



The Other Side of Childhood: Children in Street Situations

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Abstract. Although they exist in every nation and country on earth, not even their very prevalence has brought them the care they truly deserve, or enough attention in the media and public discourse. They are aged between 5 and 20 years (but some also say that they are strictly under 18 years) and live their lives in harsh street conditions, often not recognised or forgotten by their own families. They are children in street situations, sometimes called *gamins de la calle*, *meninos de rua*, *enfants de la rue*, and even *the thrown aways*. Their life means almost nothing to their environment, which either does not notice them at all, mistreats them most cruelly, or exploits them for some criminal activity. Their life is therefore more uncertain than the life of any other person in the world. Left to themselves, they pursue ways to survive that often border on crime, which can lead them to illness, addiction, and premature death. Their every living day is a fight for survival and recognition, which is aggravated by not only the fear and discomfort their presence causes to others but also the lack of will to solve their problem and lack of realisation that they are, in fact, just children. In this work, the authors deal with the definition of children in street situations in an international framework, and consider the approach taken towards children in street situations in the Republic of Serbia.

Keywords: children in street situations, international recognition of the problem, Serbian solution, violence, neglect and exploitation, child rights approach

1. Introductory Remarks

According to Article 1 of the United Nations Convention on the Rights of the Child (1989; or ‘Convention’ hereafter), every human being who is below the age of 18 years is considered a child unless majority is attained earlier under the law applicable to the child.¹ Childhood should be a period of endless joy and happiness due to the existence of a new being who is learning and growing together with parents; learning about the emotions and unconditional love parents can provide to this child; and discovering completely new abilities, which the parent also does. Unfortunately, some children come into the world where their arrival is not accepted; from the moment of their conception, they experience rejection and stigmatisation, and they are deprived of the love and care of their environment.

They often lack the capacity to establish relationships with other people based on trust and love, because they lacked this during their difficult upbringing. These children – especially those who live on the streets – are denied the opportunity to create a new life different from those who placed them in that narrative. The catchphrase ‘every right for every child’ promoted by UNICEF gained its full meaning only in 2011, when this international organisation began dealing with the status and rights of street children in a different, organised manner. The devastating fact that more than 150 million children globally live in such inhumane and extreme life-threatening circumstances today is reason enough for everyone – who emphasises that children are the best and most sacred thing in this world – to do everything they can to reduce the number of vulnerable children and enable them to have a happier, more carefree, and safer childhood.²

But who are the children living in street conditions, and how did they end up there?

The issue of street children first appeared as a major concern in the wake of the International Year of the Child (1979). In 1982, the Inter-NGO Programme on Street Children and Street Youth was formed, an organisation that was very important for defining children in a street situation and taking the first important steps in battling this phenomenon. A few years later, in 1983, a street child was defined as

... any girl or boy who has not attained adulthood, who has made the street (in the broadest sense of the word, including vacant homes, wasteland, etc.) his or her habitual abode and/or source of livelihood, and who is inadequately protected, directed, and supervised by responsible adults.³

1 Convention on the Rights of the Child, General Assembly resolution 44/25, 20 November 1989.

2 Matthews, 2023.

3 Inter-NGO Programme on Street Children and Street Youth, Sub-regional Seminar for the Mediterranean, Marseilles, 24–27 October 1983: Summary of Proceedings.

Within this definition, UNICEF identified two categories of street children: children who spend the day on the street but have a place to go back to at night (although these places may be inadequate as accommodation) and street children who do not have anywhere to go.⁴ In 1986, UNICEF's Executive Board approved priority measures on behalf of 'children in especially difficult circumstances', with special emphasis on street children. Further specifications on how children end up there and what should be done to minimise that risk were not explicitly mentioned.

We find the term "street children" in 1991 as well in documents from the Hearing Before the Selected Committee on Hunger in the United States,⁵ where it was stated that 'one hundred million children between the ages of four to 15 live and work on the streets of the developing world. Twenty-five million of these children are completely homeless'. During the hearing, the poverty of parents was highlighted as a key reason for the emergence of the category of children on the street, and measures that can be used to reduce or eradicate poverty were discussed.

The Consortium for Street Children describes street children as those depending on the streets for living and working, alone or with other members of their families.⁶ The connection with street life is so strong that it becomes part of their identity. They are surviving in the most dangerous conditions, without proper shelter, support, or understanding of their own situation.

This so-called 'streetism'⁷ is the consequence of numerous difficult living conditions, such as economic poverty, parental death, parental neglect, violence, and abuse of children at home or within their communities.⁸

These children are often discriminated against, abused, or used in serious crimes as the direct perpetrators of those acts. They are suitable for participating in such criminal activities because they are without adequate protection or wider social support. They are left to themselves to use the means that are available to them, without any major knowledge or skills that can help them get out of the environment they have fallen into, which inevitably drags them into illness, addiction, and premature death. Nevertheless, they are invisible, with their sad life stories full of privation, violence, escape, and forced migration. Everything they do is inspired by a strong will to survive, although they are surrounded

4 Canuto, 2020.

5 Street Children: Global Disgrace. Hearing before the selected Committee on Hunger House of Representatives, one hundred and second Congress, first session, first hearing held in Washington D.C. November 7, 1991, 51–244, Serial No. 102-17.

6 Consortium for Street Children, no date a.

7 Asanbayev, Kutebayev, and Khamchiyevev, 2016.

8 Report of the United Nations High Commissioner for Human Rights on the protection and promotion of the rights of children working and/or living on the street, A/HRC/19/35, 11 January 2012, United Nations General Assembly.

by lots of challenges and tempted to use drugs, alcohol, and violence to protect themselves.

It is not that unusual that they are sentenced to short prison sentences, and even when they want to reintegrate within their own families, the families do not want them back. So, it can be said that they are ‘caught in a loop of trouble: problem, street, jail, more street, more difficulties’.⁹ The children in street situations experience high levels of stigma and are often suspicious of anyone’s attempt to help them and pull them out of the circumstances in which they find themselves. Mistrust towards others is really the only proven mechanism for their survival on the street.

The *Rights of Children in Street Situations: General Comment No. 21 (2017) on Children in Street Situations*¹⁰ was the first international document that fully recognised these children’s specific situation and need for the international community to act and do something more than it has done so far. We find here a new term – ‘children in street situations’ – which is used to mean (a) children who depend on the streets to live or work, whether alone, with peers, or with family, and (b) a wider population of children who have formed strong connections with public spaces and for whom the street plays a vital role in their everyday lives and identities.¹¹

A child in a street situation indicates that almost every child’s right from the Convention on the Rights of the Child (1989) has been violated, abolished, or ignored.¹² It means that even if there is a solid legal framework for the protection of children’s human rights, these rights are not fully respected in several states who ratified the same convention.

Nevertheless, some important steps have been taken since 2011 on the international and national levels. That is why the judgement of the Inter-American Court of Human Rights in the case of “street children” (*Villagran-Morales et al. v. Guatemala*) is significant. It dealt with the murder of some boys who were street children. The investigation about their murder was not conducted properly because of their social status. The court found that the state of Guatemala violated the Inter-American Convention of Human Rights regarding the obligation to provide a real, effective investigation of the death of the murder victims. Although they were children in the street, they were still children and were murdered before they even got the chance to create a better life for themselves.¹³

9 Consortium for Street Children, no date.

10 In total, 327 children and young people from 32 countries were consulted in seven regional consultations.

11 United Nations Committee on the Rights of the Child, Consortium for Street Children, 2017a, p. 9.

12 Id., pp. 10–27.

13 Corte Interamericana de Derechos Humanos, 1999.

2. Dealing with the Issue of Children in Street Situations: The Case of the Republic of Serbia

The first relevant empirical data on children in street situations in Serbia was obtained from the report titled 'Children Begging in Vojvodina' based on research conducted in 2011 by the Provincial Protector of Citizens – Ombudsman. Although the report's main topic is begging, it indirectly provides valuable data about children who live and work on the street, because begging is still the main, dangerous activity these children engage in. Technically, begging by itself is a misdemeanour,¹⁴ but the act may constitute a part of, or result from, much more serious crimes in which the child is victimised, such as neglect and abuse of a minor and even human trafficking.

Roma children are most often identified as begging children, followed by children forced to beg by organised crime groups, who enlist street children and children from poor families.¹⁵ This finding indicates that not only was there no adequate definition of child begging at that time of the report, but certain categories of children such as Roma or the poor were also separated from the category of street children, even though every child who begged did so on the street and was in equally dangerous circumstances.

Based on the established facts and conclusions drawn – which mostly relate to the issues of prevalence, recording, causes, risk identification, implications, and consequences of child begging – appropriate recommendations from the Provincial Protector of Citizens – Ombudsman were sent, which primarily refer to measures to prevent begging and protect children. They refer to the necessity of (1) better legal regulation of issues concerning this phenomenon, especially through employment in competent institutions and establishments enabling professional development and specialisation in the field of protection of children (living) on the street or engaged in begging, and (2) establishment of a system for registering children (living) on the street and/or engaged in begging in social work centres in cooperation with the police, schools, health institutions, and other institutions and organisations dealing with the problem of child begging or coming into contact with children who beg.

An important recommendation is that all institutions with jurisdiction in combatting child begging should establish mutual cooperation, develop effective communication mechanisms, and provide support to begging children. At the same time, all institutions should take special care of the positive and negative jurisdictional conflicts between them –, that is, in situations when none of them are competent to act in the case of child begging, they should immediately

14 Article 12 Act on Public Order and Peace (*Zakon o javnom redu i miru*), Sl. glasnik RS, br. 6/2016 i 24/2018.

15 Muškinja-Hajndrih, Dragin, and Duškov, 2011, p. 43.

and jointly initiate relevant changes to define specific competences and their possible actions.¹⁶

In later years, as shown by the results of similar research,¹⁷ the situation of children on the streets, which refers to both legislation and institutional protections and the actual situation on the ground, has not changed significantly. The system does not yet adequately recognise street children. No law, neither substantive nor procedural, adequately deals with this issue to ensure systematic protection of this highly vulnerable group of children.¹⁸ To begin with, there is lack of a common working definition of ‘street-involved children’. It is important to name a phenomenon, because once you name it, you accept its presence and have taken the first step in dealing with that phenomenon.

Public services have limited resources, and only a few specific services, such as shelters and drop-in centres, are available in major cities. Services of non-governmental organizations (NGOs) are donor-based and therefore short-term and non-sustainable, and social work centres lack an adequate number of social workers able to respond in a timely fashion to the high number of cases they handle. The system of services does not work through an intersectoral and multiagency approach. That is, various parts of the system work separately, and thus collaboration between public institutions themselves could be better.¹⁹

The same lack of collaboration is evident between the public sector and NGOs. Although there are cases of good cooperation, such as exchange of information on a child’s situation and joint conferences on case management,²⁰ and other such solutions, there is always a possibility to create a better synergy between actors and interventions and to employ resources properly. There is recognition of the need to strengthen relations between various sectors of public services and between public and non-public ones, through a comprehensive mapping of services and development of intersectoral protocols, which aim to deal with the issue through a multidisciplinary and inter-sectoral approach. Moreover, these obligations need to be reflected in the job and position descriptions of all relevant actors.²¹

16 Id., pp. 45–46

17 Duci and Tahsini, 2016.

18 Id., p. 15.

19 There are some good examples on how that cooperation can look, such as in the area of prevention and protection against domestic violence, where multisectoral teams were formed at the level of many municipalities in the Republic of Serbia.

20 Joint conferences are held for exchanging information between competent authorities regarding a case of child rights protection; such meetings are attended by the representatives of at least the social work centre, police, competent court and/or prosecutor’s office, a safe children’s home, protector of citizens, a school, even NGOs, and other relevant institutions that can, with their view of the situation from different angles of their jurisdiction, help to reach the best and most optimal solution in the given situation.

21 Duci and Tahsini, pp. 123–124.

Recommendations that are based on established facts and conclusions derived from this research report by the Provincial Protector of Citizens – Ombudsman are grouped in the areas of child protection, social protection, education, health, coordination and procedures, information, and raising awareness. Besides the ones already mentioned, the following recommendations are the most important:

1. case management with the child's participation, and a family strengthening approach is crucial and must be taken into account every time it is possible, with special emphasis on the consideration of the best interest of the child – these should be employed in addressing both individual cases and the issue as a whole;
2. street-involved children should be mapped at a national level and an adequate database on cases should be created as an initial base for the developments of attitudes, opinions, possibilities, and potential solutions for children in such risky situations;
3. social inclusion and protection policies should address the needs of children at risk and street-involved children, by increasing cash assistance, by providing free access to healthcare, education, and other services and by widening the typology of benefits provided to the most vulnerable families. It could reduce poverty, which is the key reason for the emergence of the category of street children;
4. access to good quality and inclusive education should be provided to all children, because education provides them with more of a chance to break the spiral of violence, hopelessness, and other dangerous situations;
5. inter-sectorial efforts should be developed in order to make the registration of children without a legal status possible;
6. undertaking awareness-raising activities, which should be conducted for professionals and members of the public, in order to increase recognition that the issue of street-involved children cannot be viewed in isolation but rather seen as system-related and to reduce prejudice and stigma towards children and families and to promote inclusion.²²

The stated findings, conclusions, and recommendations from the research report represent important guidelines for shaping and systematically solving the issue of children in street situations. Moreover, confirmation of their credibility soon came from the highest levels.

22 Id., pp. 139–141.

3. Committee on the Rights of the Child on Children in Street Situations

Based on Serbia's national report, submitted in accordance with the obligation it has as a State Party to the United Nations Convention on the Rights of the Child, on 7 March 2017, the Committee on the Rights of the Child (or 'Committee' hereafter) issued its concluding observations on the combined second and third periodic reports of Serbia.²³ The subject of children in street situations was brought within the title regarding special protection measures, which, among others, deals with issues of ethnic and other minority children, as well as the child's right to protection from economic exploitation, use of drugs, trafficking, other forms of exploitation, and deprivation of liberty. While the Committee noted the efforts made by Serbia to address the plight of children living in street situations as positive, it was concerned that these children are not legally recognised as victims but are rather treated, after turning 14 years of age, as offenders. The Committee was also concerned that the capacity of the competent authorities and institutions was insufficient. The Committee recommended that the State Party

1. assess the number of children living and/or working on the streets, and update studies on the root causes of their situations;
2. implement, monitor, and evaluate the implementation of the recommendations outlined in the Protector of Citizens' report, with the active involvement of children in street situations;
3. ensure that support, particularly reintegration with family or placement in alternative care, is provided with full respect for the child's best interests and giving due weight to their views in accordance with their age and maturity.²⁴

Pursuant to the power to issue recommendations on any matter relating to children, which it considers should be given more attention by Member States, on 21 June 2017, the Committee published General Comment No. 21 (or 'Comment' hereafter) on children in street situations. This document aims to provide authoritative guidance to State Parties on developing comprehensive, long-term national strategies on children in street situations using a holistic, child rights approach and addressing both prevention and response in line with the Convention on the Rights of the Child. Although the Committee recognises the marked diversity of this group of children; lack of precise and consistent statistics about them; diversity in causes, prevalence, and experiences of children in street

23 CRC/C/SRB/CO/2-3, Adopted by the Committee at its seventy-fourth session (16 January – 3 February 2017). At the same time, General Comment No. 21 (2017) on Children in Street Situations was issued by the United Nations.

24 United Nations Committee on the Rights of the Child, 2017b, p. 16.

situations; and different approaches (foremost, the child rights approach and welfare, but also the repressive approach), it has managed to establish a unique definition and set clear objectives, which are

1. to clarify the obligations of States in applying a child rights approach to strategies and initiatives for children in street situations;
2. to provide comprehensive and authoritative guidance to States on using a holistic, child rights approach to prevent children experiencing rights violations and the lack of choices that results in them having to depend on the streets for their survival and development;
3. and to promote and protect the rights of children already in street situations, ensuring a continuum of care and helping them to develop to their fullest potential; to identify the implications of particular articles of the Convention for children in street situations to enhance respect for them as rights holders and full citizens, and to enhance understanding of children's connections to the street.²⁵

The Comment clarifies the importance of an approach based on the rights of the child, which should be the backbone of every national strategy. This approach primarily ensures respect for the four basic principles (non-discrimination; right to life, survival, and development; best interest of the child; and engagement in and respect for children's views and participation) as well as other rights from the Convention. There is specific emphasis on the importance of respecting participatory rights, bearing in mind the harsh independence that children in street situations have acquired as a result of resistance to the world of adults who often neglected and abused them. Such independence, which comprises gained resistance and capability, represents a significant participatory force in the protection and improvement of these children's rights. As is well stated in the Comment, these children are 'experts on their own lives' and should participate in developing and implementing strategies.²⁶ It is necessary for such strategies to foresee the allocation of special budget funds for street children, as well as deal with several interdepartmental issues and processes, as an integral part of the holistic approach to develop the necessary connection between systems. The process requires changes and improvements to the law, and the Comment makes specific proposals, primarily the abolition of discriminatory provisions that put children at a disadvantage solely due to the personal nature of being in a street situation; decriminalisation of acts in which the decisive status of the child is that of a victim and not a perpetrator; and abolition of provisions that envisage

²⁵ United Nations Committee on the Rights of the Child, 2017b, p. 5.

²⁶ *Id.*, p. 6.

the violent removal of children and their families from the streets, which is a form of direct discrimination.

The already mentioned diversity, which refers to not only the variety of children on the street but also the situations in which they are found, necessarily induces respect for the standard for the best interest of the child. This is especially true when ensuring individualisation of both preventive and interventional practical measures and of services such as health, education, justice, culture, sports, and information.

Further review by the Committee, based on elaboration and concretisation of the notion of children in street situations as well as key articles of the Convention, led to examples of bad practices, links between the children's real needs, ways to realise their protection, and improvement in their individual relevant children's rights. Therefore, besides the principles already mentioned, the Comment also pays special attention to topics such as the right to appropriate measures, right to direction and guidance consistent with evolving capacities, right to freedom of association and peaceful assembly and other related civil rights and freedoms, rights from the corpus of rights to a family environment and alternative care, right to an adequate standard of living, and rights related to disability and health as well as to education, leisure, and cultural activities; the last part is dedicated to violence against children and special protection measures. The standards established and elaborated in this way represent an invaluable source for not only creating and adopting national strategies but also assessing the fulfilment of the conditions foreseen in the existing normative solutions. For this reason, the next section discusses these individual rights in the context of children in street situations based on the latest normative solutions in this area in Serbia.

4. Regulation of the Protection of the Rights of Children in Street Situations in Serbia

To improve work and achieve a higher level of efficiency in organising protection, assistance, and support for children in street situations who are victims of violence, abuse, or neglect, the Ministry of Labour, Employment, Veterans and Social Affairs (or 'Ministry' hereafter) issued an order²⁷ in 2018 to all social work centres and guardianship authorities. The order requires them to take measures and begin activities in accordance with their competences to organise help and support for 'street children', that is, children who are victims of violence and abuse who 'live and work on the street' and are engaged in begging, washing windshields, collecting discarded raw materials from waste containers, selling flowers late at night, etc.

27 No. 560-00-334/2018-01 from 21 May 2018.

This act contains several, mostly procedural, measures and recommendations as well as instructions for their implementation. The order first established the formation of a special team in every municipality and city, which will include an expert from the guardianship authority, a police officer from the police department, and a representative from the regional health centre (paediatric service, preschool, or school dispensary). Thus, to implement the complete and continuous social and family legal protection of these children, the social work centre and guardianship authority are obliged – in all cases in which they have knowledge that children are being abused for exploitation or are caught performing the actions described above – to immediately take the children away from their parents, guardians, or the person with whom they are found and provide them healthcare, address their existential needs, and ensure their safety (custodial protection measures or placement in a social welfare institution or with a foster family).

As regards the parents, guardians, or persons with whom children are found, it is necessary to take measures for the protection of children from abuse and neglect through criminal law –, that is, by filing criminal charges for the possible criminal offense of ‘neglect and abuse of a minor’. Similarly, against parents who abuse or neglect their child or grossly violate parental rights, civil law protection measures for abuse and neglect of a minor should be taken –, that is, proceedings for complete deprivation of parental rights should be initiated. Practically, this means the initiation of civil court proceedings for the deprivation of parental rights as well as a procedure for the protection of the child’s rights, that is, for the prohibition of maintaining personal relations with the child. As an urgent procedure, measures are envisaged for acute protection of the child and for ensuring his or her safety, healthcare, existential conditions, psychosocial support, representation (through the appointment of a guardian), and other conditions for exercising the child’s right to education and upbringing.

Almost two years after the order was passed, acting on his own initiative, the Protector of Citizens established that the Ministry had made an omission in its work by issuing this norm, as it obliged social work centres to take children away from their parents as soon as possible in every detected case; then, they were required to initiate proceedings before the court to deprive the children of their parental rights, prohibit the maintenance of personal relations with their parents, impose measures to protect them from violence, and file criminal charges against their parents. In this way, the Ministry acts in direct contravention of the Convention on the Rights of the Child, significantly lowers the level of realisation of children’s rights in the Republic of Serbia, and directs social work centres to engage in illegal behaviour.²⁸ In a more detailed explanation, the Protector of Citizens stated that issuing an order to take children away from their parents in

28 No. 321-346/19 from 27 February 2020.

all cases, instead of when it is solely in the best interest of the child, lowered and disregarded the basic standards of respect for children's rights, multiplied the risks of illegal and improper separation of children from their families, and acted directly against the best interests of children. These solutions represent the most repressive measures towards children that can dramatically increase the institutionalisation of children as well as risks of separation from their family.

The contested provisions are also contrary to the generally accepted standard of international law, which prohibits the separation of children from their family due to poverty. This confirms that Serbia does not have measures to assess whether a child in a street situation with his or her family lives in conditions of extreme poverty and whether a child being in a street situation is precisely the result of extreme poverty; moreover, the country lacks prior planning and implementation of family support measures that eliminate or reduce extreme family poverty, or support the prevention of a child being in a street situation through educational and community services. Such measures, in accordance with the generally accepted standard of 'the least restrictive environment', also consider separation from the family as a measure of last resort only if a child being in a street situation is the result of a worrying relationship between the parents and not of extreme poverty or marginalisation. The harsh but fair findings of the Protector of Citizens also constitute a kind of outcry, calling out the hypocrisy of the state policy towards children. Thus, it is stated that the order to take children away from their parents in all cases is especially unfair to children in a street situation.²⁹

Based on the established factual situation, the Protector made appropriate recommendations. First, it found it necessary for the Ministry to put the disputed order out of force, inform the social work centres about it, and create an order, instructions, or guidelines for social work centres on how to deal with children in street situations. These new instructions contain certain obligations of the centres: examine whether a child in a street situation and his family are in a state of poverty or extreme poverty, determine the cause of the child being in a street situation, and especially whether it is poverty, plan services to help parents achieve parenthood, provide services and measures to reduce poverty, detect families at risk of finding their children in a street situation; plan and take measures for these families to prevent the removal of children from the family, prohibit the exclusion from their family of children in a street situation who are in that situation exclusively because of poverty, and take measures for the urgent inclusion of children in a street situation in a regular compulsory education programme and in support services in the community. Besides the above, the main recommendations to the Ministry were the preparation of a draft strategy for combating the street situation among children as well as a proposal for a

29 Id., pp. 16–7.

protocol on the protection of these children, both based on the highest standards of realisation, protection, and promotion of children's rights.³⁰

Although the Ministry officially refused to act on the Ombudsman's recommendations,³¹ two years later, a new strategic act was adopted, this time with an intersectoral scope, calling for the application of valid international standards in this area. In the meantime, the adopted state Strategy for the Prevention and Protection of Children from Violence for the period of 2020–2023³² started based on the claim that there is no systematic and complete record of children whose life and work is connected to the street. It also indirectly emphasises the importance of the children's participation, supported by the fact that over 50% of the children against whom measures – exclusively designed and applied by state bodies and institutions – are utilised return to the street and continue begging. No official field work or organised activities are carried out in the field aimed at providing immediate protection and reducing damage on the spot. Children who beg do not have, in regulations or in practice, the clearly recognised status of child victims of exploitation, violence, abuse, and neglect. The capacities of bodies and institutions responsible for the prevention and suppression of child begging are insufficient, in terms of both material resources and number of employees. No professional standards determine the actions of state bodies and institutions in cases of child begging. In cases where certain measures are taken, they are characterised by disorganisation, un-systematicity, and spontaneity. These factors created the conditions for the adoption of the Plan for the Protection of Children in Street Situations from Violence, Neglect, and Exploitation (or 'Plan' hereafter) in 2022, which is elaborated in the following.

30 Id., p. 2.

31 In its statement on the determination and recommendations of the Protector of Citizens, the Ministry, pursuant to Act no. 560-00-00307/2020-01 of 11 June 2020, argued that the disputed order does not contradict the Convention on the Rights of the Child, nor are social work centres directed to do illegal work. The Ministry explained that, a similar order in 2014 – wherein 115 local teams were formed to respond to the appearance of children in street situations and provide help and support to children and families and which included representatives of social protection, education, and healthcare – identified the lack of cooperation with the internal affairs authorities and communal police –, which can greatly contribute to the detection of these cases, given their competence and way of working in the field – as a shortcoming of this act and the main reason for passing the new order. The Ministry asserts that operational work does not exclude respect for the child's rights to live with his or her parents, to be cared for by his or her parents before all others or not being taken away from his or her parents without prior expert assessment but only because the child is 'in a street situation' and has worse material condition.

32 Official Gazette of the RS, No. 80/2020 of 3 January 2020.

5. Plan for the Protection of Children in Street Situations from Violence, Neglect, and Exploitation

On 25 May 2022, to apply General Comment No. 21 for children in street situations, the Ministry of Family Care and Demographics; Ministry of Labour, Employment and Social Issues; Ministry of Internal Affairs; Public Prosecutor's Office; and the City of Belgrade – as responsible authorities – passed the Plan for the Protection of Children in Street Situations from Violence, Neglect, and Exploitation.³³ This Plan was passed in accordance with the Family Act, Act on Criminal Procedure, Act on Offenses, Act on the Police, Act on Juvenile Offenders and Criminal Protection of Juveniles, Act on Preventing Domestic Violence, and the General Protocol for the Protection of Children from Violence, as relevant regulations.

This Plan has several main goals: to secure fast and efficient intersectoral cooperation in protecting children in street situations who might be at risk of becoming victims of violence, neglect, and abuse; to provide help and support; and to find alternatives for their dependence on the street.

For the first time in domestic regulations, relevant definitions were provided in accordance with international standards. Accordingly, children in street situations are defined as children aged up to 18 years whose life and/or work depends on the street where they reside alone or with peers or family; children who occasionally live and/or work on the street; and children who do not live and work on the street but spend most of their time there along with peers, siblings, and other members of their family.

Child labour in the street, depending on the type of work and circumstances under which the work takes place, can be useful or harmful and, in many cases, dangerous for children (e.g. through the abuse of child labour). Dangerous child labour in the streets is any kind of work in the streets that is harmful for a child's health, security, and morality, determined based on the child's age, type of activity, and circumstances around him or her.

When it comes to age, every type of work involving children aged 7 years or younger, work in the streets without appropriate supervision for children aged up to 14 years, and work during night for all children is prohibited. According to the circumstances, any work activity happening during extreme weather conditions (very cold, very hot, rain, snow, etc.), while wearing inappropriate clothes, or in unsafe surroundings (heavy traffic, high altitude, and similar) is also prohibited. Finally, according to the type of work, any activity that represents a danger to the child's security, health, wellbeing, morality, and education, such as working with dangerous materials (collection of discarded raw materials), begging, and any criminal activity involving children is prohibited. Social work centres (the guardianship authority), police departments, public prosecutors' offices, and

33 Council for the Rights of a Child, 2022.

every other authority that has this legal obligation or is interested in solving the problems of children in street situations (communal police, healthcare facilities, educational institutions, labour inspection, and NGOs) and could, within their regular activities, intensify activities for the prevention and protection of children in street situations have been designated as the bodies responsible for implementation.

In accordance with the child's best interest and with his or her active participation, the social work centres must provide, in partnership with the relevant subjects, continuous help and support to children in street situations by implementing measures and services from their jurisdiction; they must also provide such support to parents and guardians so that they can, within their capabilities and material possibilities, secure living conditions necessary for the optimal development of the child. For every child in a street situation who is without parental care or guardianship protection, alternative childcare must be secured, in accordance with the child's best interest and with his or her active participation. After timely and complete assessment of a child's condition, needs, family, and environmental factors, measures of criminal and civil liability must be taken against parents who have abused parental rights, gravely neglected their duties, or committed domestic violence (forcing children to do dangerous work in the streets, forcing children to beg, inciting children to commit crimes concerning street situations, being involved in the crime of human trafficking where a child is the victim, etc). During the assessment of parental capabilities, the sole fact that the children or family work or live in the streets cannot be the reason for deprivation of parental rights or provision of alternative care for the child.

Police departments must take measures and actions to identify the location, the approximate number and age of children who live and/or work in the streets, and the presence of adults or older peers in their close proximity to check if these persons are exploiting children to commit crimes or offences. If the determined facts and circumstances indicate that there are grounds for suspicion that a crime or offence has been committed, measures and actions must be undertaken to protect the victim; identify, find, and arrest the perpetrator of the crime or offence; discover and secure all the evidence and objects that can serve as evidence; and collect the needed information that could be useful for the procedure to file a criminal complaint. In each case, when there is suspicion that a child is a victim of some kind of human trafficking crime (exploitation of children for begging, committing crimes, prostitution, pornography, etc.), police indicators for preliminary identification of the human trafficking victims must be used; when that suspicion becomes reasonable, the Centre for the Protection of Human Trafficking Victims must be informed, and all necessary actions must be undertaken. In each case when there is a suspicion that a child is a victim of abandonment, abuse, or some other crime from the group of crimes titled Crimes

Against Marriage and Family, the Act on Preventing Domestic Violence must primarily be applied.

Public prosecutors' offices, acting based on criminal complaints and reports they received in cases of child abuse and exploitation, will take measures to check grounds for suspicion that a crime has been committed or has been committed by a specific person; then, they will initiate the criminal procedure, press charges, and file complaints. Groups for coordination and cooperation must consider cases formed based on applications or reports of abandonment or abuse of a minor. In these groups, members of the police, social care officials, healthcare and educational institutions, and NGOs are represented. Contact persons at higher prosecutors' offices in charge of human trafficking crimes must act on cases formed based on applications and reports of human trafficking; they will act and monitor the procedure in all cases where there are children present as victims of begging, crimes are committed by children, or children are abused for prostitution or pornography.

In the spirit of intersectoral cooperation, certain joint measures and activities are foreseen for all the authorities and institutions mentioned above. Directors of social work centres, together with managers of police departments and public prosecutors' offices, organise meetings with representatives of competent authorities, institutions, and NGOs in all cities and other municipalities in the Republic of Serbia. Herein, they analyse the current security situation to determine whether there are children in street situations in specific areas. In municipalities where their presence is established, a plan of activities aimed to protect children must be drafted, which will include the plan's goal, stakeholders, persons in charge of coordination, the timeframe, area in which it will be conducted, specific measures, actions, deadlines for implementation, and deadlines for report.

The importance of the network's existence is embodied in the obligation to connect all stakeholders. A list of contact persons from social work centres in charge of monitoring and reporting on the realisation of the plan must be delivered to the Ministry for Family Care and Demographics and the Ministry of Labour, Employment and Social Issues. A list of contact persons from police departments must also be delivered to the Ministry of Internal Affairs; finally, a list of contact persons from the higher public prosecutor's office for the crime of human trafficking and from lower public prosecutor's offices for the crime of domestic violence must be made available to the State Public Prosecutor's Office. Contact persons put in charge to monitor and report on the plan's implementation (from social work centres, police, and prosecutors) must draft joint reports, each for its own city or municipality, and deliver them every three months during the year as well as annually (not later than 31 January of the next year for the current year) to the addresses of the ministries mentioned earlier and the State Public Prosecutor's Office; representatives of the latter will monitor the activities'

implementation, perform analyses, provide professional assistance if needed, and prepare progress reports.

As the capital of Serbia, Belgrade, is by far the largest city in the country, it is home to the majority of children in street situations. Therefore, in addition to some of the aforementioned activities, the Plan foresees specific activities to be carried out by the city's Secretariat for Social Protection, in cooperation with Belgrade's Centre for Social Work, Shelter for the Children of Belgrade, and Belgrade's Police Department, and with the involvement of relevant partners (e.g. communal police, healthcare institutions, schools and other educational institutions, and NGOs). Such activities include media promotion of the Shelter for Children of Belgrade, especially their day-care services (through public information, social networks, and Internet sites of competent authorities and institutions), as well as distribution of promotional material (posters and flyers) so the children in street situations can get familiar with the ways of realisation and protection of their rights. Such material must be available at the premises of social work centres; other social care, healthcare, and educational institutions; catering and other sales facilities; police stations; and public prosecutors' offices.

Moreover, training is provided to the representatives of authorities and institutions that may come into contact or deal with children in street situations in the city of Belgrade, based on a training plan for the representatives in other municipalities. Workshops must be organised with children in street situations and other users of the day-care service in the Shelter for Children of Belgrade. Herein, children should be informed of the ways of realisation and protection of their rights; measures of protection from all kinds of violence, abuse, and neglect; and the services they can use in their local communities.

The basic starting point in protecting the rights of children in street situations is, as already stated, the development of a comprehensive, long-term national strategy by applying a holistic approach based on the rights of the child and dealing with both prevention and response to the problem, in accordance with the Convention on the Rights of the Child. After preparing such a document, an important task is to assess the fulfilment of the stated conditions and numerous other criteria and compliance with valid standards. Therefore, checking compliance of the presented Plan with the general criteria requires evaluating several elements.

Starting from the basic formal items, such as the terminology in use, the Plan provides complete, precise, and exhaustive definitions of key terms. It is of particular importance that the term 'child labour' is defined and especially divided into useful and dangerous labour; these labour types are also defined, as they can have a significant impact on the protection of children from this harmful

phenomenon. However, the inconsistent use of the term ‘child’ in criminal³⁴ and civil terminology – in a way similar to that found in the definition provided by the Convention on the Rights of the Child – represents a significant problem. This is because children, after turning 14 years old, can be treated as offenders (and children in street situations are often unfairly treated that way, such as for the misdemeanour of begging, when they are actually victims of criminal acts of neglect, abuse of a minor, or human trafficking).

A multi-sector approach and work on this problem satisfies the basic holistic concept at the level of both decision-makers (ministers and prosecutors) and operatives (social work centres, police, etc.). However, there is noticeable lack of some key actors, such as health and education authorities, whose involvement should ideally be mandatory as per the provision requiring the presence of all actors and authorities involved in assisting children in street situations. On the other hand, explicitly prescribing the existence of a list of contacts and their mutual connection and availability is a great solution that recognises the networking standard as a necessary condition of work.

The Plan envisages the collection of data on not only the number of children but also other elements important for a correct assessment of the street situation, the importance of which is pointed out by the Committee in several documents. The disadvantage of this is that the data are collected by only the police and exclusively for the purpose of identifying the existence of criminal acts and misdemeanours. Related to this, the clearly defined obligations to prepare joint reports and submit them within precisely specified dates and deadlines, as well as the obligation to provide feedback and help to competent authorities, are particularly important for both operational work and strategic action.

As regards the standards of accessing the child, there are elements pertinent to not only the rights of the child, but also child protection and repressive measures. In principle, the child’s active participation in some key issues is considered (e.g. guardianship protection and alternative childcare), but the method of achieving it is not sufficiently elaborated and thus carries the risk of this obligation being neglected or misused. In complete contrast, treating children older than 14 years as criminals is, as already mentioned, a pressing problem. It seems that the Plan deals with the issues of prevention and intervention significantly, sufficiently, and, above all, evenly. Training is planned for specialised workers and other professionals who work with and for children, but it is insufficiently elaborated and is limited to the city of Belgrade. Because the strategic inclusion of systems that are of key importance for the realisation and protection of children’s rights in general are not prescribed as mandatory, the possibility and method of children’s

34 According to the Serbian Criminal Code, a person who has not reached the age of 14 years is considered a child; after that, until the age of 18 years, that person is considered a minor and is criminally liable.

access to basic services – such as health and education, but also justice, culture, sports, and information – are not shown adequately.

Considering that this Plan specifically deals with the protection of children in street situations from violence, neglect, and exploitation, it has certainly incorporated more protection mechanisms than this narrow area alone predicts. On the other hand, it does not meet the criteria of a special national strategy whose adoption is foreseen by the Comment. However, in view of the goal for which it was adopted and for all the above reasons, the Plan represents a significant step forward in protecting the rights of children in street situations in Serbia. Accordingly, this Plan brings the hope that the problem of street children will be approached more generally in the future, and we will be there to monitor the application process.

6. Concluding Remarks

Besides all the measures and mechanisms foreseen by the law for the recognition of children in risky situations and their protection by competent state authorities and other relevant social actors, such as NGOs, it is important to directly give those children the opportunity and information on how to fight independently to get out of the vicious cycle of poverty, deprivation, and violence that the street offers them. Distrust towards others, as a mechanism of self-preservation, successfully keeps them alive on the streets and gives them the feeling that they can manage their lives independently; it also makes street children often refuse help or not perceive help as such even when it is offered to them. Therefore, initiatives such as the creation of the Legal Atlas for Street Children³⁵ are important. The Legal Atlas is a visual, intuitive tool providing a comprehensive overview of laws affecting street children worldwide. It provides valuable information for anyone interested in the legal status of street children around the world, and it might be of great use for street children and homeless youth who have Internet access, individuals and organisations working directly with street children, and even law- and policymakers looking to make a difference for street children in their countries. These initiatives can help prevent the re-stigmatisation and re-traumatisation of these children, sending them a message that there is a way out. Every leaflet, booklet, and piece of information provided to the children on how they can cope with their situation, where the safehouses are located, and which people are ready to cherish them can help make a difference and save the children from the streets, one by one. The children are entitled to a good environment, and it is good for them to know and to realise that.

³⁵ Consortium for Street Children, no date b.

All national and international activities regarding the recognition and protection of children in street conditions also send a message to those children that they are, and must be, sufficient and sufficiently valuable just because they exist; family cannot be always those connected by blood relations; connections of love and trust are not unusual, selfish, or conditional; and there is light at the end of the tunnel that is their life today.

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