



**Platform**  
of Organizations for  
Cooperation with UN  
Human Rights Mechanisms

# **Shadow Report to the Committee for the Elimination of All Forms of Discrimination against Women regarding the fourth reporting cycle of Serbia**

**Report submitted by the Platform of Organizations for  
Cooperation with UN Human Rights Mechanisms**

**January 2019**



This report was prepared by:

The Platform of Organizations for Cooperation with UN Human Rights Mechanisms<sup>1</sup>, under coordination of its Thematic Group on Gender Equality and based on the contributions submitted by the following members - organizations:

- Women's Rights Organization FemPlatz
- Belgrade Center for Human Rights (BCHR)
- YUCOM – Lawyers' Committee for Human Rights
- Mental Disability Rights Initiative of Serbia – MDRI-S
- A 11\* - Initiative for Social and Economic Rights
- ERA – LGBTI Equal Rights Association for Western Balkans and Turkey
- XY Spectrum
- Atina, Belgrade
- Iz kruga, Belgrade
- Center for Independent Living Serbia

*Platform of Organizations for Cooperation with UN Human Rights Mechanisms would like to thank the CEDAW Committee the opportunity to send written submission addressing several important issues regarding the situation of women in Serbia in relation to the fourth reporting cycle of Serbia on the implementation of the CEDAW. We hope that our submission will be valuable for discussions before the Committee, as well as for recommending to Serbia measures for improving current situation.*

***Platform of Organizations for Cooperation with UN Human Rights Mechanisms informs the CEDAW Committee that this report can be posted on the CEDAW website for public information purposes.***

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<sup>1</sup> Platform of Organizations for Cooperation with UN Human Rights Mechanisms was established in July 2018 with the aim of ensuring common and standardized approach to thematic, timely, and quality reporting to the UN human rights mechanisms. The Platform operates within eight thematic groups and it is coordinated by Belgrade Center for Human Rights. It was founded by civil society organizations which have had substantial experience in reporting to UN human rights mechanisms and monitoring of recommendations. Platform members recognize the need and importance of continual and evidence-based reporting, monitoring the implementation of the recommendations issued to the Government of Serbia, and interaction with the Governmental bodies for monitoring the implementation of the recommendations of UN human rights mechanism.



*Platform of Organizations for Cooperation with UN Human Rights Mechanisms* hopes that the CEDAW Committee in its examination of the Republic of Serbia will give recommendations while raising the issues of:

- Conducting gender impact assessment of austerity measures on women's human rights.
- Defining criminal act of *Sexual intercourse with a helpless person* as a qualified act of *Rape* in the Criminal Code of Serbia.
- Working continually and systematically on stopping gender-stereotyping and patriarchal labeling of women/girls by the governmental officials.
- Separating women's status of legal capacity (women put under guardianship) from informed consent about sexual and reproductive rights, and prohibit forced abortions, administration of contraceptives without informed consent, forced sterilization and other forced treatments that constitute inhuman and degrading treatment.
- Ensuring adequate, accessible, and functioning services for women with disabilities survivors of violence.
- Providing organizational change and capacity building to remedy difficulties in ensuring adequate police intervention in domestic violence cases.
- Providing functional mechanisms for participation of women from vulnerable groups in creation, implementation, and assessment of public policies, and participation in public and political life on an equal basis with others.
- Ensuring protection of women's right to health and access to free prenatal and maternal care for Roma women without documents.
- Improving position of refugee women, including protection from violence, respect to the principle of granting special measures for protection of women in the asylum procedure, ensure integration in the society's economic, social, and cultural life.
- Combating invisibility and stigmatization of intersex persons, ensuring adequate medical, psychological, and social support to intersex persons and their families, adopting adequate protocols and annual data gathering, amending legislation on personal documents and introduce 'other' as option when registering the sex of the child in registry books.



## **Discrimination and policy measures (Articles 1 and 2)**

- **Two different criminal acts prescribed in the Criminal Code of Serbia, both sanctioning rape**

Although 2016 changes of the Criminal Code of the Republic of Serbia<sup>2</sup> and equalization of the sentences (five to 12 years in prison<sup>3</sup>) for criminal act of Rape and criminal act of Sexual intercourse with a helpless person can be assessed as improvement in the protection from discrimination and from violence of women with disability, we would like to draw attention of the CEDAW Committee on existence of two different criminal acts – for women from general population and for women with disability. The article 179, paragraph 1 of the Criminal Code, defines criminal act of Sexual intercourse with a helpless person as follows: *“whoever commits sexual intercourse or equivalent act by taking advantage of person’s mental disability, mental health problem, other mental state, helplessness or other state of a person who, as a result, is not capable of resisting, he/she will be sentenced to five to 12 years in prison.”*

The title and content of this criminal act in Serbian legislation is problematic, because it is essentially an issue of the criminal act of rape, prescribed in the article 178, paragraph 1 of the Criminal Code, defined as *“the one who forces other person on sexual intercourse or equivalent act by using force or threat to directly attack life and body of the person or other close persons will be sentenced to five to 12 years in prison.”*

The intention of the legislator in provisioning two separate criminal acts is unclear, but it certainly sends a message to women with disabilities that the gravest form of violence against them is not treated in the same way as against women without disabilities. The logic should be to dismiss criminal act of Sexual intercourse with helpless person and determine rape of a woman with disabilities as a qualified form of rape and provision higher sentences<sup>4</sup>, since women with disabilities have been unequally treated and are still marginalized in our society.

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<sup>2</sup> Criminal Code of the Republic of Serbia, “Official Gazette of the RS”, Nos. 85/2005, 88/2005- correction, 107/2005 – correction, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014 and 94/2016

<sup>3</sup> Articles 178 and 179 of the Criminal Code

<sup>4</sup> Initiative for assessment of the constitutionality of the article 179 paragraph 1 of the Criminal Code, MDRI-S, 21.10.2016, available at: <https://www.mdri-s.org/saopstenja/diskriminacija-zena-sa-invaliditetom-obljuba-nad-nemocnim-licem-ili-silovanje/>



## - **Impact of austerity measures on women's rights in Serbia**

Significant economic reforms and austerity measures were introduced and implemented in the previous years in Serbia,<sup>5</sup> but there is a complete lack of gender impact assessment of austerity measures.<sup>6</sup>

As reported by the public authorities, structural reforms are successful<sup>7</sup>, but it should be noted that many of adopted measures have detrimental consequences for women. Measures such as prohibition of employment in the public sector have significantly more negative effect on women than on men, especially on women from multiply disadvantaged groups (i.e. Roma women, women with disabilities, single mothers, rural women, etc) since they are less employed and less employable. On the other hand, measures such as reduction of salaries in the public sector also affect women more than men, since women are the majority of all employees in the public sector.<sup>8</sup> According to the 2017 data from the Statistical Office more women are employed in public sector, there are almost 80% of women employed in social welfare centers, more than 70% in education, and approximately 70% in the judiciary.<sup>9</sup>

Public sector lay-offs push women towards precarious employment with limited income security, uncertain social and health benefits, problematic working conditions, while work-life balance options are shrinking. Austerity measures and economic reforms that introduced cuts in social, health, educational sector also affected accessibility of important services and supports, which were felt by women the most. Unavailable and inaccessible, financially unattainable social and educational services put additional

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<sup>5</sup> More information available in the Joint submission by Association of Women FemPlatz and A11\* Initiative for Economic and Social Rights to the CEDAW Committee, 29.06.2018, available at: [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SRB/INT\\_CEDAW\\_ICO\\_SRB\\_31783\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SRB/INT_CEDAW_ICO_SRB_31783_E.pdf)

<sup>6</sup>The assessment involves a dual-pronged approach: the current gender-related position in relation to the policy under consideration, and the projected impacts on women and men once the policy has been implemented.

<sup>7</sup> Report on Implementation of the Public Financial Management Reform Program 2016 – 2020 for the period December 2015 - June 2017, Ministry of Finance

<sup>8</sup> It is important to emphasize that the Republic of Serbia is the main employer, with the highest number of employees – almost 500,000. See, for example: B92 (27 December 2016), So, we count them – there are 478,683 civil servants, available at: [https://www.b92.net/biz/vesti/srbija.php?yyyy=2016&mm=12&dd=27&nav\\_id=1214695](https://www.b92.net/biz/vesti/srbija.php?yyyy=2016&mm=12&dd=27&nav_id=1214695)

<sup>9</sup> Statistical Office of the Republic of Serbia, Women and men in the Republic of Serbia, Belgrade, 2017. The employment rate of women is 38,1% compared to 52,8% of men, while inactivity rate of women is much higher (54,5 and 38,2% respectively).



pressure on women's work-life balance, because besides everyday unpaid domestic work,<sup>10</sup> women take on additional care for family members because services fail to do so.

### **Gender Stereotyping and Prejudice (Article 5)**

Continual negative statements of highest public officials intensify gender stereotypes and patriarchal attitudes, which have negative consequences on the public opinion and creation of gender policies. In March 2018, the current Minister of Labor, Employment, Veteran and Social Affairs (also runs a Sector for anti-discrimination policy and improving gender equality) offended women and showed worrying level of gender stereotyping, which was also confirmed by the Commissioner for Protection of Equality that recommended to the minister "not to give similar statements which might offend dignity of women and sustain gender stereotypes."<sup>11</sup> In recent events of promoting population policy, the Ministry of Culture and Information (which was listed in the State's report as important actor in promoting gender equality) announced a call for slogans to promote giving birth and financial prizes were given for slogans such as "Give birth, don't delay," "Enough words, let us hear the baby's cry" etc.<sup>12</sup> In addition, while explaining the State's population policy, the President of the Republic of Serbia stated that he had to emphasize catastrophic consequences of depopulation, and that he was not interested to hear reactions from the Government or the world, and finished his statement with words "Go and write public statements, deal with feminists or whatever movements..."<sup>13</sup> At a recent conference on gender-based violence, General Secretary of the Ministry of Youth and Sport offended women stating that women are worse drivers, doubted the relevance of the research on gender-based violence, and while leaving the conference he slapped his female assistant/intern with papers at butt<sup>14</sup>.

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<sup>10</sup>Gender Equality Index in Serbia, Social Inclusion and Poverty Reduction Unit of the Government of Serbia, Belgrade 2016

<sup>11</sup> More information submitted to CEDAW Committee for the 72<sup>nd</sup> session on reviewing the Republic of Serbia, joint submission by Association of women FemPlatz and A11 – Initiative for Social and Economic Rights, 29 June 2018

<sup>12</sup> Newspaper article "Slogans for encouraging giving birth selected", 13 February 2018, Danas online, <https://www.danas.rs/drustvo/izabrani-slogani-za-podsticaj-radjanja/>

<sup>13</sup> Newspaper article "Vucic: Ako se ne trgnemo, završili smo kao nacija," 17 March 2018, Tanjug, <https://www.nezavisne.com/novosti/ex-yu/Vucic-Ako-se-ne-trgnemo-završili-smo-kao-nacija/469267>

<sup>14</sup> Newspaper article "Državni sekretar na događaju o rodnom nasilju vredjao zene, pa uzeo papire I udario koleginicu po zadnjici?!" daily newspaper Blic, 25 December 2018, <https://www.blic.rs/vesti/politika/drzavni-sekretar-na-dogadaju-o-rodnom-nasilju-vredao-zene-pa-uzeo-papire-u-ruke-i/4jfhf0m> (in Serbian language)



We are only presenting several recent statements of the highest public officials, which must not be labeled as isolated incidents, because they clearly show the overall governmental attitude to promoting patriarchal and stereotypical norms, give grounds for condoning such attitudes in the media and public opinion, and promote impunity.

### **Participation of women from marginalized groups in political and public life (Article 7(b))**

In relation to participation of women in political and social life, many groups of women are excluded from the active dialogue and creation of policies that concern their life, particularly women with disabilities, Roma women, single mothers, elderly, rural women.

Previous Strategy for Improving the Position of Women and Promoting Gender Equality (2009-2015) listed an objective to “create pre-conditions for participation of women from multiply discriminated groups in public and political life” with the list of measures and activities to be implemented.<sup>15</sup> However, evaluation of National action plan implementation showed limited results “in the area of enhancing participation of discriminated and disadvantaged women in public and political life” and the report concludes that a number of documents were not drafted (e.g. action plan for improvement of position of multiply discriminated women, gender budgeting/partially realized at provincial level), while activities have not been implemented, such as training of women with disabilities and women from minority groups for participation in political life, campaigns on capacities of disabled women.”<sup>16</sup>

Current National Strategy for Gender Equality (2016-2020) and accompanied Action plan (2016-2018) recognizes that Roma women, women with disabilities and women from other vulnerable groups are absent from public and political life and it has a specific objective on improving position of women from multiply discriminated and vulnerable groups.<sup>17</sup> As one of the measures for ensuring participation of women in policy-making processes, the government stated that by 2016 it will ensure participation of 5 to 8 representatives of women’s organizations, including Roma women, women with

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<sup>15</sup> National Strategy for improving the position of women and improving gender equality (2009-2015), points 50-57, the Government of Serbia; also, Action plan for the implementation of the National Strategy for improving the position of women and gender equality (2010-2015), activity 1.4.1;

<sup>16</sup> Evaluation of the National Action Plan for the Implementation of the National Strategy for Improving the Position of Women and Promoting Gender Equality in the Republic of Serbia, Final report

<sup>17</sup> National Strategy for Gender Equality (2016 to 2020) with accompanied Action plan for 2016-2018, sections 1.2 Participation in political and public life, and Special objective 2.6;



disabilities, LGBT organizations in the work of the Governmental council(s),<sup>18</sup> but there is a lack of evidence and assessment of such measure. It should be noted that the Action Plan for the implementation of the National Strategy for Gender Equality has expired at the end of 2018. However, neither evaluation of the implemented activities and measures nor new Action plan for 2019-2020 are publicly available, which means that significant period in 2019 will be without action plan and accompanied measures, especially considering that the new action plan should cover only 2019 and 2020.

### **Employment (Article 11)**

According to the 2011 Census, only 12.4% of the total number of people with disabilities were economically active, and 9% was in employment.<sup>19</sup> The total number of unemployed persons with disabilities registered with the National Employment Service (NES), as of 31 December 2017, was 15.416 persons (of which 6.037 were women). NES implemented different measures in 2017 to promote employment of persons with disabilities.<sup>20</sup> Total of 254 women with disabilities (38.48% of total number of users of special measure for employment of persons with disabilities) were recipients of different subsidies and incentives for employment of persons with disabilities.<sup>21</sup> Overall number of employed women with disabilities is very low within the whole group of women with disabilities, while the right to work is often denied for women and men with intellectual disabilities.

The Law on the Professional Rehabilitation and Employment of Persons with Disabilities<sup>22</sup> has not improved the position of persons with mental disabilities. By prescribing the same obligations for all persons with disabilities, this law failed to recognize particularities of different types of disabilities, especially intellectual disabilities. Therefore, this law is indirectly discriminating against those who are in a significantly harder situation because of the nature of their (intellectual) disability.

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<sup>18</sup> Ibid, measure 2.2.4

<sup>19</sup> Markovic M. Milan, Persons with Disabilities in Serbia, 2011 Census of population, households and dwellings in the Republic of Serbia, Republic Statistical Institute, 2014

<sup>20</sup> Annual Report 2017, National Employment Agency, Belgrade, 2017, available at: [http://www.nsz.gov.rs/live/digitalAssets/9/9467\\_izvestaj\\_o\\_radu\\_i\\_-\\_xii\\_2017.pdf](http://www.nsz.gov.rs/live/digitalAssets/9/9467_izvestaj_o_radu_i_-_xii_2017.pdf)

<sup>21</sup> For example, 44 women with disabilities used subsidies for self-employment (37.93%); 59 used subsidies for employment (33.71%); 143 used wage subsidies for employment of persons with disabilities without previous work place experience (41.21%).<sup>21</sup> Only three women with disabilities used subsidies for reasonable accommodation and adaptation of the work place (33.33%), while only five used wage subsidies for employment of working assistants (38.46%).

<sup>22</sup> Official Gazette of the RS, nos. 36/2009 and 32/2013



Support services delivered during the work process are lacking. Such services would enable a more efficient introduction to working processes and the employee's duties, other than the currently existing service called "working assistance" that is supposed to be delivered by the colleagues employed in the enterprise. All mentioned obstacles and challenges affect women with intellectual disabilities more than men with intellectual disabilities, due to their gender.

### **Health (Article 12)**

Contrary to the information in the State Report,<sup>23</sup> Roma without documents are still facing difficulties in access to health insurance, and lack of access to health insurance has particularly serious impact on Roma women and their access to adequate prenatal and maternal health care. Roma women who are giving birth without health insurance are receiving high bills and are being exposed to threats in order to pay for medical treatment. Families who are not able to pay the bills for childbirth are being threatened that they will not be allowed to take their newborns from hospital.<sup>24</sup>

Roma women continue to face difficulties in access to prenatal and maternal care,<sup>25</sup> despite of the fact that access to medical service related to childbirth is granted to any woman, irrespective on health insurance. Also, childbirth is considered to be an emergency case<sup>26</sup> and funds for emergency medical services are provided from the budget of the Republic of Serbia for persons of unknown residence and other persons

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<sup>23</sup>Fourth periodic report submitted by Serbia under article 18 of the Convention, due in 2017, para. 63. According to the State Report, "more than 90% of Roma men and women exercise the entitlement to compulsory health insurance. This can be attributed to measures which enabled branches of the Health Insurance Fund to grant this entitlement to persons of Roma ethnicity who do not have identity documents on the basis of a statement signed by two witnesses."

<sup>24</sup> The case of pregnant Roma woman discriminated while accessing health services is described in: 1) Ombudsperson, 6-4-10/15, Recommendation No. 416, 09.01.2015, available at: [http://www.ombudsman.rs/attachments/3645\\_preporuka%20KBC%20Zemun.doc](http://www.ombudsman.rs/attachments/3645_preporuka%20KBC%20Zemun.doc). and 2) Joint submission by Association of Women FemPlatz and A11\* Initiative for Economic and Social Rights to the CEDAW Committee, 29.06.2018, available at: [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SRB/INT\\_CEDAW\\_ICO\\_SRB\\_31783\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SRB/INT_CEDAW_ICO_SRB_31783_E.pdf)

<sup>25</sup> In April 2018, A11 Initiative was approached by a pregnant Roma woman who was denied access to prenatal health care. She owns birth certificate and citizenship certificate, but she doesn't have health insurance because of problems with residence registration procedure. During her pregnancy, she had only one medical check. Being already seven months pregnant, she asked to be examined in two health care institutions in Belgrade, but both institutions refused her because of lack of health insurance.

<sup>26</sup> National Health Insurance Fund, "Every childbirth is treated as an emergency", available at: <http://www.rfzo.rs/index.php/component/content/article/224-porodjaj-hitano-slucaj-vest>.



who do not exercise the right to emergency medical care on other basis.<sup>27</sup> However, some hospitals are still trying to unlawfully collect the payment from women who gave birth without medical documentation, and in Serbia they are mainly undocumented Roma women.<sup>28</sup>

The Law on the Realization of Health Care for Children, Pregnant Women and New Mothers,<sup>29</sup> adopted back in 2013, regulates manner of exercising the right to health care for children, women and new mothers whose health insurance documents are not certified. However, it ignores those women (and children) who are not able to obtain health insurance documents (health booklets, documents on use of health care or health insurance card) at all, such as undocumented members of Roma ethnic minority.

In addition to Roma women, women with disabilities are faced with many obstacles in exercising their right to health, especially reproductive and sexual health. Services remain largely unavailable and inaccessible. According to the data from the research conducted in 2015,<sup>30</sup> women with disabilities emphasized the lack of accessible technical equipment (e.g. hydraulic gynecological chairs) and other physical obstacles, as well as the negative attitude of medical workers towards them, influenced by stereotypes and prejudices, which often results in late and rare gynecological examinations. This situation is additionally hampered by the lack of knowledge of medical workers about the specifics of different disabilities and the lack of acquired skills in terms of general treatment of women with disabilities.<sup>31</sup> During 2017, organization for protection of rights and support for women with disabilities “Iz kruga – Beograd” organized five round tables on obstacles women with disabilities were facing in access to health services, in five Serbian cities, attended by 110 medical workers.<sup>32</sup> Majority of medical workers agreed that within the health care system individual support programs for both women with disabilities and health workers should be developed. The health system should develop a special strategy/program in order to reach all women and girls with disabilities, and to ensure

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<sup>27</sup> Law on Health Care, Article 17, Paragraph 1 Point 7.

<sup>28</sup> The case investigated by the Ombudsperson was not an exception. In May 2018, A11 Initiative identified two similar cases. Hospitals in Zemun and Bor were trying to unlawfully collect payments from Roma women who gave births without documents and health insurance.

<sup>29</sup> Official Gazette of the Republic of Serbia, No. 104/2013.

<sup>30</sup> Lepojka Čarević Mitanovski and Marko Milanović, Women’s with disabilities right to motherhood and family, Organization for protection of rights and support for women with disabilities “Iz kruga – Beograd” and IDEAS, Belgrade, 2015

<sup>31</sup> Ibid.

<sup>32</sup> Round tables Report, Iz kruga Beograd, 2017, not publicly available



health services for them. It is very important to include women with disabilities in designing health services and necessary support.<sup>33</sup>

The latest research on reproductive health of women with disabilities showed similar results.<sup>34</sup> The main barriers to providing fully accessible reproductive health services for women with disabilities arise from: 1) shortcomings in the health system itself (e.g. lack of medical personnel, long waiting lists for specialist examinations); 2) the invisibility of women with disabilities within the health system and the lack of a reasonable accommodation of services (e.g. there is no possibility to have longer appointments with gynecologist); 3) inaccessibility of buildings and premises, lack of adequate equipment, no regulation on necessary accommodation, such as assistance during examination, interpreters for sign language, lack of information materials in accessible formats; and 4) insufficient sensibilization and awareness of health workers who often have prejudices against women with disabilities.<sup>35</sup>

## **Violence against women**

In June 2016 Serbia adopted the Law on Prevention of Domestic Violence,<sup>36</sup> and amended its Criminal code<sup>37</sup> in the process of alignment with the Istanbul Convention. According to the Ministry of Internal Affairs,<sup>38</sup> the implementation of the Law on Prevention of Domestic Violence is very successful. In July 2018, the results of the first year of implementation were presented in the media (e.g. the Police issued 14.218 emergency measures).

In October 2018, Lawyers' Committee for Human Rights – YUCOM held the focus group with police officers assigned to deal with domestic violence cases from Police departments in Belgrade. As examples of good practice, police officers highlighted the ability to respond urgently and separate potential abuser from victim. On the other side, police officers complained to an excessive amount of work, which prevents them to fully dedicate sufficient time to prevention of violence. In the Explanation of the Law proposal, before its adoption, Government stated: *“From the aspect of the competent authorities,*

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<sup>33</sup> Ibid.

<sup>34</sup> Kosana Beker and Višnja Baćanović, Reproductive health of women with disabilities in the Autonomous Province of Vojvodina, Provincial Protector of Citizens – Ombudsman, Novi Sad, 2018

<sup>35</sup> Ibid.

<sup>36</sup> “Official Gazette of the Republic of Serbia” No. 94/2016

<sup>37</sup> Ibid.

<sup>38</sup> [Public announcement of the Ministry of Internal Affairs](#)



*new solutions neither require organizational change nor capacity building through new employment*". This means that most of the police officers have been assigned domestic violence cases as one more duty, along with their regular duties and only a few police officers are assigned particularly for domestic violence cases.

Although there is no recent research available, women with disabilities are in greater risk of violence compared to other women worldwide,<sup>39</sup> and also in Serbia.<sup>40</sup> The one very important obstacle to adequate protection of women with disabilities from violence was identified by the organizations supporting women with disabilities, which is the lack of support services, and more particularly the lack of support services for women with disabilities in situation of violence.

According to the Law of Social Protection<sup>41</sup> there are several support services in Serbia (e.g. help in home, personal assistance) but those services should be provided from the local self-government budgets, thus they are constantly missing due to the lack of both finances and awareness on their importance in the local communities. Personal assistance service enables women with disabilities to become more active and independent. However, this service is provided only in 10 cities in Serbia. Total number of the users is 166 out of which 50.6% are women with disabilities.<sup>42</sup> By cities, the number of women varies from 20% to 50% or more. Although it seems that on average there is an equal access to the service, it should be noted that women with disabilities are in more difficult position, as personal assistance service is much more needed for women with disabilities than men, bearing in mind their gender roles.

Women with disabilities are invisible in the Law on Prevention of domestic violence, and their specific position has not been considered. For example, the urgent measures issued by the police officers are very useful for women in situation of violence. However, eviction of perpetrator from home can be detrimental for some women with disabilities, if

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<sup>39</sup> See, for example CRPD General Comment No. 3 – Women and girls with disabilities, 26.08.2016, available at:

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/3&Lang=en), para. 10, 17, 21

<sup>40</sup> See, for example: Lepojka Čarević Mitanovski et al, Women with disabilities in Serbia, Iz kruga Beograd, Belgrade, 2009, available at: [http://izkruga.org/wp-content/uploads/zene\\_sa\\_invaliditetom.pdf](http://izkruga.org/wp-content/uploads/zene_sa_invaliditetom.pdf), Special Report of the Commissioner for Protection of Equality on discrimination of women in Serbia, Commissioner for Protection of Equality, Belgrade, 2015

<sup>41</sup> Official Gazette of the RS, no. 24/2011

<sup>42</sup> As of November 2018. Data obtained from Center for Independent living – CIL Serbia (licensed service provider for personal assistance service), and it includes data from all licensed service providers (Živeti uspravno Novi Sad and Volja za životom Velika Plana)



perpetrator is the person who supports her. Therefore, the protection from violence regulations should be amended in terms of recognizing women with disabilities in situation of violence as a particularly vulnerable subgroup of women, requiring different regulations in some specific situations.<sup>43</sup>

Because of the specificity of the situation of women with disabilities in situation of violence, the package of services should be created and regulated (e.g. assessment and planning services, daily community services, support services for independent living, counseling, therapeutic and social-educational services, accommodation, financial support).<sup>44</sup>

State report does not recognize gender-based violence against women with disabilities in residential and psychiatric institutions. There are still several thousand women with disabilities in these types of institutional placement and these women are at increased risk of abuse, sexual assaults, rape by other clients and/or staff because of their specific vulnerability. Social care (residential) institutions are obliged to form internal teams for prevention of violence.<sup>45</sup> However, data on reported cases of violence and testimonies of women in institutions prove that this mechanism is not functional or meaningful. For example, in 2015 only five cases of horizontal violence (no gender statistic) were reported in 15 large-scale institutions, where over 4,500 people lived<sup>46</sup>, while in 2016 only six cases.<sup>47</sup> Interviews with staff of residential institutions showed that internal teams only have administrative purpose (to fulfill the obligation of having such mechanism in place), while it is not functional in practice, especially if there is a case of violence conducted by the staff member against woman/client of the institution.<sup>48</sup>

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<sup>43</sup> Team Iz Kruga, The Role of Centers for Social Welfare in system of protection women victims of violence, Protector of Citizens of the Republic of Serbia, Belgrade, 2018, available at: <https://ombudsman.rs/.../1%20Uloga%20CSR%20u%20zastiti%20zr...>

<sup>44</sup> Ibid.

<sup>45</sup> Internal team receives reports on knowledge or concern about situations of violence, collects information, takes measures for the safety of the clients, and works closely with anyone who, during the examination process, develops a protection plan for a survivor of violence in line with Special protocol of protection of children in social care institutions from abuse and neglect, Ministry of labor, employment and social welfare of the Government of Serbia, 2006;

<sup>46</sup> 2015 Report on social-care institutions for adults with mental, intellectual, physical and sensory disabilities, Republic Institute for Social Protection, Belgrade, 2016

<sup>47</sup> 2016 Report on social-care institutions for adults with mental, intellectual, physical and sensory disabilities, Republic Institute for Social Protection, Belgrade, July 2017

<sup>48</sup> Biljana Janjić and Dragana Ćirić Milovanović, Here the Walls Have Ears Too: Testimonies of women with mental disabilities about gender-based violence in residential institutions in Serbia, Mental



Overall, grave forms and manifestations of violence against women and girls with disabilities in residential institutions are under-reported, unrecognized and ignored by the relevant actors.<sup>49</sup>

Women with disabilities in residential institutions are victims of forced abortions, arbitrary separation from children, and administration of contraceptives without informed consent or understanding. Medical staff/doctor and woman's guardian make decision about administration of contraceptives, the insertion of IUDs (usually under full anesthetics), while the administration of contraceptive pills is presented as part of regular treatment and women are not informed about taking them.<sup>50</sup>

Due to the fact that women deprived of legal capacity have guardians and cannot decide about their lives and having in mind practices of administration of contraceptives without informed consent, forced abortions, and forced sterilizations, it is crucial to completely separate woman's status of legal capacity from the informed consent to medical treatments related to sexual and reproductive rights.

### **Refugee women**

Since 2015, the Republic of Serbia has been in the center of the refugee flow. More than one million refugees and migrants from Asia and Africa have passed through and resided on its territory during this time. In order to meet the accommodation requirements for this population, the Government opened new asylum and reception centers. There are currently 18 centers in Serbia, which accommodate 4,300 persons,<sup>51</sup> majority of whom are from Pakistan, Afghanistan, and Iran. The refugee profile has been changing with time. In 2015, most of them were from Syria, and later from Afghanistan, Iraq and Iran.<sup>52</sup> At the beginning of 2016, women and children made up most of the refugee population; however, this ratio has fluctuated in the previous period with significant changes

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Disability Rights Initiative MDRI-S, December 2017, available at <https://www.mdri-s.org/wp-content/uploads/2018/02/Publikacija-engleski.pdf>

<sup>49</sup>Ibid.

<sup>50</sup>Ibid; also: Kosana Bekker and Tijana Milošević, Violence against women with disabilities in residential institutions, Mental Disability rights Initiative MDRI-S, December 2017, available at: <https://www.mdri-s.org/wp-content/uploads/2018/01/Istrazivanje-knjizni-blok.pdf>

<sup>51</sup> UNHCR, Serbia Update, 26.11-16.12.2018, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/67316.pdf>

<sup>52</sup> Migration Profile of the Republic of Serbia for 2015, Commissariat for Migration and Refugees, Belgrade, 2016, available at: [http://www.kirs.gov.rs/docs/migracije/Migration\\_profile\\_of\\_the\\_Republic\\_of\\_Serbia\\_for\\_2015.pdf](http://www.kirs.gov.rs/docs/migracije/Migration_profile_of_the_Republic_of_Serbia_for_2015.pdf)



occurring, and now men represent the majority, which arrived to Serbia in December 2018 is about 28 percent.<sup>53</sup>

Although Serbian authorities have been enacting asylum legislation since 2007, the national asylum system cannot be qualified as functional and efficient or as devoting attention to gender-sensitive issues. It is characterized by the automatic application of the safe third country concept, whereas the asylum authorities are dismissing the vast majority of asylum applications without reviewing them on merits.<sup>54</sup> Such practice is especially harmful for women and other vulnerable groups of asylum seekers. It resulted, *inter alia*, in granting only nine refugee statuses to women and girls (16.7%) in the 2008-2018 period, with no women granted refugee status since 2016.<sup>55</sup>

Both the former Law on Asylum<sup>56</sup> and the newly adopted Law on Asylum and Temporary Protection<sup>57</sup> define a broad principle granting special measures of protection to women in the asylum procedure<sup>58</sup>, it was, however, rarely indicated in the decisions whether and how the principle was taken into consideration in the particular case. During the asylum procedure, women are not always guaranteed a female translator.<sup>59</sup> Although the Law on Asylum and Temporary Protection defines the possibility to have a female translator, it, however, does not allow for it automatically but upon request by the asylum seeker. Moreover, in only a few cases the competent authorities recognized the elements of gender-based asylum applications and granted the protection solely on account of sex- or gender-based persecution, even though the majority of women are the nationals of states

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<sup>53</sup> UNHCR, Serbia Update, 26.11-16.12.2018

<sup>54</sup> See more in: Sonja Tošković (ed.), *The Right to Asylum in the Republic of Serbia 2017*, Belgrade Centre for Human Rights, March 2018, pp. 55-65. Available at: <http://www.bgcentar.org.rs/bgcentar/eng-lat/wp-content/uploads/2018/04/Right-to-Asylum-in-the-Republic-of-Serbia-2017.pdf>

<sup>55</sup> The statistical data was obtained from the Ministry of Interior via the UNHCR Office in Serbia on 8 January 2018. See also: Violence against women and girls among refugee and migrant population in Serbia – Shadow Report to the GREVIO Group, Atina, Belgrade, 2017, available at: [www.atina.org.rs/sites/default/files/Vilence%20against%20women%20and%20girls%20among%20refugee%20and%20migrant%20population%20in%20Serbia.pdf](http://www.atina.org.rs/sites/default/files/Vilence%20against%20women%20and%20girls%20among%20refugee%20and%20migrant%20population%20in%20Serbia.pdf)

<sup>56</sup> Official Gazette of the Republic of Serbia, No. 109/07.

<sup>57</sup> Official Gazette of the Republic of Serbia, No. 24/18. The English translation is available at: <http://www.unhcr.rs/media/docs/2018/LawOnAsylumAndTemporaryProtectionRS.pdf>

<sup>58</sup> See Articles 16 and 17 of the law

<sup>59</sup> In several cases represented by the BCHR in the previous years, due to the male translator engaged during the asylum procedure, female asylum seekers were unable to share their personal experiences due to the traditional and cultural barriers. The BCHR lawyer had to intervene with a request for a female translator in these cases.



with deeply rooted practices of gender based violence and many of those represented by the BCHR in the previous years, in fact, had a gender component to their claim.<sup>60</sup>

Women refugees still find it hard to approach to justice in Serbia, gender-based violence is not being reported, nor prosecuted to a great extent, while a handful of prosecuted cases resulted in minimal penalties. Bearing in mind that violence against women is an omnipresent occurrence among the refugee population – according to Atina’s research, 67% of refugee women experienced gender-based violence,<sup>61</sup> the Republic of Serbia must make additional and continuous efforts in suppressing this phenomenon. Refugee women and girls face specific challenges and protection risks both in their countries of origin, in transit, and in the countries of their final destination. Many of the women have suffered extreme violence and rights’ violations in their countries, as well as sexual and gender-based violence.<sup>62</sup> Majority of the refugee women and girls were deprived of access to basic services in transit centers, which further deepened the problem, and made them even more vulnerable especially when it comes to those who had survived violence. Refugee women and girls need to have access to the existing protection mechanisms for survivors, which need to be able to effectively address their specific needs, overcoming the language barrier. Psychosocial support services to refugees and asylum seekers are offered almost exclusively by the civil society organizations.

Women who are granted refugee protection in Serbia are entitled to integration into the society’s economic, social, and cultural life. The bylaw managing integration is drafted in a gender-neutral manner with no specific measures supporting the integration of women, especially the most vulnerable ones such as single mothers. The experience has showed that these women are experiencing vast obstacles when it comes to providing child care and work at the same time, that the amount of funds assorted for accommodation purpose is not sufficient to allow for an adequate standard of living of a mother and her child, and that there is no additional support for single mothers who are expected to attend the Serbian language and history classes in terms of child care during the classes.<sup>63</sup> Additionally, there is no possibility to receive Government subvention for private kindergarten in case that a child cannot be enrolled in a state kindergarten. Also, there is no possibility for refugee parents of three and more children to apply for free of charge

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<sup>60</sup> In the BCHR experience, there were two adult women and one child granted refugee protection on these grounds.

<sup>61</sup> Violence against women and girls among refugee and migrant population in Serbia, Atina, available at: <https://rm.coe.int/report-for-grevio-ngo-atina-30-9-2018-/16808e2f8c>

<sup>62</sup> Ibid.

<sup>63</sup> Information obtained from the Belgrade Center for Human Rights



accommodation of a third child in a kindergarten, which is defined only for the nationals of Serbia, refugees from former Yugoslavia and foreign nationals with permanent residence in Serbia.<sup>64</sup> Due to this no-exhaustive list of obstacles, refugee single mothers *de facto* do not have equal opportunities in Serbian society regarding balancing private and professional life.

### **Intersex persons**

In Serbia, intersex persons are invisible socially and legally. There is no accurate information and research about their number, experiences, quality of life, and presence in the general public. There is a lack of medical experts, existing expertise and established protocols on intersex conditions and health in general throughout childhood and later in life. Instead of intersex, media use the derogatory term *hermaphrodite*<sup>65</sup>. There are no laws, bylaws and procedures in Serbia specifically regulating the position of intersex persons, including protection from hate crimes and discrimination, adequate healthcare protocols and access to medical history.

Administrative procedure to record the name and sex of the newborn in registry books,<sup>66</sup> obligatory within 30 days after child birth, directly requires from medical staff and

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<sup>64</sup>The paragraph 3 of the Article 2 of the *Decision on the Right to compensation of the cost of accommodation of children in a preschool institution founded by another legal or natural person in the territory of the city of Belgrade for the 2017/2018* (Official Gazette of the Republic of Serbia, No. 36/17) reads that this right can be realized by a parent, guardian, adoptive parent or a foster parent provided that he/she is a citizen of the Republic of Serbia with residence in the territory of the City of Belgrade, or a foreign citizen with permanent residence in the territory of the City of Belgrade or refugee or internally displaced person with residence in the territory of the City of Belgrade. By a foreigner with permanent residence the law reads persons whose legal status is being governed by the Law on Foreigners (not Law on Asylum and Temporary Protection), while refugees and internally displaced persons are considered to be those whose legal status is being governed by the Law on Refugees (those are only refugees from the former Yugoslavia). Bearing this in mind, there is a legal vacuum regarding the exercise of this right by the persons who had been granted a refugee status under the Law on Asylum and Temporary Protection, whereas these persons are directly being denied the access to the right to pre-school, primary, secondary and higher education under equal conditions as the nationals of the Republic of Serbia, as envisaged by the Article 64 of the Law on Asylum and Temporary Protection.

<sup>65</sup> More details about intersex persons in Serbia is available in [Intersex Research Study - Albania, BiH, Macedonia, Serbia 2017](#), published in 2018 by UNDP.

<sup>66</sup> In accordance with Serbian Law on Registry books – [Zakon o matičnim knjigama](#) (Official Gazette of the RS, nos. 20/2009, 145/2014 and 47/2018) and Instruction on keeping Registry books and forms of



parents to provide information on child's sex, with no option to specify child's sex as 'other' in personal documents, but only male or female. The given timeframe is insufficient for appropriate medical analysis and treatment, resulting in often harmful and unjustified medical interventions. Therefore, it is necessary to introduce public campaigns to increase the visibility of intersex persons and combat derogatory terminology among general public and in medical, legal and educational guidelines, documents and textbooks; to ensure provision of adequate medical, psychological and social support to intersex persons and their families and establish adequate protocols and annual data gathering on intersex related diagnosis, medical interventions in state medical centers and private practices; as well as to amend legislation on personal documents and introduce 'other' as option when registering the sex of the child in registry books.

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Registry books – [Uputstvo o vođenju matičnih knjiga i obrascima matičnih knjiga](#) (Official Gazette of the RS, nos. 109/2009, 4/2010 – correction, and 10/2010).