban	13.0	1461	13.2	48.3	1180	40.3	281
Rural	23.4	657	24.4	66.1	509	51.9	147
Age							
15–19	14.8	429	na	na	na	44.3	429
20–24	13.2	354	13.2	50.5	354	na	na
25–29	15.2	363	15.2	48.5	363	na	na
15–29	14.4	1145	14.2	49.5	717	44.3	429
30–34	18.9	320	18.9	54.1	320	na	na
35–39	18.8	251	18.8	60.6	251	na	na
40–44	17.8	193	17.8	58.1	193	na	na
45–49	17.6	208	17.6	55.0	208	na	na
Education							
None	26.2	363	27.6	59.0	317	(58.0)	46
Primary	17.3	1437	16.9	59.2	1137	48.8	299
Secondary	.3	295	.4	21.3	218	22.0	77
Wealth index quintile							
Poorest	21.8	396	22.9	63.0	312	49.9	84
Second	22.9	404	22.8	59.5	325	49.7	79
Middle	14.8	404	14.6	57.8	313	53.6	90
Fourth	14.8	468	15.1	46.8	377	39.5	91
Richest	8.0	447	9.0	44.1	363	28.7	84
Total	16.2	2118	16.6	53.7	1689	44.3	429

Created using source: Statistical Office and UNICEF, MICS4, 2011 (quoted above)

Legend: *MICS indicator 8.6, **MICS indicator 8.7, ***MICS indicator 8.8, () Figures that are based on 25–49 unweighted cases

- MICS4 survey also emphasized **the age difference between Roma girls/young women in Roma settlements and their husbands/extra-marital partners**. Results indicating the age difference between husbands and wives showed the following: more than half of the women aged 20–24 are currently married to a man who is older by 0–4 years (57%). Overall, **24% of women aged between 15 and 19 are currently married to men who are 5 to 9 years older**. Low education, living in a rural area and lower socio-economic status are linked to marriage with an older man (ibid.).

►►► **Early marriage and motherhood among Roma diminish educational opportunities**

- Research evidence, as well as experience of Roma women’s NGOs, based on field work in Roma settlements, indicate that early marriage/extra-marital union decreases educational and occupational opportunities, causes economic dependence from a husband and his family and potentially exposes girls/young women to higher risk of domestic violence and health risks associated with early pregnancy. The above-mentioned MICS4 findings (Statistical Office and UNICEF, 2011¹⁰⁹) support such conclusion: “Young married girls are a unique, though often invisible, group. Required to perform heavy amounts of domestic work, under pressure to demonstrate fertility, and responsible for raising children while still children themselves, married girls and child-mothers face constrained decision-making and reduced life choices. Women who married at younger ages were more likely to believe that it is sometimes acceptable for a husband to beat his wife and were more likely to experience domestic violence themselves. The age gap

¹⁰⁹ Statistical Office of the Republic of Serbia and UNICEF (2011). *Serbia Multiple Indicator Cluster Survey 2010: Monitoring the Situation of Children and Women, Final Report*. Belgrade: UNICEF (in English), http://www.childinfo.org/files/MICS4_Serbia_FinalReport_Eng.pdf (Accessed on 11th May, 2013)

between partners is thought to contribute to these abusive power dynamics and to increase the risk of untimely widowhood. Pregnancy related deaths are known to be a leading cause of mortality for both married and unmarried girls between the ages of 15 and 19, particularly among the youngest. There is evidence to suggest that girls who marry at a young age are more likely to marry older men”.

Comment on the state report: ►►► In para 71, the state report mentions the problem of arranged marriages of under-aged children among Roma. However, the entire issue is explained by Roma customs, while not even a single word is devoted to a relevant problem: **does the state implement any measures aimed at preventing the marriages of minors, in line with CEDAW Convention?** Which activities have been undertaken to ensure that the betrothal and marriage of a child has no legal effect? Which specific measures have been undertaken to prevent arranged marriages of minors?

♣♣♣ Recommendations

- **Harmonizing legislative provisions and practice with provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011), bearing in mind that Serbia recently signed (but not yet ratified) this relevant Convention. This should include amending the definitions in Criminal Code of the criminal offences described above in line with this Convention**
- **Establishing mechanisms at the national and local levels to monitor and prevent cases of forced marriage, arranged marriage, betrothal of minors by the police, Centres for Social work, Agency for Coordination of Protection of Victims of Human Trafficking and other relevant institutions**
- **Implementing the measures related to forced marriage, custom of “selling brides” and other harmful customary practices, as defined in the National Action Plan (NAP) for the Implementation of the National Strategy for Improving the Position of Women and Advancing Gender Equality in the period 2010-2015.**

In the text that follows, we describe cases of “selling brides”. Women who testified talked openly about their own experiences.

M.K (Age 22), high school graduate

“In our community, girls get married when they turn 14. I got married when I was 17 years old, my parents found a boyfriend for me, our families discussed everything, they introduced us, and we got married after one week. We got married in municipality building and then went to live in Germany. I didn’t have nice childhood at my parents’ house, they mistreated me, we were poor... I finished Beauty school to become a hairdresser and got married right after that. His parents paid my parents because that’s how it’s done, our customs are like that. I wanted to get married, my life was bad before marriage, and I am glad because life is better now and because I have children. My parents took the money and both my parents and I are living much better now. His father got married that way too, it’s been many years, but it’s still same tradition, everything continues. My husband is head of the family, he decides about everything in our family.”

LJ. B. (Age 16); Completed primary school

“I was 14 when I got married; we lived in cohabitation and still do. My family arranged the marriage, we are poor family, my father died when I was 10 and mother couldn’t provide my sister and me. I finished primary school, I was a B student, and wanted to stay in school to become hairdresser. But I only managed to finish elementary school because right after that I met my future husband. He was 18 at the time; his father wouldn’t allow him to continue education and he said he’ll find wife for him. My husband and I didn’t know that his parents gave money to my family, they wanted to save my family and to find good wife for my husband, they agreed on how much they should pay, the amount was enough to settle my family because they were really poor. My mother and father in law also got married this way, that’s part of our tradition. Fortunately even though I got married this way, my husband didn’t beat me so far, neither did his parents, they good to me and respect me. I am unemployed, I am still underage. Of course, when I turn 18 I will try to find a job, for now my father in law is working and is in charge of the money and of all decisions in the house. I am living with my husband, his parents and his brother and sister. Usually my mother and I discuss about the work during the day, mainly I do all the housework everyday. I am currently satisfied with my life; of course, I regret that I got married so early because I wanted to stay in school.”

S.M. (Age 44); Incomplete primary school

“I think that the girl should be around 14 to get married. That’s a tradition in Roma community; I also got married early and want my sons to get married the same way. That way my daughter in law will adjust to my family more easily. I was 13 when my parents decided I should get married. We are living in cohabitation, we have two sons and a daughter, oldest son is married, my husband asked around and decided our first son should get married. Husband agreed with her family about money, there is no fix price, we are glad that we gave them this money because we saved them since they were pretty poor, and we also saved our daughter in law, because she has good life in our family. I think this custom is slowly fading away.

I don’t have health problems now, I gave birth to three kids but later had 5 abortions, I went to gynaecologist and my husband paid for everything. Expenses were huge but we managed. When we were younger, at the beginning of marriage he was beating me, because we didn’t know each other, because our parents introduced us, we had lot of problems, but after some time, when our first son was born everything started to be ok. I never complained to anyone because I had to put up with all that and he was the head of the family just like he is today.”

F. A. (Age 36), No education

“I think that minimum legal age required for marriage in our country is 23, 24 even maybe 25. I got married when I was 13. I loved him, wanted to get married, ran away to live with him and his family. I grew up there, as a married woman and got first menstruation. He was 18 at the time.

I lived in Kosovo, in town where majority were Albanians and I couldn’t go to school, we were afraid. I realize now how important education is, I’m totally illiterate probably that’s why I don’t have good or steady job. Our tradition is like that, it says that girls have to marry early, to have children as soon as possible, to have a family, to completely entrust themselves to their husbands and that’s possible only if gets married early so she wouldn’t dishonour her self and her family.

When I got married it was both good and bad, regardless of the fact that I went to their family as a child they never saw me as a daughter, girl, they immediately started treating me as a woman who has to obey, do all the chores, give birth at 14, so I became adult prematurely.

One woman was in our bedroom and she was in charge of checking whether I was a virgin, I was scared and ashamed so I started crying. After we made love she took out the sheet with my virgin blood on it, everyone rejoiced and I was happy everything turned out good. They forced me to dance and even though I didn’t feel like it, I had to dance.

If it turns out that girl is not a virgin she can have lot of problems, they are beating her, return to their parents. There is one example of a girl who was raped by her uncle before she got married, when they discovered it she had to tell everything.

I suffer a lot in marriage; there is a lot of trouble and beating. At moment, 13 people are living in the house, my brother in law with his family, my husband, kids, I and my mother in law. Living with so many people is sometimes good and sometimes bad, but even when it’s bad you have to be quiet, you’re not allowed to say anything. I have four kids. Oldest daughter is married and living in Italy. Younger daughter, son and the youngest daughter are still with my husband and me.

Oldest daughter got married when she was 15. Groom’s family heard about us, they came from another town to see my daughter; they liked her and proposed her. We are from the poor family, we know that we cant provide for our kids all those things they should have, maybe I told her that it will be better for her, to imagine what kind of life she’d have with him and his family, but still, if she had sad that she doesn’t want to get married the marriage wouldn’t happen, she said she wants and we respected her. If she decided not to, maybe she would never had gotten such an opportunity, but again that would have been her choice as well.

We didn’t ask for anything more then to cover wedding expenses, which was thousand euros, and we got that and made a wedding. We made an agreement with groom’s family and that’s the only money we received. Some families get much larger amount of money; prices are between 4000 and 7000 euros. Depends on the girl’s looks, health, is she a good worker, is she white. That custom is kept mainly because of the poor economic situation and hard life, out of desire to send your child to a better one. Sometimes its better when parents pick a husband for their daughters then when she makes a wrong choice herself. I know lot of examples of bad choice.

My husband use to beat me a lot and often but he doesn’t anymore. He is drinking, used to gamble and that was always reason for arguments and beating. I never reported him, I stood up with everything because of the children and he is good when he is sober. Husband is head of the house, I’m not allowed to say anything, his word has to be the last.

If I could go back and be young again, I would have never gotten married, first I would finish school and then later started thinking about who am I going to marry. That’s the advice I’m giving my kids now.”

D.R. (Age 37); Primary school

“I think that 18 is the required legal minimum for getting married. In our communities, we have early marriages because of the tradition, early expansion of family, giving virginity only to a husband and that’s possible only with early marriage. I got married when I was 17. I loved my future husband but haven’t intended to get married so early but I lost virginity with him, and our parents were forcing us to live together. Wedding ceremony was only in the settlement we never officially got married. They asked me if I want to get married, I wanted it, maybe not at that moment, but because of the pressure family put on me and desire to marry him I didn’t have much choice. Besides that, I lost virginity before marriage and got pregnant. One of the customs says that bride’s parents shout get some amount of money from the groom’s family because she is leaving their house but his family was poor so the money was enough just to cover wedding costs.

I don’t know whether my sons will marry young and will they pay bride’s parents but I am sure that I will never force them to marry women they don’t love, that’s only their choice. But, if I had daughters I think I would never allow them to marry so young, like I did, and I’d told them to think before making such a big step in life. When I was young I didn’t think about school, some more significant things were more important, now when I depend financially on my husband I regret that I haven’t finished school, found a job and my own money.

If I could go back and live my life again, I would have never gotten married so early; I would have finished school, started working and been independent.”

K.O. (Age 40); No education

“I believe that legal minimum for marriage for a girl is 15. We are getting married early because of expansion of family, and traditional way of life where more family members are living in one house. Man is the one who gathers the entire family, daughters in law, sons in law, and makes all of them wanting to live under the same roof. It is believed that the only way bride can keep virginity for her husband is to marry young.

I got married when I was 17. My father forced my future husband to marry. We were engaged, planning to get married anyway, but we had sexual relationship before marriage and my father is Muslim, our religion is strictly against it so he told him to marry me or he will kill him, he threatened to my husband’s father that he will send his son’s head wrapped in the white sheet. So we were forced to get married at that age. He was 19. I loved him of course but maybe I wouldn’t have gotten married and become a mother at 18. It’s a custom that groom’s family gives money for the girl. I remember that the amount was 12000 Deutsch marks, my husband didn’t have that kind of money, but he borrowed a lot and gave my father the sum he wanted.

I will allow my children to start the marriage the same way; I don’t see anything wrong in it. I have four kids, two daughters and two sons. My daughters are precious and I think that this sum of money they will get for their wedding is for their future, in case they at some point need financial aid.

We will also buy daughters in law, I know it sounds awful, but we aren’t really talking about buying, just the custom.

I don’t know if I would have done the same if I gotten the opportunity to go back through time, probably not, but I didn’t have the right to choose, this kind of life was forced on me.”

**►►► MARGINALIZED AMONG MARGINALIZED: PROBLEMS FACED BY THE LEAST
“VISIBLE” GROUPS OF ROMA WOMEN AND GIRLS**

In this section, we are attempting to present (some) stories of those Roma women who are in the weakest position, and/or exposed to isolation, violence and maltreatment, such as rural women, lesbians, women with disabilities, women in prison. We have gathered far more similar or different stories, about more or less similar groups of women, (similarly) exposed to or at the risk of, various forms of intersectional discrimination. Each of these stories is different, but we have chosen only a few to quote here. These women are often the least visible in reports, plans, research studies, strategies, policies, national action plans, and all other nicely worded documents, so the words of these women (and those who help them) are chosen for the end of this report.

Rural Roma women live in extreme poverty and isolation; many of them are IDPs from Kosovo. The story that follows was obtained in the interview with the activist who has worked with rural Roma women for many years.

Working with rural women: An activists tells her story

“I am Ceca from Vlasotince, a small town in Southern Serbia, and I am working on improving rights of Roma women in villages, for more than seven years. As we know, Roma women who live in villages are considered as marginalized within marginalized meaning they are in the group of multi discriminated persons, primarily because they are women, then they are minority and third they are living in isolation, in rural areas, in small villages.

Other people in villages own property they inherited but Roma people in villages don't have anything, they are very poor, and the welfare they receive from social services is not enough even for the bare necessities and let alone education and that's the main reason why many of the Roma kids, particularly girls attend school maximum up to fourth grade of elementary school in village, because in order to finish the entire primary education, from 5th grade they need to take some way of transportation to get to another school which is kilometres away, so they rarely finish it, usually, early marriage is pretty much present when it comes to girls in rural areas because families don't have money to put them through school.

Our organization was doing a lot of things regarding the issue of education of Roma women and men and majority population who did not finish primary school. We were also working on consciousness raising and empowering Roma women regarding health, human rights and any other kind of support when it is needed especially because it is a known fact that Roma women living in villages are very sick but they aren't going to see the doctor because usually doctors are working in cities that are far away from the places where those women are living.

Roma women from villages see support in us, they trust us because we understand them, they are asking for little because they cant get even that little, but they like to share with us all they have. We believe it is a success that we have now nine Roma girls volunteers who are around 14 to 15 years old and attending workshops in Nis and Vranje because their parents trust us. Members of the majority population should see Roma people as equal and give them possibility to have descent childhood and life as well as the same opportunities as the majority population has.”

Experiences of Roma women – lesbians who are exposed to violence in the local community, including their families, are described below.

L.A.; Age 25

I am living together with K.K. for four years already, she is my family. I was born in one town in south Serbia and came to Belgrade because of my father who was forcing me to get married. Even before that, I suffered violence from him and I couldn't stand it anymore. I escaped to Belgrade because I had cousins there, I spent some time with them but now they also don't have a place to live because their house was destroyed and they were sent back to their hometown. In Belgrade, I met K. and we started living together.

The two of us were living in this Roma settlement knowing that it was supposed to be destroyed. They came one day and demolished the house. No one offered us a place to sleep, we were on the street, and all we ever had was ruined. Now we are living in a private house that will also be destroyed, we are paying the rent but we know that owners will also loose the house. I was temporarily registered in Belgrade because of the health insurance, according to law, Roma people have to have health insurance. They told me that I don't have right to housing. We were all registered on the same address, nobody got any accommodation, some of the people are sleeping in the parks now. No one of the people who were evicted from our settlement didn't get a container. At first, they promised to give something, then they said to complain to the authorities in Belgrade but no one registered us for any kind of housing.

In social services they wondered how could K and I be one family, saying that only families are getting housing, I'm not sure they'd put us together even if had gotten the container. She is from Belgrade, born there, and they told me I have to go back to my hometown to try get housing there or get back with my family..

People are convinced they can decide about my life, social worker who I approached when I ran away from my father was interested in my case in the beginning but then started saying how I must be in prostitution since I'm not living with my parents or relatives. This social worker many times asked me why am I living with K., or why am I like that. That's my personal life. Lot of bad stories are being spread about me. If I was living on the street doesn't mean that I am a prostitute, if I am now without parents and survived violence it doesn't mean somebody should go around saying things about me.

My relatives attacked me couple of times on the marketplace; they are saying that they are ashamed of me because I am with K. Many of them told me: How could you embarrass us like that, we are Rome, such things don't exist in our communities. We also gave an interview when the settlement was been demolished and we saw terrible comments on the internet: Get lost from Serbia, motherfuckers! We could get out on the street tomorrow and be killed.”

Two stories below describe experiences of women in prison. One of them is Roma, and another one is from majority population – she tried to protect a disabled Roma woman from maltreatment by prison staff.

V.L.; Age 44; Primary education

I was sentenced to six months in jail, in a detention centre for women in town P. There were a lot of Roma women there, I wasn't the only one, more than half were Roma.

I worked in jail, but I wasn't given a job that I new how to do, I was capable for and what I was doing before jail. They asked me what I can do and I said I'm good with handcraft, but they wouldn't accept it and send me to the fields. I never worked in the fields and I didn't feel good about it, on the other hand, some women who don't know what's a needle or a pen are given better jobs. Some women are being abused and some are enjoying.

Lot of Roma women sacrifice themselves for the sakes of their children, they are stealing to save the lives of their children. There were also women who ended up there for other things, we were embarrassed because of that, and they were able to feel it.

The year I did time, there were 100 Roma women inmates. Employees were rude when it comes to health issues, if some women had health problems they wouldn't react at all, they'd just give drugs but we never saw a doctor, maybe those drugs weren't good for us, but they never asked whether we used them before or not, they'd just give them to us and told us to take them right away.

They addressed us with Hey you while they asked us to show them respect and appreciation, I understand that everyone has to face the consequences of their acting but abuse and violence shouldn't exist. Women guards were beating those women who made problems.

From that time, I remember one Roma woman; she was illiterate and lived with 2 daughters and a son. One day some men came and attacked her son, attackers were known to the police, her brother came in that moment and he accidentally killed one of the attackers, the women suffered because murder occurred in her home so she was convicted as an accomplice. So it means that if somebody attacks someone in my house I should go to jail because the attack happened in my home."

M.C.; Age 30, high education

I am not Roma but I have many friends among Roma women. In 2009, I spent 6 months in jail.

I have a feeling that then every fourth woman was a Roma woman, and that's a very high percentage, comparing to women belonging to the general population, of Roma women in jail.

They were all sticking together all the time, which was reasonable because that kind of surrounding isn't good for any women and particularly for Roma women.

When I did time, most of the Roma women were from south Serbia, mainly from Leskovac and Nis. Only one Roma woman was from Vojvodina – a very peaceful and calm woman who was in jail because she took blame for her son who had a baby. She admitted that she stole bronze statue that weighing 50kg and she could probably barely lifted it up. She couldn't speak Serbian well but we managed to understand each other. Other women are mainly returnees because of stealing of copper or other secondary raw materials.

There is a misdemeanour department, and there they bring women who are in prostitution to be detained for two, three weeks. I think 90% of them are Roma. One of the prison guards once said that for them it is like a vacation and that they appreciate to have that month to rest from what they are doing. Those are the women who are in the streets under the Blue bridge.

I remember one situation when a new prisoner who was mute and deaf came. One day I didn't have anything to do so I was sitting in the living room waiting for others to come from their sections. This new woman came before anyone else, crying and apparently upset so I asked her what happened and she replied with signs. She was showing her cheek and a gesture of slapping. The smack was visible on her face and she was barely breathing. I took her immediately to the counsellor's office and explained that something terrible had happened to her and that there is some kind of problem. Counsellor sent me to get some woman from that group to explain what happened. I went there, even though I had no right to walk around jail unless I had some job to finish, and told the commander that counsellor sent me. Reluctantly she sent the first woman she saw to go with me and she told me on the way to the counsellor's office what happened. It turned out that the commander told this woman to move, ordered her something but she was unable to obey because she couldn't hear. That repeated couple of times so the commander slapped her face, told her that she is insolent Gypsy who just came and who she is going to teach a lesson. She also told me that the commander slapped this woman so hard that she fell. This woman wasn't tiny woman and my opinion is that the commander slapped her pretty hard if she fell. I decided to go with this other woman to see the counsellor so she can say what happened even though it didn't affect me. I saw that counsellor threw this woman out because she couldn't understand her. Woman knew sign language but none of the staff knew it. She was illiterate and communicated with gesticulation. But another woman who saw it all, told everything to the counsellor and after couple of days we heard that this commander got suspended. Till the end of my time I didn't see her again.

If I hadn't reacted everyone would heard what had happened because female prison is small, the entire jail would have talked about it but I'm not sure how it would ended up. It wasn't common that someone from the staff gets suspended. I also heard some stories about commanders in prisons beating and insulting some prisoners but that was it. If I hadn't reacted nobody would have believed this woman."

ANNEX 1: Constitutional guarantees of gender equality and the status of international law in the Constitution of Serbia (2006)

The constitutional provisions relevant for this analysis are those related to the following:

- Prohibition of direct and indirect discrimination;
- Highly relevant clause that provides grounds for application of **affirmative action** measures;
- Guarantees of gender equality; provision on policy of equal opportunities;
- Equality in marriage, and specification of parental rights;
- Special protection of the family, mother, single parent and child;
- Equality of children born out of wedlock and those born in the wedlock, as well as provisions related to granting protection of children from all forms of abuse or exploitation;
 - In the area of reproductive rights - controversial provisions related to the “right to procreate”;
 - Rights to health care;
 - Economic, social and cultural rights, in line with the ICESCR. **It should be, however, emphasized that certain provisions specify the right to “fair remuneration”, but fail to include the equal pay principle.**
- Prohibition of human trafficking, servitude, slavery and forced labour and
- Prohibition of incitement of racial, ethnic, and religious hatred.

Anti-discrimination provisions; constitutional guarantees of gender equality and the policy of equal opportunities

Constitution (2006) provides a gender-neutral definition of discrimination, rather than a definition of *discrimination against women* in accordance with the Article 1 of the CEDAW. However, **the Constitution embodied the principle of equality of men and women, in accordance with the Article 2 of CEDAW.** Further, the Constitution:

- Prohibits direct and indirect discrimination, **based on sex** (*inter alia*), and guarantees the right to equal legal protection, without discrimination,
- Includes a highly relevant article that provides grounds for affirmative action measures.

Introduction of the latter provision on affirmative action measures should be seen as an important **improvement, in line with the Article 4 of the CEDAW.**

Similarly, another article also provides **grounds for affirmative action measures in the field of political participation** (“In the National Assembly, equality and representation of different genders and members of national minorities shall be provided, in accordance with Law.”)

Anti-discrimination provisions are involved in the Article 21 of the Constitution (2006):

“Prohibition of discrimination

All are equal before the Constitution and law.

Everyone shall have the right to equal legal protection, without discrimination.

All direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability shall be prohibited.

Special measures which the Republic of Serbia may introduce to achieve full equality of individuals or group of individuals in a substantially unequal position compared to other citizens shall not be deemed discrimination.”

NGOs dealing with the rights of LGBT population criticized a fact that discrimination on the grounds of sexual orientation was not explicitly mentioned in the above-mentioned article. Provision on affirmative action measures is criticized by human rights NGOs, for a failure to specify a temporary character of such measures; e.g., Belgrade Centre for Human Rights specifies (2007),

“Article 21 of the Constitution is obviously based on Article 3 of the Serbia and Montenegro Human Rights Charter. The authors, however, altered the terminology used in para. 4 of Article 3, which had initially allowed the introduction of special interim measures necessary for the realization of equality, special protection or progress of persons or groups of persons who are in an unequal position to facilitate the full enjoyment of human and minority rights under equal conditions. The authors of the Constitution also failed to include the provision in Article 3 (5) of the Charter allowing for the application of special measures in para. 4 only until their purpose is attained. The provision on affirmative action measures in the new

Constitution unfortunately cannot be qualified as an improvement over those in the HR Charter. The new Constitution lacks the temporal restriction of affirmative action measures, a criterion that is necessary for assessing the proportionality of these measures. Hopefully, this shortcoming will be overcome in court practice.”

The Constitution includes provision on **promotion of respect for diversity (Article 48) and on prohibition of incitement of racial, ethnic and religious hatred (Article 49)**. In Article 5, (related to political parties), it is specified that activities aimed at violation of human or minority rights, and inciting racial, national or religious hatred, are prohibited. No reference is made to violation of women’s human rights or banning gender-based hatred.

The Article 48 states,

“Promotion of respect for diversity

The Republic of Serbia shall promote understanding, recognition and respect of diversity arising from specific ethnic, cultural, linguistic or religious identity of its citizens through measures applied in education, culture and public information.”

The Article 49 specifies,

“Prohibition of inciting racial, ethnic and religious hatred

Any inciting of racial, ethnic, religious or other inequality or hatred shall be prohibited and punishable.”

The Article 5 says,

“Political parties

The role of political parties in democratic shaping of the political will of the citizens shall be guaranteed and recognized.

Political parties may be established freely.

Activities of political parties aiming at forced overthrow of constitutional system, violation of guaranteed human or minority rights, inciting racial, national or religious hatred, shall be prohibited.

Political parties may not exercise power directly or submit it to their control.”

The status of international law in the Constitution

Certain relevant changes were introduced in the national legal framework, in particular with respect to **the status of international law** in the current Constitution of the Republic of Serbia.

According to the previous constitutional provisions, i.e. the Constitution of the Federal Republic of Yugoslavia, international treaties formed an integral part of the internal legal system and, as such, was part of federal law.¹¹⁰

However, the current Constitution of Serbia (2006) refers to international law in a different manner. The Constitution (2006) stipulates that ratified international agreements are an integral part of the legal system of the Republic of Serbia and are directly implemented, **BUT ratified international agreements have to be “in accordance” with the Constitution** (Article 16, International relations). These provisions might have an impact on the issue of **applicability** of international law in Serbia.

The Article 16 of the Constitution (2006) stipulates,

“The foreign policy of the Republic of Serbia shall be based on generally accepted principles and rules of international law.

Generally accepted rules of international law and ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and applied directly.

Ratified international treaties must be in accordance with the Constitution.”

Furthermore, in the part 8 of the Constitution (Constitutionality and Legality), specifically, in the provision related to **hierarchy of domestic and international law** (Article 194, Hierarchy of domestic and international general legal acts), the following is prescribed,

“The legal system of the Republic of Serbia shall be unique.

The Constitution shall be the supreme legal act of the Republic of Serbia.

All laws and other general acts enacted in the Republic of Serbia must be in compliance with the Constitution.

¹¹⁰ In the legislative hierarchy, international treaties were on a higher level than both the federal and the republic laws. Legal experts often pointed out to numerous and grave problems related to implementation of constitutional guarantees of human rights in the nineties. A particularly grave problem was the contradiction between the Serbian Constitution and the federal Constitution. Most federal laws were enforced by the authorities in the republics (they, in case of contradiction, obeyed the republic legislation). Some federal and republic laws/regulations were not adapted to the federal Constitution. Consequently, some important constitutional guarantees of human rights were not effectively implemented in practice (Belgrade Center for Human Rights, 2000).

Ratified international treaties and generally accepted rules of international law shall be part of the legal system of the Republic of Serbia. Ratified international treaties may not be in non-compliance with the Constitution.

Laws and other general acts enacted in the Republic of Serbia may not be in non-compliance with the ratified international treaties and generally accepted rules of international law.”

Different legal experts criticized these provisions in the current Constitution of Serbia, which might be interpreted as derogation of international law¹¹¹ (e.g., Belgrade Centre for Human Rights, 2007; Pajvancic, 2008¹¹²; Dokmanovic, 2007¹¹³). The Venice Commission, in its analysis/opinion on the Constitution of Serbia, assessed these provisions as disputable, with respect to the Vienna Convention on the Law of Treaties (Venice Commission, 2007; Velaers, 2007¹¹⁴; Suchocka, 2007¹¹⁵).

¹¹¹ This issue attracted an attention of the CEDAW Committee. When we presented the alternative report in 2007, some of their questions were related to this issue, although this was not reflected in the Concluding Comments (2007)

¹¹² Pajvancic, Marijana (2008). Controversies of constitutional framework of human rights protection. In: *Constitutional and international law guarantees of human rights: Handbook of papers, International Conference held at the Law Faculty in Nis*. Nis: Law Faculty, pages 245-260 (in Serbian)

¹¹³ Dokmanović, Mirjana (2007). Constitutional and political analysis. (in Serbian), In: Kristin Van der Leest (Ed.), *Engendering Constitutions: Gender Equality Provisions in Selected Constitutions. A Comparative Study accompanied with Case Studies in: Bosnia and Herzegovina, Kosovo, Montenegro, Serbia*. Bratislava: UNIFEM Central and Eastern Europe

¹¹⁴ Velaers, Jan (2007). *Comments on the Constitution of Serbia (Preamble and Parts I, III, IX)*, European Commission for Democracy through Law (Venice Commission), Opinion no. 405/2006, CDL(2007)004

¹¹⁵ Suchocka, Hanna (2007). *Comments on the Constitution of Serbia (Parts V, 7-9, VI and VIII)*, European Commission for Democracy through Law (Venice Commission), Opinion no. 405/2006, CDL(2007)005rev