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FORCED BEGGING

Analysis of regulations and institutional practices in Serbia



Vladan Jovanović

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Unfortunately, my invitations for meeting were not responded by representatives of the Protector of Citizens – Ombudsman, Supreme Public Prosecutor's Office, or the Higher Court in Belgrade, Special Department for Organised Crime. It can be claimed with some certainty that the knowledge and experience of these institutions' representatives would contribute to the contents and quality of this analysis (especially when it comes to the relationship between begging and organised crime), yet, since their participation is (probably justifiably) missing, there is hope that we might cooperate on some other occasion.

NOTES ON AIM AND METHODOLOGY

The aim of this document is to improve understanding of forced begging by children and adults in Serbia, and it has been developed with the intention to present social and institutional perception of begging as a substantially present social phenomenon.

The document primarily relies on desk analysis of regulations, public policy instruments and secondary research material, and it is based on processing of the resources with the aim of describing and analysing begging as a social phenomenon, as well as of the normative and institutional responses to this phenomenon, including an overview of the social context and insight into the genesis of the factors that influence the lifestyle practices that we understand as begging.

An important approach to writing this analysis involved the semi-structured interviews that the author made with relevant persons, as well the analysis of the acquired interpretations of institutional practices, interviewees' claims, their contextualisation and comparison with the insights acquired from other sources.

PREFACE

Down and out in the street, he sits with his legs crossed, now on the cardboard that he made by tearing and unfolding a carton box, tomorrow perhaps on the textile rags that even mice stopped using after they served for their mating and sleep.

When he feels words bursting out of his mouth, he begs everyone passing him by for some contribution, confident as if giving a speech, offering nothing less than health and mirth in return: to him and her and their children, and their children's children, and the six future generations - the merciful God would grant them all that, should they show mercy.

On a cold morning he emerges into a thoroughly populated world, goose bumps all over his flesh; on a day hot and dusty, his eyes are red, and legs consistently bent in the knees, unnaturally, like chicken's, from illness or misfortune, who knows. Persistent and patient, he looks people in the eyes and fingers, wailing this insistent music that permeated his body when he was a little boy and fenced him off from the world, waiting daily for everyone to do the bidding he imagined in his head, to perform the task that they need to perform with the sense of absurdity or nausea, never mind which; the future is certainly too big to be imagined, the twenty dinars left by a woman in a long pleated skirt who bents down for a moment would suffice for starters.

He waits in his place as if waiting for himself, shabby and dirty, until some colours are devoured by sunset and walls are marked with smudged city darkness.

Aware that not in the hereafter, nor on earth there is anyone who would truly help him; as if he has some secret agenda when he expects goodness and pity, yet he wonders at times, when he sees a passenger with a huge backpack, what it would be like being free from this constant sense of uncertainty, and whether each day might be his achievement that would never get him a true home. Might all this exist only to become a memory that would once be reduced to a couple of unconnected snapshots with the fading hints of the landscape, of every street, square or railway station with the old steam locomotive and a heap of coal as an exhibit, could this all, every moment and pang of fear that no one would take pity on him and something horrible would happen, be just a preface to his life, after which he might one morning, having left his comfy bed, washed, shaved and clean, an ordinary man with his stomach full, going to work, though equally fucking useless, just before leaving his apartment tell the girl a short fable of how, once upon a time, in the preface to his life, he used to be what he is today?

TOTAL - A WIDE PERSPECTIVE

Any story of begging is unavoidably a tale of exploitation and abuse of power, as well as of metaphysics and eschatology. At the core of begging lies the sense of duty and (in)justice, but also a reward which is psychological (once the giver, whatever he might give, gets the reward of not easily explainable relief), or the reward is actually metaphysical-eschatological in nature, when a man hopes for some benefit in the next world because he has given something to the beggar.

Beggars and begging may be encountered as a topic, the main or a passing one, in literature – reflecting the age and society, since literature is not merely strings of beautiful words, but rather a testimony. Ivan Raos wrote his “Beggars and Sons” and something we may understand as an interpretation of the religious, psychological, sociological and, if you will, anthropological connection between begging and foundations of people’s mutual expectations, those who beg and others, expected to give alms to the beggars: “...should someone be so cold-hearted not to grant you a handful of wool, or a spoon of oil, neither moved with your poverty, nor for the love of God, he would, by heavens, give for his own sake...”¹

Descriptions of beggars in literature can contain at least hints of the archetypal, with the perception and structural understanding of the person who begs, which has its roots in the collective unconscious. Therefore the very beginning of the “Preface” to this text: “Down and out in the street,, he sits with his legs crossed (...) on the textile pieces that even mice stopped using after it served for their mating and sleep. (...) his eyes are red, and legs consistently bent in the knees, unnaturally, like chicken’s, from illness or misfortune, who knows” – has been based on the very same interpretative foundation that we encounter in great literature, Turgenev for example. At the time of writing this “Preface”, the author had not read Turgenev’s “The Beggar Man”. I came upon this work through my researcher’s curiosity while developing the analysis concerning begging in Serbia, while the (proto)image of a beggar at work in my mind was quite similar to the description contained in the much more famous, and certainly better, Turgenev’s work. In his poem “The Beggar Man”, Turgenev says: “I was passing along the street when a beggar, a decrepit old man, stopped me. / Swollen, tearful eyes, blue lips, bristling rags, unclean sores.... Oh, how horribly had poverty gnawed that unhappy being! / He stretched out to me a red, bloated, dirty hand.... He moaned, he bellowed for help.”²

Perceived through different optics, begging always occurs in concrete economic circumstances, while it also has its sociological, legal and ethical components.

Child begging jeopardises his/her potentials and dignity. Begging has a negative impact on the intellectual, physical, social and moral development of a child. Exposure

¹ “Prosjaci i sinovi”, Ivan Raos, Matica Hrvatska, Zagreb, 1971.

² „The Beggar Man“ Turgenev, Ivan, translated by Isabel Hapgood

of a child to begging negatively influences his/her education, and consequently his future dignified profession.

Child begging always and without an exception represents exploitation, abuse and neglect. Exposed to daily risks to their lives and health, as well as the risk of becoming human trafficking victims, excluded from regular education, adequate family environment, or peer group, sometimes burdened with adults' responsibilities for their own and existence of their families, without the most of the activities that comprise healthy childhood and growing up, children who beg are indeed deprived in all segments of their lives, and their development and wellbeing are exposed to many a long-lasting risk.

Who are the children that beg? This group of children frequently includes: children without adequate parental care, socially marginalised children, children exposed to domestic violence, children forced into begging by organised groups, children who dropped out of school, Roma children, children with disabilities, children in conflict with the law, children with behavioural problems and children who live and work on the streets (so-called street children).

Representatives of executive authorities (from the systems of social protection and police) estimated that the fundamental risk factors for the occurrence of child begging include belonging to the Roma community and force exerted over these children by organised groups, but according to the children involved in begging, poverty was the main reason that made them start begging. Roma children are at the greatest risk of being involved in begging, as the most marginalised group, due to their extreme poverty (the poverty among Roma is ten times more severe than in the general population), ghettoization and exclusion from the social community, unemployment and the lack of education of their parents, life and development in unsafe and unfavourable circumstances, without proper nutrition, hygiene, healthcare, unavailability of pedagogical education and stimulation at an early age.³

Should we focus on Roma households in informal settlements, three quarters of the households regularly (70%) or periodically (7%) generate income by collecting and selling secondary raw materials; two thirds of the households regularly (54%) or periodically (12%) generate income by reselling goods on open-air markets or on the street; a small percentage of the households generates income by washing windshields and car windows (3%); while **one in twenty households claims to be generating income, regularly (3%) or periodically (3%) through begging.**⁴ In more than one third (36%) of the households with children, the children are involved in some kind of work on the streets; in almost all of the households where children are involved in this type of work (97%), they also engage in reselling goods in open-air markets or in the streets, and in collecting and selling secondary raw materials (the activity engaged in by 35% of all the households with children); **in one fifth (19%) of the households where children are involved in working on the streets, the children**

³ Strategy for the Prevention of and Protection of Children from Violence for 2020-2023.

⁴ Research on Roma Households in Informal Settlements, Centre for Youth Integration, Belgrade, 2023

generate income through begging (7% of all the households with children); while in a small percentage (3%) of the households with children, children make income by washing cars in the street.

The lack of understanding of the importance of early age and social systems' potential for child inclusion at an early age results in the lack of visions, strategies and effective prevention programmes that would prevent, suppress and eradicate the phenomenon of child begging. The existing measures implemented by state authorities and institutions are ineffective and inadequate. Such assessments are provided by the professionals working in these organisations and institutions themselves, who have been implementing these measures, and report that more than 50% of the children to whom these measures have been applied return to the street and continue to beg. Even though all the professionals from the state sector are familiar with the multiple risks for the life, physical health and development that the children involved in begging are exposed to due to their long hours on the street, state authorities and institutions do not have organised activities in the field aimed at providing direct protection and controlling the damage in situ.⁵

A position present in the theories of cognition indicates that the point of view, i.e. perspective, conditions cognition. The same thing is perceived differently depending on who is observing it, and their point of view, while the insight may be influenced by empirical and social postulates, such as experience, social roles, or common (pseudo) attitudes (i.e. stereotypes) characteristic for the members of a social group, or a profession. Children who beg are thus understood somewhat differently, depending on three different perspectives. Thereby, the survey participants belonging to Police Administration give primacy to Roma children (43%) and children forced to work by organised groups (27%), followed by street children (22%) and children from poor families (16.7%). On the other hand, employees of centres for social work rank children who beg in the following way: first are the children forced to work by organised groups (48%), followed by Roma children (29%) and children from poor families, while street children occupy the last place (14%). The third perspective reveals the following: representatives of citizens' associations the most frequently see children forced to beg by organised groups as those with the highest risk of engaging in begging (40%), followed by street children and Roma children.⁶

⁵ Strategy for the Prevention of and Protection of Children from Violence for 2020-2023.

⁶ "Dečje prosjačenje u Vojvodini - istraživanje" (Child Begging in Vojvodina - Research), Aniko Muškinja Hajnrih, Ankica Dragin, Marija Duškov, 1. izdanje, Novi Sad, Pokrajinski ombudsman, 2011. The research was realized in April and May of 2011, and the report includes the data received in polls and interviews from the territory of the Autonomous Province of Vojvodina.

In research studies and professional literature, the following are highlighted as the risk factors for the occurrence of child begging: belonging to Roma population, with their characteristic pattern and strategies of fighting for survival; family poverty, combined with family dysfunctionality and isolation, lack of education of the older family members and their unemployment; and lack of integration of children in the desirable social patterns characteristic of childhood as a period in one's life, and their daily stay (i.e. life) on the street.

REGULATIONS AND INSTITUTIONS

There are no public policy documents in Serbia that put the problem of begging into the focus of its action. Begging can sporadically be found in the Strategy for the Prevention of and Protection of Children from Violence for 2020-2023,⁷ General Protocol for the Protection of Children from Violence⁸, as well as the Strategy for the Prevention and Suppression of Trafficking in Human Beings, Especially Women and Children and the Protection of Victims for 2017-2022, in as much as it is recognised to be a type of violence against a child, i.e. human trafficking. In the former strategy, begging is recognised as a manner of abuse of child labour,⁹ and the document includes the claims relevant for the institutional response to begging, concerning inexistence of records concerning child begging, as well as inconsistency and unreliability of the data pertaining to the cases of child begging in the relevant bodies, institutions and organisations, which additionally complicates and hinders the possibility of undertaking an organised, harmonised and coordinated action on suppressing, preventing and eliminating child begging.¹⁰

Due to insufficiently precise records and monitoring, one cannot obtain data concerning the share of children exposed to begging in the total number of children placed in institutional care, or of the share of children exposed to begging in the total number of children reintegrated into families. No evaluation has been made of the children's attitudes concerning their level of involvement in the decision-making process pertaining to placement in alternative care models.¹¹

In neither regulations nor practice, the children involved in begging have the clearly recognised status of victims of exploitation, violence, abuse and neglect. On the contrary, when they turn 14 they are deemed to be perpetrators of crimes or misdemeanours, and become legitimate targets for the police and communal police, so they are involved in the proceedings where penalties are pronounced against them. The capacities of the bodies and institutions competent for the prevention and suppression of child begging are insufficient, both in terms of material resources and the number of employees. No professional standards exist to determine actions by state authorities and institutions in the cases of child begging. In those cases where some measures are undertaken, these are characterised by poor organisation, lack of systemic efforts and volatility. The results of the measures undertaken are not monitored, or analysed. Where there is any, the data indicate that majority of the children concerning whom legally envisaged measures have been undertaken, due to their involvement in beggary, are returned to the street and they continue with the practice of begging. Criminalising and sanctioning of the children who beg and

⁷ "Official Gazette RS", no. 80/2020

⁸ Government of the Republic of Serbia, 2022.

⁹ See more about locations of begging in the section concerning trafficking in human beings of the Strategy on the Prevention and Suppression of Trafficking in Human Beings, Especially Women and Children and the Protection of Victims for 2017-2022.

¹⁰ Strategy for the Prevention of and Protection of Children from Violence for 2020-2023.

¹¹ Izveštaj o stanju prava deteta u Republici Srbiji 2017-2023 (Report on the Condition of Child Rights in the Republic of Serbia for 2017-2023), Centar za prava deteta, Belgrade, 2023.

their parents have not resulted in a decrease in the number of “street children”, or suppressed the occurrence of child begging. The measures by competent authorities and institutions in reaction to child begging, are not aimed at the causes of begging. Prevention measures – those that are available and may to an extent have impact on the causes of child begging (such as material assistance) – are rarely implemented. Engagement is lacking by local self-government units of providing financial and any other assistance and support, in line with their competences and allocated funds, to bodies, institutions and non-governmental organisations in the activities undertaken in order to suppress and prevent child begging and protect the children involved in begging.¹²

In the General Protocol for the Protection of Children from Violence, it is defined that exploitation of children in begging is one of the worst forms of child labour and exploitation, while it can also represent a form of trafficking in children. Child begging, according to this protocol represents a series of activities in which the child asks for money or other material assets, in a non-refundable manner and without providing counter-services, by eliciting pity through his/her poverty, or quoting health-related, faith-related or some other reasons. If the child is accompanied by a parent, or other adult person who begs, it will be assumed that the child is engaged in begging even when he/she does not do that directly.¹³

The regulations that define begging as an offence action do not provide legal meaning and definition of this term, so application of the right to the cases of begging may substantially differ in line with decision-makers’ interpretation. The existing legal norms do not lead to suppression of begging, including child begging.

The framework for systemic and legislative dealing with begging must perceive the persons who beg, and especially children, primarily as victims, rather than perpetrators.

In a report made by the International Labour Organisation (ILO) begging is defined as “a range of activities whereby an individual asks strangers for money on the basis of being poor or needing charitable donations for health or religious reasons. Beggars may also sell small items, such as dusters or flowers, in return for money that may have little to do with the value of the item for sale.”¹⁴

What is characteristic of penal legislation, both misdemeanour and criminal, is the fact that the regulations do not prohibit anything. Undesirable behaviours, classified as misdemeanours or criminal offences due to the evolution of social norms, are not prohibited as a rule, which may be counterintuitive since one of conventional social perceptions implies that what is not socially acceptable, is actually prohibited. After the long (millennia-long) progress and filtering of practices by individuals and groups (primarily through ethical crystallization of what may, or may not be done),

¹² Strategy for the Prevention of and Protection of Children from Violence for 2020-2023.

¹³ The definition of begging in the General Protocol for the Protection of Children from Violence has been taken from the Draft Regulation on Harmful Child Labour (2021), which had not been adopted at the time of making the General Protocol, or when this analysis was made. See more concerning the Draft Regulation on Harmful Child Labour in the context of child begging in the section entitled “Initiative for Amending the Regulations and Institutional Understanding of Begging”.

¹⁴ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_082030.pdf

society expressed in criminal legislation its values and norms that have actually been changeable in the long run, with the causal relationship: “if you do this, we will penalise you with that”. Thereby, nothing is prohibited by a dictum, while some behaviours, which we take as ready-made facts in our own lives, are “merely” punishable.

Cynicism and Hypocrisy

The one who in begging disturbs tranquillity of citizens or violates public order and peace – shall be punished... - is the beginning of the norm in the Law on Public Order and Peace.¹⁵

Begging in a wider context is nothing more than an aspect of social practices, their fraction which, just like anything else related to sociality, may in a way be connected to culture as a way of life in a society. Anthony Giddens, a British sociologist known for his holistic perspective on modern society, referring to culture and society says: when sociologists talk about culture, they are interested in the learned, rather than inherited aspects of human societies, i.e. the formed common context in which members of a society live their lives. Furthermore, Giddens says that fundamentally important for all cultures are the ideas that determine what is deemed to be important, valuable and desirable – norms as the rules of behaviour that reflect or embody values of a culture.¹⁶

If we read the quote of the norm from the Law on Public Order and Peace in the context of Giddens’ interconnectedness of culture and norms, the way we understand it, and we subsequently turn what we deem to be valuable and desirable into what we perceive as worthless and undesirable – the first insight makes us get the impression that this social rule translated into legislation hides profound structural social inequalities, moral cynicism and social hypocrisy. Why? Because of the selection of the good being protected and, on the other hand, risk factors jeopardising that good, threatened with punishment. “Who in begging disturbs tranquillity of citizens”, says the legislator with the air of authority, and adds: “shall be punished by being deprived of money or personal freedom” (i.e. fee or imprisonment). The good being protected is the **tranquillity of citizens**, of the good people passing in the street, all of them, both those idle and those busily on their way. While this protected social good, the tranquillity of citizens, is at risk and is jeopardised by none other but **the one who is begging**, by this very act of begging. The continuation of this discourse leads to threats of punishment. How shall the one who is begging be punished? By having his money, which he does not have, confiscated. Since why would he be begging in the first place, if he had money? And if he fails to pay the fee for the committed offence, he shall be punished with imprisonment, i.e. he could be deprived of his liberty for up to 30 days.

¹⁵ “The one who in begging disturbs tranquillity of citizens or violates public order and peace it shall be punished with a fee ranging from 5,000 to 10,000 RSD, or by imprisonment of up to 30 days. When the offence from paragraph 1 of this article is committed by a group of three or more persons – it shall be punishable by a fee ranging from 10,000 to 30,000 RSD or imprisonment of up to 30 days.” Article 12, Law on Public Order and Peace (“Official Gazette RS”, no. 6/2016 & 24/2018)

¹⁶ This is an indirect quotation of the ideas presented in “Chapter 2: Culture and Society”, of Sociology by Anthony Giddens. Giddens, Entoni, Sociologija, Ekonomski fakultet Beograd, 2003, pp. 24-5.

Hypocrisy is present in these threats of fees to be paid, since money is sought from one who does not have it, since why would he otherwise be begging, pleading, asking alms, collecting money, usually in small banknotes, the particles that he usually cannot collect enough of in his entire lifetime for an asset of any kind of value (house, apartment, new car).

The moral cynicism also creeps from under the second part of this dichotomous misdemeanour penalty: imprisonment. An ambiguous and in this context highly dubious good (tranquillity of citizens) is protected by violating another good (personal freedom) for a period that may last for up to 30 days. In other words, the tranquillity of an unknown number of people having the collective identity of “citizens” is protected by threatening the freedom, as a value from the top of the pyramid, of a person with a personal identity, a human being who has parents and relatives, name and surname, sense and sensibility, opinions and attitudes, memories, distinct marks and unique expression on his face when the facial muscles contract into a smile... a unique person whose rhythm of life is highly unlikely to wiggle out of the logic of existential deprivation and marginalisation. According to, we must say, the twisted reasoning of the legislator, which is the essence of the widest social understanding of this issue, tranquillity of citizens is a higher good for the protection of which is worth sacrificing a lower good, personal freedom of the person who is begging.

In order to better understand the basis for the tranquillity of citizens and (the lack of) its foundation in human empathy, as well to consider whether citizens’ tranquillity could or even should be protected from begging, we call for reconsideration of the interpretation of rights and suggest a glance at the margins and the depths of the stage upon which begging takes place. First, we will make the unsettling claim that today’s understanding of public order when it comes to begging (using Serbia as an example, though such understanding is much wider), is not much different than that present in 19th century England. Charles Dickens in his novel “Oliver Twist”, about an orphan growing up in the Victorian Age, poverty, hunger and child labour, recounts a destiny which cannot be judged lightly by those who did not themselves grow up in destitution, slums, or among criminals. The relationship between the society and poverty, since at the core of beggary is nothing else than poverty passed on from bread to spirit, can be seen in the following excerpt: “This was a vagrant of sixty-five, who was going to prison for NOT playing the flute; or, in other words, for begging in the streets, and doing nothing for his livelihood. In the next cell was another man, who was going to the same prison for hawking tin saucepans without license; thereby doing something for his living, in defiance of the Stamp-office.”¹⁷

Through ethical inversion, legislator (both Victorian and modern) turns a victim of social inequality into a perpetrator of an offence dangerous enough (according the criteria of that same society) that it affords rightful (!) deprivation of one’s personal liberty. In the legal norm on begging as an offence, we find recidivisms of an archaic interpretation of the right that appears (or has indeed survived) in its rough form and with a cardinal lack of ability to see itself in a way more refined than as a mechanism

¹⁷ “Oliver Twist”, Charles Dickens.

based on restrictions and punishments. Without morality there is no humanity, and without justice, law is but a technical collection of regulations deprived of sense and ethical foundation, which, when put in the context of begging, proves to be rationally incompetent (i.e. irrational) as it perceives begging, which is indeed an indicator of deep structural, historical and social inequalities and of the distortion of equality as a paradigm for accessibility of resources: education, knowledge, competence, culture, upbringing, material resources, equality of the basic principles of distribution of goods, etc. – as the basis for punishment, rather than a cry for help of the person engaged in the activity of begging.

Thomas Piketty in the context he develops as he talks of the deep roots of social inequality on the global and national levels, says that every country, and every inhabitant of the planet should be entitled to a portion of the income made by multinational companies and billionaires, since every human being should be able to realise equal right to at least one's health, education, development...¹⁸ It is well-known that inequality in property is not explained only with inequality in the past and present income that enables such property to be generated, but in its major part with (...) differences in behaviour when it comes to saving and accumulation, and these differences may be explained by income inequalities.¹⁹ In the discourse of economists with social sensibility, such as Piketty, inequality is understood as a consequence of deep and centuries-old differences in the modes of accumulation of resources (capital), domination of property as a golden ticket for the pre-assigned seats on the scale of social benefits, a game of monopoly of the organised power (class, political party, corporation, state) by using different patterns and tools such as colonialism, exploitation, oppression, submission, slavery, feudalism, capital, accumulation of capital, formation of classes, abuse of power, corruption, organised (often by rotten state institutions) robbery of common resources and equally organised crime, the bosses of which (especially in unfinished states and societies with a deficit of liberal parliamentary democracy) are frequently people from the highest positions of government who essentially act as a band of criminals... all the way down to origin, place of birth, education and so on. Here we shall paraphrase one of Piketty's positions on the right/power relation: the set of rights in any socio-historical context facilitates the levels of power and capacities of different actors in a social relationship²⁰; and we will add: also vice versa – capacities of the players in the social game of power are determined by the scope of the "bundle of rights"²¹.

After the context has been widened, in the offence (normative) determination of begging a crack becomes visible, a potential need of a serious review, while the provision of the Law on Public Order and Peace which begins with "The one who in begging disturbs tranquillity of citizens or violates public order and peace – shall be punished..." is read slowly, with effort and can hardly be understood, almost as if being written in a dead language, Latin or Old Slavonic, never mind which.

In other words, stipulating an offence related to begging has long been ready for

¹⁸ "A Brief History of Equality", Thomas Piketty, The Belknap Press of Harvard University Press, 2022

¹⁹ "Ekonomija nejednakosti", Toma Piketi, Karpos, Beograd, 2018.

²⁰ See more in "A Brief History of Equality", Thomas Piketty, The Belknap Press of Harvard University Press, 2022.

²¹ Phrase: "bundle of rights" taken from Piketty.

a sensibly calibrated decriminalisation, which needs to involve identification of the situations which grant exclusion from offence responsibility of the person who is begging, be this a child or an adult. It is an entirely different story when it comes to those who engage in organising beggary, or the activities related to beggary with attributes of a crime.

The Law on Public Order and Peace does not make distinction between begging by an adult and child begging. This law does not contain a definition of begging/beggary, nor any of its provisions allows one to deduce what is considered to be begging.

Initiatives for Amendments of Regulation and Improvement of Institutional Understanding of Begging

As we have already mentioned, prevention, monitoring and suppression of begging are approached in an unsystematic way, while the explanation for such institutional dysfunctionality is almost customary when it comes to the majority of social phenomena (that are complex as a rule and with their different aspects refer to the competences of more than one department): inter-institutional cooperation when it comes to begging leaves much to be desired. Engagement by institutions is mostly parochial, where everyone would say that they can act only within the scope of their competences and authorisations, while simultaneously interpreting these quite narrowly.

Another question involves defining the line that separates child begging and child labour, since there are also those who perceive collecting of secondary raw materials as a type of begging. In the Draft Regulation of Harmful Child Labour (2021)²² begging is defined as “...**a series of activities in which the child asks for money or other material assets, in a non-refundable manner and without providing counter-services, by eliciting pity through his/her poverty, or quoting health-related, or some other reasons.** If the child is accompanied by a parent, or other adult person who begs, it will be assumed that the child is engaged in begging even when he/she does not do that directly.”²³ So, in 2021, the opinion became dominant among the professionals that begging does not include providing counter-services or other material asset, i.e. it differs from abuse of a child in a manner which involves his/her labour.

In what way do centres for social work obtain data on begging? According to the findings from the piece of research titled “Child Begging in Vojvodina”, the most frequent source that indicate to CSWs the concrete problem are citizens, in addition to police administration and other institutions. On the other hand, NGO representatives most frequently get the information about children who are begging from institutions, citizens, media, police, but also from their field work.

²² The draft of this Regulation was developed under the ILO project entitled “Measurement, awareness-raising and policy engagement to accelerate action against child labour and forced labour” in Serbia.

²³ This definition was later integrated in the General Protocol for the Protection of Children from Violence.

The 2015 initiative by the Protector of Citizens for amending the Criminal Code and Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles in order to be harmonised with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and **Convention on the Rights of the Child and Improvement of Children's Position in Criminal Proceedings** of 2015, failed to elicit reaction of the Government, the fact that the Protector of Citizens noted in his reports for 2015, 2016 and 2017. The result was the same with the initiative to amend the Law on Public Order and Peace and decriminalise child begging, as well as to recognise the victim status to such children made that same year, the purpose of which was harmonisation with the same Convention, so it was not taken into account when new Law on Public order and Peace was adopted in 2016.²⁴

When it comes to misdemeanour responsibility of a child for begging, it has not been completely excluded yet, so a younger juvenile (14–16 years old) may be sentenced to a diversion measure, while older juveniles may be sentenced to criminal sanctions. The legislation which regulates records in recognising child begging and child labour, and defines indicators for tracking the phenomenon in order to secure comprehensive monitoring of the cases of child begging is yet to be amended. The Law on Communal Police, adopted in 2019, in its Article 28 stipulates that the competences of communal police concerning children are enforced by the communal policemen (communal militia in Serbian)²⁵ specially trained for working with children. The Protector of Citizens forwarded an opinion on 20 April 2022 to the Ministry of the Interior, suggesting additions and amendments to the Plan of Protection of Street Children in the Republic of Serbia from Violence, Neglect and Exploitation. The Opinion suggests that it is necessary for the Plan of Protection to be amended so that communal police would be designated as one of crucial actors in providing prevention and protection when it comes to street children. The Protector of Citizens states that it is important to define the role of the communal police, along with realisation of obligatory trainings for communal policemen for working with street children. Finally, the Protector of Citizens indicates that communal police needs to be involved in the prevention and protection process concerning these children, since communal policemen are authorised to keep public peace and order, as is stipulated by the Law on Public Order and Peace, while also taking into account that begging represents an offence/violation of the Law.²⁶

It is necessary to improve information and knowledge concerning begging among the professionals who work with children, as well as institutional capacities for the protection of children from abuse through begging.

²⁴ "Pet godina: analiza rada Zaštitnika građana Republike Srbije u periodu 2015-2019. godine" (Five Years: Analysis of the Work by the Protector of Citizens of the Republic of Serbia for 2015-2019), Publisher: Komitet pravnika za ljudska prava - YUCOM Kneza Miloša 4, 11103 Beograd www.yucom.org.rs, November 2019.

²⁵ The terms "militia" and "militiaman" are returned through this law into the social and legal life of Serbia. The terms are familiar from the age of the SFR Yugoslavia in the context of the ideological monopoly of "the people's militia". Additionally, "militia" is a term used for military and paramilitary troops, as well as for armed members of a political movement or party. There are party militias. In the Lebanon Civil War (1975-1990) the country was divided into the territories controlled by Christian, Sunni and Shia militias respectively. In this text, however, the term "communal police" is used, unless in direct reference to the provisions of said law.

²⁶ Izveštaj o stanju prava deteta u Republici Srbiji 2017-2023 (Report on the Condition of Child Rights in the Republic of Serbia for 2017-2023), Centar za prava deteta, Belgrade, 2023.

Child Begging in the Context of Parental Rights and Duties

“In the Third Basic Public Prosecutor’s Office in Belgrade, in the presence of her attorney, D. J. (39), a Montenegrin citizen, was heard, due to the suspicion that she neglected and abused a minor²⁷. She forced her son (10) to engage in work inappropriate for his age, and also to beg. On the territory of Belgrade, late on 8 October (2023 – author’s remark), the police saw an underage boy washing windshields of cars. On that occasion it was determined that he was currently residing in an apartment together with his elder brother, also a juvenile, and that their mother was not in Belgrade. The care of the boys, who had not been enrolled in school, was overtaken by competent workers of the City Centre for Social Work, Department of New Belgrade, while the suspected woman was apprehended. For the criminal offence that the defendant is suspected to have committed, the Criminal Code envisages imprisonment ranging from 3 months to 5 years.”²⁸

Criminal Code of the Republic of Serbia²⁹ especially sanctions criminal offences that in its essence have elements of abuse, maltreatment and exploitation of children, and as a separate form of qualified criminal offence, it stipulates criminal offence committed against a juvenile younger than 14. Such legal verification and sanctioning of certain criminal offences against juveniles, i.e. children, especially those younger than 14, indicates the state’s intention to counter any abuse, maltreatment, neglect and exploitation of minors.³⁰ Article 184, Paragraph 2 of the Criminal Code defines mediation in the prostitution of a minor as the qualifying form of criminal offence. According to Astra, this provision is in contradiction with Paragraph 1 of the same article, as well as Article 388 CC, but also with international standards and documents which for the establishment of the existence of the crime of human trafficking, when the victim is younger than 18, do not require use of an agent to influence the victim’s will, as suggested by Article 184 Paragraph 1 CC (causing or inducing another person to prostitution, by means of media or otherwise promoting or advertising prostitution,)³¹. Neglecting and abusing minor as an act of crime is stipulated in Article 193 of the Criminal Code of Serbia.³²

²⁷ When it comes to the dilemmas concerning identification of a person as a victim of human trafficking, frequently involving deliberation on whether a case involves neglect and abuse of a child, or in fact trafficking in children, see more in the section titled. “Practice of Centres for the Protection of Human Trafficking Victims”.

²⁸ Source:

<https://www.blic.rs/vesti/hronika/uhapsena-drzavljanica-crne-gore-39-zbog-zlostvaljanja-i-zanemarivanja-deteta-preti-joj/8wqszyl>

²⁹ Criminal Code (“Official Gazette RS”, no. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 & 35/2019)

³⁰ Article 184 of the Criminal Code (Mediation in Prostitution) stipulates that whoever causes or induces another person to prostitution or participates in handing over a person to another for the purpose of prostitution, or who by means of media or otherwise promotes or advertises prostitution, shall be punished with imprisonment of six months to five years and a fine, and if the offence is committed against a minor, the offender shall be punished with imprisonment of one to ten years and a fine. Furthermore, Article 185, which sanctions the offence of showing, procuring and possessing pornographic material and minor person pornography, stipulates that whoever sells, shows or publicly displays or otherwise makes available texts, pictures, audio-visual or other items of pornographic content to a minor or shows to a minor a pornographic performance, shall be punished with a fine or imprisonment up to six months, while whoever uses a minor to produce photographs, audio-visual or other items of pornographic content or for a pornographic show, shall be punished with imprisonment of six months to five years. Especially, If the act specified in paragraph 1 and 2 of this Article is committed against child (minor younger than 14), the offender shall be punished for the act specified in paragraph 1 with imprisonment of six months to three years, and for the act specified in paragraph 2 with imprisonment of one to eight years. Also, the same Article stipulates that whoever procures for himself or another and possesses, sells, shows, publicly exhibits or electronically or otherwise makes available pictures, audio-visual or other items of pornographic content resulting from abuse of minor person, shall be punished with imprisonment of three months to three years.

³¹ See more at:

https://astra.rs/page/32/?wordfence_logHuman=1&hid=50826B82320332A5F77F7B7021B4D170&lang=en

³² A parent, adoptive parent, guardian or other person who by gross dereliction of their duty to provide for and bring up a minor

There are reasons for amendments to the Criminal Code, involving clearer definitions of what is deemed neglect and abuse of a child. Furthermore, there are foundations for amending the Criminal Code, in line with the UN Convention on the Rights of the Child and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, the recommendations of the UN Committee on the Rights of the Child, as well as on the basis of judicial practice analysis which has been carried out by Astra since 2011, in order to improve the position of the victims of trafficking in persons and related criminal offences – mediation in prostitution and trafficking in minors for adoption.

In 2022, centre for social work initiated 554 proceedings before courts concerning the rights and duties contained in the parental right. The number of proceedings in 2022 decreased by 14.4% when compared to 2021. Among the proceedings, the most numerous are those for deprivation of parental right with 50.2%, which is a trend that has been present for five years. Initiating criminal proceedings in the cases of lapses in exercising parental rights (*we suppose that this refers to neglect and abuse of minor as the criminal offence from Article 193 CC – author’s remark*) have been represented in the CSWs’ practice with 62 (2018), 43 (2019), 50 (2020), 48 (2021) and 47 cases (2022).³³ In the report by the Republic Institute for Social Protection, one cannot see the reasons for initiation of the criminal proceedings, i.e. one cannot know whether the practice of CSWs involved cases of abuse and neglect of minors which involved child begging.

The Family Act stipulates preventive and corrective supervision over the exercise of parental right, while guardianship authority (centre for social work) is authorised to make decisions in the cases where intervention concerning the exercise of parental right is assessed to be purposeful.³⁴

In 2022, the total of 804 decisions was adopted concerning the measures of preventive supervision, as well as 445 decisions on the measures of corrective supervision. When compared to the previous year, the increase of 19.8% is identified when it comes to the measures of preventive supervision. The number of decisions on the measures of corrective supervision increased by 4.2% in 2022. Observed in the context of the five-year period, the number of measures of preventive supervision decreased by 13.1%, while the number of decisions on corrective supervision decreased by 26%.³⁵

neglects a minor they are obliged to take care of, shall be punished with imprisonment of up to three years. A parent, adoptive parent, guardian or other person who abuses a minor or forces him to excessive labour or labour not commensurate with his age, or to mendacity, or for gain induces him to engage in other activities detrimental to his development, shall be punished with imprisonment of three months to five years.

³³ Source: Report on Operation of Centres for Social Work for 2022, Republic Institute for Social Protection, Belgrade, June 2023: <http://www.zavodsz.gov.rs/media/2572/izvestaj-o-rad-u-csr-u-2022-godini.pdf>

³⁴ According to Article 79 of the Family Act: “Preventive supervision over the exercise of parental right shall be performed by the guardianship authority when it passes decisions enabling the parents to exercise parental right, which have been placed in its competence by virtue of this Act”; while according to Article 80 of the same act: “Corrective supervision over the exercise of parental right shall be performed by the guardianship authority when it passes decisions correcting the parents in exercise of parental right. In performing corrective supervision the guardianship authority shall pass decision by which it: 1. warns parents of deficiencies in exercise of parental right; 2. refers parents to consultative conversation in institution specialised in mediation in family relations; 3. requests that parents submit account on managing child’s property. In performing corrective supervision, guardianship authority also initiates court proceedings in accordance with law.”

³⁵ Source: Report on Operation of Centres for Social Work for 2022, Republic Institute for Social Protection, Belgrade, June 2023: <http://www.zavodsz.gov.rs/media/2572/izvestaj-o-rad-u-csr-u-2022-godini.pdf>

In 2021, the total of 673 decisions was adopted on the measures of preventive supervision, as well as 427 decisions on the measures of corrective supervision. Implementation of preventive supervision has been in constant decline, and in 2021, the decrease was recorded of 32.2% when compared to 2017. The number of the measures of corrective supervision in 2021 was lower by 15.8% than in 2017.³⁶

In 2021, when compared to 2020, the total number of the measures of supervision over the exercise of parental right was lower by 13.1%, and when it comes to the types of supervision – the decrease of 23.5% was recorded for preventive supervision, while the number of measures of corrective supervision increased by 10.6%. When the five-year period is observed, there was the decrease of 32.2% when it comes to the measures of preventive supervision, and 15.8% when it comes to the measures of corrective supervision. Also, in 2021, centres for social work adopted 427 measures of corrective supervision over the exercise of parental rights for the total of 617 children, which is 8.1% children more than in 2020. When it comes to the type of corrective supervision, when compared to 2020, the most striking was the increase of 80.2% in the number of parents requested to submit account on managing the child's property. When compared to 2017, two measures of corrective supervision were on a decline: referring parents to consultative conversation in institution specialised in mediation in family relations fell by 49.5% and warning parents of deficiencies in exercise of parental right fell by 26.4%, while the number of requests for parents to submit account on managing the child's property increased by 154.8%.³⁷

In the data of the Republic Institute for Social Protection, one cannot see the reasons for imposing the measures of supervision over the exercise of parental right (preventive and corrective), so it cannot be established whether inadequacies in exercising parental right involved child begging. What we suggest here is our impression, rather than a claim (since to the best of the author's knowledge, there is no relevant research or analysis which deals with the practice of implementation of corrective supervision over the exercise of parental right) that there is no consistent practice by CSWs in implementing planned, continuous, purposeful and evaluated measures of corrective supervision over the exercise of parental right, so that a meaningful relationship is established with the parents for the duration of the measure, which would in turn have capacity to lead to the guided and desired changes in the parents' exercise of parental right. In a substantial number of cases, the final measure of the corrective supervision is adoption of the decision, with no further work with the parents that would facilitate fulfilment of the purpose of the supervision. As an illustration that possibly confirms validity of these claims we provide a recommendation by the Protector of Citizens³⁸, in which it is established that there were omissions in the work of the CSW of Zrenjanin harmful for the rights and interests of children B. and V. A. The omissions involved not undertaking, in a longer period of time, measures and activities within the purview of the guardianship authority, followed by significant delays in implementation of the selected measures and standards of professional work with the aim of protecting the rights and interests of the children and respecting their best interest. The Protector

³⁶ Source: Report on Operation of Centres for Social Work for 2021, Republic Institute for Social Protection, Belgrade, June 2022: <http://www.zavodsz.gov.rs/media/2354/izvestaj-csr.pdf>

³⁷ Source: Children in the Social Protection System in 2021, Republic Institute for Social Protection, Belgrade, June 2022: <http://www.zavodsz.gov.rs/media/2356/deca-u-sistemu-socijalne-zastite-u-2021docx.pdf>

³⁸ Recommendation of the Protector of Citizens, no. 15938 of 12 August 2011.

of Citizens says that it is necessary for the CSW in Zrenjanin to make without delay the Plan of Services and Measures in order to supervise the manner in which the parents A. execute the measures indicated in the decision on corrective supervision, that would necessarily include: activities by the guardianship authority to check the manner in which parents implement the corrective measures; assigning professional workers who would implement the activities from the Plan of Services and Measures; timeframe for the Plan of Services and Measures, not shorter than that envisaged for the measures of corrective supervision; deadlines for realisation of individual activities by professional workers.

Guardianship authority – centre for social work may file an action for deprivation of parental right (Article 264 Paragraph 2 of the Family Act).³⁹ According to the claims by the Republic Institute for Social Protection, proposals for deprivation of parental rights (*it is unclear why the term “proposals” is used where the Family Act refers to actions – author’s remark*) have been continuously the most numerous among the proceedings initiated by CSWs before courts concerning the rights and duties contained in the parental right; when compared to the total number of the proceedings initiated in 2022, the share of proposals for deprivation of parental right was 50.2%.⁴⁰ In the report by the Republic Institute for Social Protection one cannot see whether there was a relation between abuse of parental right, gross neglect of parental right, i.e. unconscientious exercise of the rights or duties contained in the parental right which involved child begging on the one hand, and initiation of the court proceedings on the other.

The manner in which records are kept in CSWs does not facilitate clearer insights into their practice of using legal instruments (supervision over the exercise of parental right, initiation of civil proceedings for deprivation of parental rights, initiation of criminal proceedings for neglect and abuse of minors, etc.) in the cases that involve child begging. In order for this practice to become visible and measurable, with the aim of creating public policies pertaining to prevention and support to children and their families in relation to begging, the system of keeping records needs to be improved.

³⁹ According to Article 81 of the Family Act: “A parent who abuses his/her rights or grossly neglects duties that comprise a part of his/her parental rights may be fully deprived of parental rights. A parent abuses rights that comprise a part of parental rights: 1. if he/she physically, sexually or emotionally abuses the child; 2. if he/she exploits the child by forcing him/her to excessive labour, or to labour that endangers the moral, health or education of the child, or to labour that is prohibited by law; 3. if he/she instigates the child to commit criminal acts; 4. if he/she accustoms the child to indulge in bad habits; 5. if he/she in any other way abuses rights that comprise a part of parental rights. A parent grossly neglects duties that comprise a part of parental rights: 1. if he/she abandons the child; 2. if he/she does not at all take care of the child he/she lives with; 3. if he/she avoids to support the child or to maintain personal relations with the child he/she does not live with, or impedes the maintaining of personal relations of the child with the parent the child does not live with; 4. if he/she intentionally and unduly avoids to create conditions for cohabitation with the child who is living in a social service institution for user accommodation; 5. if he/she in any other way grossly neglects duties that comprise a part of parental rights. A court decision on full deprivation of parental rights deprives the parent of all rights and duties that comprise parental rights, except the duty of supporting the child. A court decision on full deprivation of parental rights may prescribe one or more measures for protecting the child from domestic violence.” According Article 82 of the same law: A parent who exercises the rights or duties that comprise a part of his/her parental rights unconscionably may be partially deprived of parental rights. A court decision on partial deprivation of parental rights may deprive the parent of one or more rights and duties that comprise parental rights, except the duty of supporting the child. A parent who exercises parental rights may be deprived of the rights and duties of protecting, raising, upbringing, educating and representing the child, as well as of managing and disposing of the child’s property. A parent who does not exercise parental rights may be deprived of the right to maintain personal relations with the child and of the right to decide on issues that significantly influence the child’s life. The court decision on partial deprivation of parental rights may prescribe one or more measures for protecting the child from domestic violence.”

⁴⁰ Source: Report on Operation of Centres for Social Work for 2022, Republic Institute for Social Protection, Belgrade, June 2023: <http://www.zavodsz.gov.rs/media/2572/izvestaj-o-rad-u-csr-u-2022-godini.pdf>

Trafficking in Human Beings

Trafficking in human beings as a social, criminal and legal phenomenon implies an obligation of undertaking prevention measures, the measures necessary for establishing adequate mechanisms for early-identification, assistance and support to victims, as well as the obligation of criminally persecuting the perpetrators. These tasks may be realised exclusively through cooperation of state authorities, public services and civil society organisations. So, suppression of human trafficking involves effective criminal persecution of perpetrators, but also development of different and adequate types of assistance to victims, for the purpose of their rehabilitation and (re)integration.

The causes of trafficking in human beings may be various and we can consider them, at least, from the following perspectives: economic, political, criminal, social. In the context of economy, the causes of trafficking in human beings lie in the supply and demand⁴¹. The very term of “trafficking in human beings”, or in Serbian roughly translated as “trade in humans”, highlights the economic logic of the phenomenon, inherent to trafficking as such. Trade is an economic response (supply) to the needs of the market (demand). It is another thing that this economy is illegal and represents violation of human rights, as it constitutes a grave and complex crime. The social dimension of trafficking in human beings partly lies in the fact that it can also constitute a complex transnational social phenomenon, but first and foremost in its frequent correspondence to poverty as a socio-economic phenomenon primarily in national communities. The central element of human trafficking is exploitation – an economic phenomenon with criminal attributes. Finally, trafficking in human beings is a phenomenon largely initiated by political situation – war, when we perceive it as politics through different means (arms). It is a commonplace that trafficking in human beings is a supranational phenomenon, since it is largely operated on the supranational level, while global and regional events cause consequences of wars to move beyond the borders within which the wars take place. The present refugee crisis as a global phenomenon has been caused by wars, primarily those in Syria and Iraq, but also by the armed conflicts in North and Sub-Saharan Africa.

Trafficking in human beings is a drastic, often brutal violation of the victim’s human rights, while simultaneously being a phenomenon which is not that easily identifiable. Concerning trafficking in human beings, on national and international levels, state institutions, international organisations, i.e. organisations authorised to identify and protect human trafficking victims, as well as civil society organisations secure data that not only represent foundation for examining the characteristics of human trafficking, but also indicate the level of development of the mechanism for identification, and capability of the system to recognise and react to different forms of recruitment and exploitation within human trafficking.⁴²

⁴¹ See more in: “Prevenција trgovine ljudima” (Prevention of Human Trafficking), Doležal Dalibor, 2007

⁴² Unpublished paper by Mirko Vrećo, who was in the last decade, for a couple of years employed in the Centre for Human Trafficking Victims’ Protection, Belgrade.

In order to secure reaction of the criminal law system, the **Criminal Code** defines a separate criminal offence of Trafficking in Human Beings⁴³, in a manner which is rather consistent with the definition contained in the so-called Palermo Protocol⁴⁴.

The protection of human trafficking victims in Serbia has institutional and procedural organisation⁴⁵. When we say institutions, we primarily refer to state authorities and bodies, as well as public services.

Centre for Human Trafficking Victims' Protection in Belgrade was founded with the purpose of improving the protection of human trafficking victims. The protection of human trafficking victims realised through functioning of this institution results in separating support to victims from sanctioning of the crime, but also in establishing a functional link between the system of social protection, Ministry of the Interior and judicial authorities. The Centre's activity includes identification and recognition of victim status, as well as comprehensive coordination of activities by all actors on the national and local level, and performing activities that concern the protection of human trafficking victims' rights and interests. This institution has two operative organisational units: Service for Coordination of the Protection of Human Trafficking Victims and Shelter for Human Trafficking Victims.

⁴³ Article 388 of the Criminal Code stipulates that: "Whoever by force or threat, deception or maintaining deception, abuse of authority, trust, dependency relationship, difficult circumstances of another, retaining identity papers or by giving or accepting money or other benefit, recruits, transports, transfers, sells, buys, acts as intermediary in sale, hides or holds another person with intent to exploit such person's labour, forced labour, commission of offences, prostitution, mendacity, pornography, removal of organs or body parts or service in armed conflicts, shall be punished with imprisonment of three to twelve years. When the offence specified in paragraph 1 of this Article is committed against a minor, the offender shall be punished by the penalty prescribed for that offence even if there was no use of force, threat or any of the other mentioned methods of perpetration. If the offence specified in paragraph 1 of this Article is committed against a minor, the offender shall be punished with imprisonment of minimum five years. If the offence specified in paragraphs 1 and 2 of this Article resulted in grave bodily injury of a person, the offender shall be punished with imprisonment of five to fifteen years, and if a grave bodily injury of a minor had resulted from the offence referred to in paragraph 3 of this Article, the perpetrator shall be punished with imprisonment of at least five years. If the offence specified in paragraphs 1 and 3 of this Article resulted in death of one or more persons, the offender shall be punished with imprisonment of minimum ten years. Whoever habitually engages in offences specified in paragraphs 1 and 3 of this Article or if the offence is committed by a group, shall be punished with imprisonment of minimum five years. If the offence specified in paragraphs 1 to 3 of this Article, is committed by an organized group, the offender shall be punished with imprisonment of minimum ten years. Whoever knows or should know that the person is a victim of trafficking, and abuse its position or allow to another to abuse its position for the exploitation envisaged in paragraph 1 this Article, shall be punished with imprisonment of six months to five years. If the offence specified in paragraph 8 of this Article is committed against a person for whom an offender knew or could have known to be a minor, the offender shall be punished with imprisonment of one to eight years. Endorsement of persons to exploitation or establishing slavery or similar relation to it specified in paragraph 1 this Article, shall not affect the existence of crime specified in paragraphs 1, 2 and 6 of this Article."

⁴⁴ "Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime"; Palermo, 12-15 December 2000; "International Treaties", no. 6/2001 - this protocol supplements the United Nations Convention against Transnational Organized Crime. The purpose of this protocol is to prevent and combat trafficking in human beings, dedicating special attention to women and children; protect and assist the victims of such trafficking, with full respect to their human rights; as well as to develop cooperation between state parties in order to realise these goals.

⁴⁵ Strategy for the Prevention and Suppression of Trafficking in Human Beings, Especially Women and Children and the Protection of Victims for 2017-2022 ("Official Gazette RS", no. 77/2017) was the second strategic document that the Government adopted to address the problem of human trafficking. It contains goals, measures and activities with the purpose of a timely and comprehensive response to the problem of trafficking in human beings. The strategic goals are to be realised through activities by state institutions, non-governmental and international organisations. The Strategy represents a national public policy document for combating trafficking in human beings and it is founded on the respect for the human rights of the victims. Additionally adopted is the Special protocol on acting of the judicial bodies in protection of victims of human trafficking in the Republic of Serbia (source: https://arhiva.mpravde.gov.rs/images/POSEBNI_PROTOKOL_eng.pdf). The Government founded the Council for Combating Human Trafficking, an expert counselling body for coordination of national and international activities in combating trafficking in human beings. Centres for social work in line with their competences, are obliged to get involved in a great number of cases (minor victims, victims at social risk, victims that need to have measures of guardianship implemented, etc.). In a wider sense, we also assume civil society organisations to be institutions of the prevention of and protection of the victims of human trafficking, since: a functional community does not require only state institutions, but also functional social institutions, both formal and informal, stemming from cultural premises, tradition and the manner of social organisation, having the aim to respond to the challenges and needs of the communities and their members; civil society organisations are a de facto, and largely also de jure part of the mechanism for combating trafficking in human beings; social development is impossible without autonomous decentralised actions, stemming from personal and common ideas, associations and efforts. Associations (NGOs) offer their resources in combating human trafficking, while specialised non-governmental and international organisations have an important role in the protection of human trafficking victims on the operational level. The role of these organisations contribute to diversification of the mechanisms of protecting human trafficking victims.

Begging can be one of the worst forms of child labour. Begging can also be an element of the criminal offence of trafficking in human beings, as well as the manner, or purpose of exploitations of this criminal offence's victims.

PRACTICE

Begging and Social Protection

The aims of social protection are defined in the Law on Social Protection⁴⁶. They concern attaining and maintaining minimal material security and independence of individuals and families in satisfying their life needs; securing availability of services and realising rights in social protection; creating equal opportunities for independent living and stimulating social inclusion... etc.⁴⁷ The law stipulates that the aims of social protection are realised through the provision of social protection services and other activities that prevent, decrease and remove the dependence of individuals and families on social services.

A deeper foundation of thus defined aims of social protection is contained in the premise that we treat a person, especially the one deprived of some existential good, with utmost responsibility. Legislation (including this social care law) can in this context be perceived as a system of protection: **it protects people from people, but also people from institutions**. Possible problems in relation to the second part of the protective function of law (protecting people from institutions) lies in the fact that this is also delegated to institutions. When they assume the patterns of actions not in the essence of the idea with which they were founded (by enforcing law, to protect people from people and people from institutions), the institutions stop performing their function in a manner which justifies their existence, and their protective essence in this perverse dialectics transforms into protection of the powerful! In the game of carelessness, everyone who expects protection from the law (and institutions), is sooner or later betrayed. Unprotected. Erosion of the protective role of the law and institutions, when it occurs, is unavoidably also reflected in social protection and leads us to the subject of our interest – begging and persons who beg.

Let us first present the data received from the Republic Institute for Social Protection in Belgrade, collected by this institution from centres for social work during the process of making a report on abuse of child labour. The data concern the victims of abuse of child labour (working on the street), with an emphasis on begging.

In the period from 1 July to 31 December 2020, the total of **9 victims of the abuse of child labour** were identified, 7 boys and 2 girls. Bearing in mind the quite small number of the identified children, one can conclude that centres for social work do not dedicate enough attention to this problem. Children younger than 15 worked at roadways. **It can be justifiably assumed that a part of these children, the youngest of them, were abused in begging.**

In the period from 1 January to 31 December 2021, the data on the victims of the

⁴⁶ Law on Social Protection, "Official Gazette RS", no. 24/2011 & 117/2022 - decision CC

⁴⁷ See more in Article 3, Law on Social Protection.

abuse of child labour working on the street were demanded for the first time from centres for social work. **Out of 39 victims identified in total, 35 children engaged in begging.** Among the children working on the streets, there were no children singing or playing instruments in public places, or in public transport, though we witness daily that children are also used in this way to earn money. All the identified children or their families, had already been known to the CSW, which indicates that child begging represented a problem associated with some other issue, or multiple issues which had already caused the child or his/her family to be using CSW services.⁴⁸ Essentially, poverty was present in each concrete case. The data indicate that there is a possibility that CSWs fail to timely perceive the risks of child labour exploitation, which would enable more efficient counselling work with the family, as well as implementation of less complex interventions subsequently.

In the period between 1 January and 31 December 2022, **out of the total of 16 victims of child labour abuse, 13 children were engaged in begging,** where one of these children was also caught in a theft, one sang in the street, and one was caught in prostitution.

Already at the first sight, the impression is that the absolute numbers are extremely low, which makes these data suspicious. The data are actually not realistic, since life experience of any of us is sufficient to justifiably claim that it is not possible that e.g. only thirteen children in Serbia engaged in begging during 2022.

According to what we learned in informal conversations with social protection professionals, centres for social work do not present the cases of begging, since they do not know what to do with these people. It is not that CSW employees do not know personally what needs to be done with persons engaged in begging, but rather these institutions and the entire social protection system as a structure for the protection of socially vulnerable – do not know what to do. Why? Because there are no services, support, protection measures... anything consistent and effective that CSWs or other social protection organisations may offer to the persons who beg, either children or adults. According to the claims in publication “Dostupnost usluga i mera podrške za decu romske nacionalnosti na lokalnom nivou” (Availability of Support Services and Measures for Roma Children on the Local Level), in 115 centres for social work, internal expert teams were formed, and they work daily on caring for and protecting the children who live and work on the streets⁴⁹. At the time of this analysis’ development, there were no data available concerning potential evaluation of the functioning, effectiveness and results of the aforementioned internal CSW teams.

The existing set of services contained in the Law on Social Protection is not adequate, while the legal measures concerning family and guardianship protection (supervision

⁴⁸ Out of this number of identified children, 36 were beneficiaries of some kind of material assistance realised via CSW, three children were recorded domestic violence victims, seven were perpetrators of a criminal offence, eleven were in the CSW records due to vagrancy, nine due to begging, while eight were reported to CSW by schools, due to their failure to attend classes.

⁴⁹ See more in publication “Dostupnost usluga i mera podrške za decu romske nacionalnosti na lokalnom nivou” (Availability of Support Services and Measures for Roma Children on the Local Level), Jelena Marković, Tim za socijalno uključivanje i smanjenje siromaštva Vlade Republike Srbije, Belgrade, March 2020: https://socijalnoukljucivanje.gov.rs/wp-content/uploads/2020/04/Dostupnost_usluga_i_mera_podrske_za_decu_romske_nacionalnosti_na_lokalnom_nivou.pdf

over the exercise of parental right, deprivation of parental right, guardianship) are usually lacking and faulty.

Between 2013 and 2017, the service of **family outreach worker** was developed and piloted⁵⁰. The service is intended for families with children, who have numerous and complex needs, where the risk of child displacement is present, or may potentially appear, as well as for the families where the return of the child is planned after the measures of displacement. The draft standards for the service had been developed, while a document concerning this was sent to the Ministry for the formal standardisation of the service and its introduction into the system. From that point until now, family outreach worker has not become a social protection service. It is unknown for what reasons the competent ministry has not made an effort to formally standardise the service and make it available for the families and children needing it. According to social protection professionals, the service would be adequate for both socially deprived and dysfunctional families with children, where children engage in begging as a survival strategy. We do not claim that the service of family outreach worker would solve the problem of child begging, as such an expectation would simply not be realistic, but it could certainly be offered as a support service to the families and children who beg, and would be a worthy addition to the range of services and improve the functioning of the social protection system.

The example of the inexistence of an adequate offer of services within the social protection system to the persons who beg, either adult or children, as well as institutional indifference towards introduction of the new service with a potential to improve the contents of work with victims of begging, reflects the present (decades-long) attitude of social protection institutions (primarily the competent ministries⁵¹) towards their own sensible role of protecting people from institutions. Here one primarily recognises the need of protecting people from dysfunctional and disinterested institutions which do not seek answers to the obvious needs of individuals and groups, or social problems, but are rather abused.

The institutional erosion has its own wider reasons and deeper causes. It can rightfully be assumed (or claimed) that, as well as in other aspects of Serbian public sphere, the institutions in social protection that need to enforce laws in the public interest, change their role and become protection of the powerful, i.e. ruling political parties. They largely apply themselves to this task, instead of helping the individuals and families that necessitate social assistance and support.

According to the findings of the research made by CRTA, instead of being directed to what the institutions were founded for, significant resources (financial, technical, human, professional, organisational, etc.) have been directed to something entirely different. Clientelism has not been avoided even those fields that initially appear to be less lucrative for political parties, like the social protection system. In spite of the scarce resources that social protection has at its disposal, political parties

⁵⁰ The service of Family Outreach Worker was designed and piloted upon an initiative by UNICEF and Ministry of Labour, Employment, Veteran and Social Affairs, with the support by the Novak Djokovic Foundation and European Union.

⁵¹ We can identify two competent ministries: Ministry of Labour, Employment, Veteran and Social Affairs and Ministry for Family Care and Demography - they both have their own part of responsibility when it comes to protecting primarily the children forced to engage in begging.

manage nevertheless to find their interests there. By extorting and “buying” the votes of the most existentially vulnerable citizens, the political parties abuse the situation where half a million of Serbian citizens live in absolute poverty. Facing for years the lack of professional staff, poor work conditions, excessive burden of cases, bad infrastructure and other signs of institutional weakness, centres for social work became a fertile ground for the establishment of clientelistic relations. For political parties, CSWs are important primarily as a link with the voters that are relatively easy to bribe and blackmail. The CRTA research identified that the networks of clientelism in CSWs function with a hierarchical model of relations, where a couple of crucial actors have specific roles. CSW Director as the main link between the party and the institution, develops his/her own clientelistic network, applies pressure on the employees and facilitates abuse of public resources. Professional workers and other employees of the CSWs are used in multiple ways – as “safe votes”, party activists, persons who directly exert pressure on beneficiaries and “donors” who give a part of their salary to the party. The CRTA research has shown that **at the end of this chain are socially vulnerable citizens**, where ruthless party networks blackmail the most vulnerable citizens, conditioning the reception of social assistance with some party engagement, voting or party activism, return of a part of the social assistance to the party, etc.⁵²

The narrative of the described abuses is clarified by the following remark addressed by Montesquieu to Machiavelli: “You leave no place in your politics for morals, religion, or justice. You have on your lips but two words: force and cunning.”⁵³

In such a deviant landscape, begging is not a social phenomenon with deep roots and intricate structure, which humiliates people and requires social and institutional response. No. The partocracy practice suggests quite the opposite: poverty (material and spiritual) is the fuel for political manipulations, while begging is a desirable pattern of submissiveness. This correlates with the following postulates: 1) a number of citizens who are, according to positive legislation, entitled to certain social protection rights, can exercise these rights only conditionally, in case they fulfil the paralegal criteria established by the powerful party structures; 2) legal security disappears, while loyalty appears as the precondition for realisation of rights and protection; 3) in communication with an institution, attributes of citizen (freedom, personal integrity, dignity, status and benefits founded on rights and law, etc.) cave in before the attributes of subject (condescension, mimicry, conformism, etc.) so as to facilitate acquiring of minor goods and services, or protecting oneself from losing them; 4) applications and demands to institutions based on legal norms cease to be effective, while communication with those on the positions of power is in the short term more effective if it involves ontological pleading. The CRTA findings indicate that the *modus operandi* of social protection as a segment of social policy, deteriorates into a primitive mechanism of pragmatic government unfounded in responsibility or morality. This mechanism treats the beneficiaries of social protection, and especially the poorest and the powerless, as its subjects, while subject, if we speak figuratively, is but another word for beggar. Subject has exchanged his/her right for someone

⁵² Source: CRTA web portal. See more in: “Network of political pressures in Social Welfare Centers”, Marija Stefanović and Danilo Vuković, CRTA, 2023: <https://crt.rs/wp-content/uploads/2023/12/Network-of-political-pressures-SWC.pdf>

⁵³ The Dialogue in Hell Between Machiavelli and Montesquieu, Maurice Joly.

else's mercy. From the point of view of the powerful, it would be best (if possible) for all the citizens that counterrevolution turned into subjects, to finally become beggars – having no rights and being forced to plead with their master for everything, just like beggars soliciting alms.

A rhetorical question at the end of this section is: In such a political and social atmosphere, can we even hope for a systemic improvement of the social mechanisms of support to the victims of poverty and forced begging?

Begging from the CSOs' Perspective

Centre for Youth Integration (hereinafter: CYI) is a non-governmental organisation which works with children involved in living or working on the street and children in risk of becoming street children. The service that this NGO is known for, **Children's Shelter**, is standardised, while the CYI is its licensed provider. The Shelter has the aim to improve the quality of life for the children who live and work on the street, and its beneficiaries are children 5 to 15 years old, exposed to multiple risks due to their lifestyle.

Advocates for the position that deeper reasons for children's living and working on the street should not be sought in their families, but rather in the structural conditions created by the society.

Of course, the CYI practice indicates that there are families, i.e. parents who fail to enrol their children in formal education, but rather expose them to labour exploitation and begging. Frequently, it is a case of transgenerational transfer of behaviour: parents are collecting secondary raw materials, just like their parents did before them, so they make their children do the same; parents beg, just like their parents used to do, so they expect the same from their children... and so on. Adult family members often do not perceive such behaviour as problematic in any way, nor do they see anything wrong with it. Also, the adult members of these families, according to the CYI activists' experience, authentically fail to understand the terms such as “forced begging” and “trafficking in human beings”; for them, these are but hardly intelligible abstractions, yet this elusiveness does not come from their cognitive weakness, but rather their existential circumstances.

Adopted long-term patterns simply resist to change, and they are replicable because the structure (social, economic, educational, competence) that conditions their living practices have not changed either in the long run. Such behaviours are not a manifestation of a culture of living, but rather a survival strategy based on recognising (imposed) external obstacles and opportunities, as well as using thereof along with the long and well known methods. Consequently, this implies narrowness of the scope of possibility and limited choices: if they were competent for something else, they would not be collecting rubbish but rather be doing “something else”; if they had sufficient income, they would not be begging, either them or their children. This couple of links from the chain of causality suggest two key words: “education” and “employment”. Deficit of these elements of personal resistance to poverty has an important place

in conditioning unequal earnings and lifelong deprivation. Thomas Piketty says that inequality of human capital mechanically measures the irreparable and unparalleled inequality of human beings and may justify significant inequality of life circumstances inherent to unequal earnings, while the theory of education and origin of inequality of human capital leads to rejecting any form of ambitious state intervention.⁵⁴

In such a reality, begging has qualified for normalisation; and according to the CYI insights, it has indeed been normalised in a number of families from which around 400 of their beneficiaries come from, if frequency and prevalence, i.e. presence of the practice in the concrete community are taken as the normalisation criteria. Bearing in mind the obvious needs, either centres for social work or other state and public services provide by no means sufficient support⁵⁵ to these people to allow them to break the vicious circle of poverty.

The following statements are based on impressions of the CYI associates as they worked with children involved in living and working on the street and their families, and should be in no way understood as claims: begging occurs as a series of individualised actions; when it comes to child begging, it is mainly organised within the families that the children belong to; it rarely happens that begging is organised by a third party “from outside”; when organised begging occurs, the group is usually organised by dominant peers (“kids from the hood”), while it also happens, though quite rarely, that in addition to begging, such organisation is also aimed at theft and other acts of crime; what has also been noticed is begging as a consequence of bad choices: a juvenile had a job, but he gambled, became indebted, so he engages in begging and petty crime to return his debts.

The Vicious Circle of Structural Discrimination

“Employment and education are social activities where Roma most often face discrimination. These findings are confirmed by empirical data from the study Social Distance of Ethnic Communities in Serbia, conducted in 2020 by the Institute of Social Sciences and the Ethnicity Research Centre. The findings of this research show that discrimination on the basis of ethnicity is faced by members of all ethnic communities, including the majority, but most often by Roma. Sixty-six percent of Roma have experienced this form of discrimination more than 10 times over the course of their lives, whereas another 15.1% of Roma have experienced it up to 10 times. Although they don’t report discrimination, it still triggers a range of emotions in them – fear, anger, indifference, shame. **Roma respond to discrimination by socially distancing themselves from members of other ethnic groups** (*bold. Auth.*), as indicated by the findings of the research mentioned above.”⁵⁶

⁵⁴ “Ekonomija nejednakosti”, Toma Piketi, Karpos, Beograd, 2018.

⁵⁵ “Provide by no means sufficient support ”, should be understood as a more polite understatement for “they do not provide any support”.

⁵⁶ See more in the report Roma in the Republic of Serbia, Goran Bašić, Minority Rights Group Europe (MRGE), March 2021. According to the Report, the interviewees point to segregation of children, especially in preschool institutions and elementary schools. In certain places (Leskovac, Niš, Belgrade, Bujanovac), parents of children of non-Roma nationalities avoid enrolling their children in elementary schools located in the vicinity of neighbourhoods with a large number of Roma residents and attended by children of Roma nationality. The interviewees also pointed to spatial segregation of Roma settlements as a form of discrimination, followed by the discrimination within the health care and social protection system and, finally in the treatment of Roma by local authorities, the police, and courts.

Goran Bašić's Report on Roma in Serbia legitimises the notion that, to a significant extent, the deficit of key assets, namely education and employment of Roma in Serbia, is a consequence of structural discrimination faced by members of that ethnic group. Discrimination is a prominent cause of limited choices (e.g., collecting secondary raw materials and begging) and a narrow range of opportunities.

In the ill-intentioned existential milieu, attending school is not appealing for the following reasons: 1) education is a long-term investment and warrants daily provision of various assets necessary in meeting the most fundamental needs from the Maslow's hierarchy (food, clothes, footwear, heating, etc.); 2) a significant number of Roma families cannot secure these fundamental assets to their family members, and therefore to their children, the way families not living on the margins of society, where a significant number of Roma live, can; 3) systemic affirmative action aimed at the members of this ethnic community is far from efficient; 4) the collector economy⁵⁷ – which dominates the livelihoods of families living on the margins of society, Roma families included – is actually a poor man's business, where effectiveness is based on high volume, intense time consumption, and number of hands, and whose underlying logic of microeconomics is more likely to recruit children for collecting and begging than for school; 5) children often face discrimination in school, further deterring both children and their parents from schooling.

Examples of Judicial Practice Involving Begging in Serbia

On 12 October 2022, during a court proceeding against a female defendant (born in 1980)⁵⁸, the Misdemeanour Court in Novi Pazar found the defendant (a jobless woman in a difficult financial situation, married, a mother of five children living in Novi Pazar without previous sentences for misdemeanours) guilty of violating Article 12 Paragraph 1 of the Law on Public Order and Peace on 3 March 2022 for soliciting money from her fellow citizens, i.e. begging, and endangering their tranquillity. According to the judgement, the police officers found the money given to her by the citizens – a total of 1,300 RSD in various banknotes – while undertaking the police action. They confiscated the money and gave her the certificate of temporarily seized items. The defendant was **reprimanded** by the Court. The rationale of the decision said the defendant committed a misdemeanour: "... out of wilful negligence, being aware that a prohibited consequence may arise from her inaction, but carelessly maintained that it would not occur." The Court listed a series of extenuating circumstances in favour of the defendant, including: having committed a misdemeanour out of wilful negligence; having shown honest remorse for committing the misdemeanour; being a mother of five; being poor; both she and her husband being jobless and the husband being a recipient of social assistance; not having any other source of family income, and, finally, not having a record of being sentenced for misdemeanours concerning public order and peace in the previous two years. The Court found that

⁵⁷ The collector economy means, for instance, collecting secondary raw materials, selling used items (commonly found in the process of waste collection) on the sidewalks in urban settlements – the author of this analysis witnesses one such "bazar" himself daily in the Belgrade neighbourhood of Banjica – or in flea markets, as well as begging, unless begging is labelled a criminal offence, e.g., as a consequence of human trafficking or coercion.

⁵⁸ The judgement of the Misdemeanour Court in Novi Pazar, No. 12 PR 1308/2022 of 12 October 2022.

the tranquillity of citizens wasn't endangered to a significant extent and that the reprimand would achieve general and specific preventive effects of punishment and deter the defendant from committing misdemeanours in the future. Also, the Court decided that the defendant should be fully exempt from bearing the court expenses and that the expenses should be borne by the Misdemeanour Court of Novi Pazar.

The analysis of judgments from the Misdemeanour Court in Novi Pazar reveals that the beggars are often women, mothers of multiple children who are frequently absent while the mother begs. Women beggars either lack education or have poor education, they are jobless, live in difficult circumstances, and are often recipients of social assistance.

Two questions arise from the analysis: What are the conditions in which these children grow up? Do they receive any kind of systemic support, e.g., social protection?

In another two cases handled by the same misdemeanour court⁵⁹ in 2022, the acting judge handed down reprimands to female defendants in both cases. The rationales of the judgements in all three cases were virtually the same, with minor differences considering the circumstances in which the misdemeanours occurred. In the first case, the defendant endangered the tranquillity of citizens on 26 April 2022 at 13:30 by soliciting money on the terrace of the Vrbak Hotel in Novi Pazar, whereas in the second case, the defendant acted in the same manner, in the same venue, on the same day, but at a different time, i.e. at 15:00. In both these cases the defendants were relatively young married women with multiple children, living in difficult material circumstances, without a regular income. Both admitted to being guilty, the same as the defendant in the aforementioned case. What is characteristic for both these cases, apart from the defendants not having previously been sentenced for misdemeanours, is that they promised not to engage in begging in the future, which was added to the rest of extenuating circumstances as relevant for achieving general and specific preventive effects.

In another case handled by the Misdemeanour Court in Novi Pazar⁶⁰ (we don't know how many such judgements were handed down in 2022, nor do we know their share in the total number of begging-related judgments in previous years), the judge issued a reprimand. As in the previous cases, the defendant in the fourth case was female, only this time the woman was middle-aged and single, illiterate, and living in poor economic conditions; the reasons for reprimand largely concurred with the previous judgments.

In most cases involving adult begging, the judicial practice of the Misdemeanour Court in Belgrade, where the author conducted interviews, followed the same pattern of handing down reprimands largely due to the defendants' difficult economic situations.

⁵⁹ Misdemeanour Court in Novi Pazar, 1 O Pr. 2209/22-70 of 26 April 2022 and 1 O Pr. 2210/22-70 of 26 April 2022.

⁶⁰ Misdemeanour Court in Novi Pazar, 4 PR 5728/2022 of 24 November 2022.

Looking at these examples of judicial practice, we can surmise that judges often show signs of empathy when dealing with cases involving begging. It seems that judges try to find ways of enforcing the Law on Public Order and Peace sensibly, taking into account the circumstances of each individual case. To the best of their ability (given the limits of nomotechnics and standards of judicial lingo) and despite not being able to escape the ethically questionable formulations such as “endangered the tranquillity of citizens by soliciting money, i.e., begging”, the judges, in the examples mentioned above at least, give us the reason to believe they understand something is not right with the legal definition of begging. Issuing reprimand is, in fact, a call for discussion and exploration of topics such as: Should the definition of begging specified in the Law on Public Order and Peace remain the same? Does it make sense to impose a penalty ranging from 5,000 to 10,000 RSD on a person holding slightly over 1,000 RSD, “raked in” by begging with the intention to spend the money on food for themselves and people close to them? Should anyone be sentenced to 30 days in prison because they asked people enjoying coffee and dessert for “some change”, and does this act genuinely endanger anyone’s digestion and tranquillity?

Judicial Practice – a Broader Picture

The analysis conducted by Astra offers insight into the broader practice of 44 misdemeanour courts in Serbia in handling cases of begging over the course of 2022. The analysis examined 400 judicial decisions collected in autumn 2023⁶¹ and involved 408 persons. The decisions were handed down as part of misdemeanour proceedings for the act specified as begging in Article 12 Paragraph 1 of the Law on Public Order and Peace before various misdemeanour courts and the Misdemeanour Appellate Court in 2022.

Throughout 2022, not a single judicial decision was made concerning the Article 12 Paragraph 2 of the Law on Public Order and Peace, dealing with group begging.

⁶¹ This is an overview of the basic results laid out in the Analysis of judicial practice in Serbia in 2022 in the area of public order and peace – Misdemeanour of begging – Article 12 Paragraphs 1 and 2 of the Law on Public Order and Peace, ASTRA – Anti Trafficking Action, Belgrade, December 2023. Detailed results of the analysis can be found in ASTRA’s original document.

Table: Judicial decisions from misdemeanour courts in Serbia

Misdemeanour court	No. of decisions	No. of judgements	No. of decisions concerning minors	No. of decisions on suspension	Returned to the first instance court
Belgrade	292	292	0	0	0
Belgrade - Barajevo	10	10	0	0	0
Čačak	4	3	1	0	0
Gornji Milanovac	2	2	0	0	0
Pančevo	1	1	0	0	0
Novi Pazar	6	6	0	0	0
Vranje	1	1	0	0	0
Mladenovac	1	1	0	0	0
Sombor - Kula	3	1	0	2	0
Šabac	5	5	0	0	0
Valjevo	4	4	0	0	0
Valjevo - Osečina	1	1	0	0	0
Sremska Mitrovica - Šid	7	7	0	0	0
Sremska Mitrovica	1	1	0	0	0
Lazarevac	3	3	0	0	0
Zrenjanin - Žitište	1	1	0	0	0
Ruma - Indija	1	1	0	0	0
Ruma	7	7	0	0	0
Prokuplje	1	1	0	0	0
Kruševac	1	0	1	0	0
Kraljevo - Vrnjačka Banja	3	3	0	0	0
Obrenovac	2	2	0	0	0
Novi Sad	34	22	1	11	0
Novi Sad - Vrbas	1	1	0	0	0
PAS O NS	2	2	0	0	0
PAS O KG	5	4	0	0	1
PAS BG	6	4	0	0	2
PAS O Niš	3	3	0	0	0
Total	408	389	3	13	3

Larger regional centres, such as Požarevac and Kragujevac, didn't initiate any begging-related misdemeanour proceedings in 2022; the courts in Požega, Bačka Palanka, Raška, Sjenica, Pirot, and Zaječar didn't report any begging-related misdemeanour proceedings in the observed period either.

The total of **408** judicial decisions included **166 admonitions**, **14 suspensions**, **30 acquittals**, **3 prison sentences** (for the duration of 5, 6, and 20 days), **2 corrective measures of reprimand**, **3 returns to the first instance court**, and **190 monetary penalties**.

The average monetary penalty amounted to 1,548 RSD (ranging from 3,000 to 20,000 RSD). The penalty of 5,000 RSD was imposed most often, i.e. in 160 (87%) judicial decisions - nearly the same as the number of admonitions (166).

Of all judgments (**389**) there were 166 admonitions – **42.67%**, 190 monetary penalties – **48.85%**, 30 acquittals – **7.71%** and 3 prison sentences – **0.77%**.

Apart from being given monetary penalties, in 269 proceedings, the defendants were ordered to pay for court expenses along with being reprimanded 97 times, while both monetary penalties and court expenses were imposed on defendants in 172 proceedings. The court expenses amounted to 1,700 RSD on average (ranging from 500 to 3,000 RSD).

Practice of the Centre for Human Trafficking Victims' Protection

Various instruments for identifying and working with victims of human trafficking have been developed for the needs of the Centre for Human Trafficking Victims' Protection. One such instrument is the "Appendix to the Guide for Drafting Findings and Opinions for Professionals of the Centre for Human Trafficking Victims' Protection", which dedicates an entire chapter to differentiating human trafficking from other criminal offences and social deviance. According to the document, most dilemmas surrounding the issue of begging arise from cases of begging within the household, i.e. within the family, and cases where the suspected exploiter is a family member.

These are primarily families whose difficult economic situation is easily recognised. Most often, the beggars are children, women, persons with disabilities, persons living in substandard settlements, etc. When it comes to child begging, there is no doubt that begging is contrary to the child's best interest.

The Centre for Human Trafficking Victims' Protection keeps a record of the number of procedures of identifying the victims of human trafficking.⁶²

In 2021, the Centre formally identified 46 victims of human trafficking, 37% of whom were underage and 94% of whom were girls. In 2021, most cases involving child victims of human trafficking fell into the following categories: sexual exploitation (35%), forced marriage (18%), labour exploitation (17%), **forced begging and multiple exploitation (12%)**, and criminal offence committal (6%). During the first four months of 2022, the Centre identified six victims of human trafficking under the age of 18. The dominating forms of exploitation during the first four months of 2022 were sexual exploitation (5) and **one case of begging**. In 2022, 62 victims of human trafficking were formally identified, marking an increase of 35% compared to 2021.⁶³

The following table shows the total number of victims of begging in the context of human trafficking for the period 2021-2023:

⁶² Annual reports are available on the website of the Centre for Human Trafficking Victims' Protection.

⁶³ Report on the state of the rights of the child 2017-2023, Child Rights Centre, Belgrade, 2023.

Form of exploitation	Under 18 years		Over 18 years		Total
	Ž	M	Ž	M	
Forced begging (2021)	2	/	1	2	5
Forced begging (2022)	1	3	2	2	8
Forced begging (2023 up to November)	8	3	/	/	11
Grand total					24

The most common dilemma created in the process of identifying human trafficking victims is to discern whether the child is neglected and abused or whether the child is a victim of human trafficking. In each case, the expert analysis must answer the following questions: Who initiated begging? Is the person who initiated begging a beggar too, or are they making an effort to earn a livelihood for the family in any other way? What is the material situation of the family and what are their alternatives to earning a livelihood? Who decides how the money derived from begging is spent? Can the person refuse to beg or influence the conditions in which begging occurs? Is there a money quota a person who begs must meet, and are they punished for failing to meet it? Is the person involved in begging exposed to additional risks, such as safety or health risks? In what other ways does begging affect the suspected victim? Has the child dropped out of school? Is the suspected victim suffering any form of abuse? According to the Appendix, once correlated, the answers to these questions should paint a clearer picture. For instance, in situations where parents demand their children to beg for money while not trying to contribute to the family's livelihood themselves, if they punish their children for not meeting the money quota, if they spend money primarily on themselves, especially on psychoactive substances or games of chance - such findings could indicate a case of human trafficking (Article 388 of the Criminal Code), not the criminal offence of neglecting and abusing a minor (Article 193 of the Criminal Code).⁶⁴

Collecting evidence and identifying the mechanism of abuse by the perpetrator in each case may help discern whether the case concerns neglect and abuse of a minor or human trafficking, but also to differentiate between the criminal offence of human trafficking (Article 388) from the criminal offence of coercion (Article 135 of the Criminal Code).

In any case, the Centre for Human Trafficking Victims' Protection is focused on the circumstances relevant to the personal situation of a suspected victim and making a decision regarding identification, rather than obtaining circumstantial evidence concerning the event that will allow the criminal proceedings to be initiated, proving the criminal offence, or determining the criminal liability of perpetrators.

⁶⁴ Source: Appendix to the Guide for Drafting Findings and Opinions for Professional Workers of the Centre for Human Trafficking Victims' Protection.

During the process of identification, professional associates of the Centre point to peculiarities of the victim's personal situation and mechanisms of abuse by those who recruited, controlled, or exploited them without establishing the facts that are usually established during criminal proceedings and expert inquiry.⁶⁵

Judicial practice regarding human trafficking

In the case of begging as a form of exploitation within organized crime and human trafficking, at least two aspects stand out: (1) this occurrence is more sporadic or more difficult to identify, compared to begging as an offense against public peace and order; (2) this type of abuse of both children and adults is significantly more dangerous for the victims. Law enforcement officers are far more likely to prosecute persons who commit a misdemeanour of begging, i.e. disrupt public peace and order, as defined by the legislator.

We may also draw connections between organized crime and begging through the media. For instance, in daily newspapers or daily newspapers internet portals, we may occasionally come across articles like the one published on 1 December 2023: "Members of the Ministry of Interior, the DCP's Service for Combating Organized Crime, in cooperation with the Higher Public Prosecutor's Office in Šabac, arrested G. R. (1976) residing near Loznica. G. R. was suspected of committing a criminal offense of human trafficking. He is alleged to have forced his 16-year-old son and his three minor daughters, aged seven, eight and ten, to beg in busy locations in the centre of Loznica, under threats and the use of force, thus gaining material benefit."⁶⁶

At the time of drafting this analysis, this case was "present" in the media. Its judicial epilogue is yet to be seen. To illustrate the judiciary's approach to forced begging, we present two cases drawn from judicial practice.

Case 1: "Coercion, not human trafficking"

Via the judgment of the Appellate Court, the first-instance decision was confirmed, under which, the defendant was found guilty for committing the criminal offence of coercion under Art. 135 paragraph 2 in connection with paragraph 1 of the Criminal Code, and was thereby sentenced to prison for the duration of 11 months. By the same judgment, two injured minors were referred to litigation for property claims. In its appeal, the Higher Public Prosecutor's Office pointed out that the first-instance court exceeded the indictment and violated the objective identity of the indictment by omitting the phrase 'recruited for the purpose of begging' from the description of the event stated in the indictment, and inserting 'forced them to beg' instead. In doing so, the court classified the offense as coercion, not the extended criminal offense of human trafficking. According to the findings of the second-instance court, the reasons for changing the legal qualification of the criminal offense are justified,

⁶⁵ Excerpts from Recommendations of importance for improving the relevance and quality of findings and opinions, as part of the Guidelines for improving the quality of findings and opinions of the Centre for Human Trafficking Victims' Protection.

⁶⁶ Source: <https://www.blic.rs/vesti/hronika/cetvoro-dece-primoravao-na-prosjacenje-uhapsen-otac-iz-loznice/ycpsfk>

although it was indisputably established that the defendant, using force and threats, forced his minor victims (residents of the children's home) to beg and give him the money they receive, by 'hitting them multiple times with his hands in the area of the body', threatened to 'beat and kill' them, strangled and cursed them. As stated in the rationale of the second-instance judgement, the first-instance court, legally qualifying the actions of the defendant described in the judgement, drew the correct conclusion that 'the use of force and threats by the defendant does not constitute evidence of the intent to recruit the minors for the purpose of begging, which corresponds to the concept of the criminal offense of human trafficking'".⁶⁷

In summary, the Appellate Court confirms that **this particular case does not constitute human trafficking for the purpose of begging, but coercion.**

One of the issues pertaining to judicial practice is the qualification of a criminal offense, i.e. whether the established factual situation should be qualified as human trafficking or coercion⁶⁸. In the aforementioned case, upon reviewing the judgement, we can see that the prosecutor of the Higher Public Prosecutor's Office in their indictment identified the accusation using the expression: 'recruited to beg', and the first-instance court omitted this expression from the description of the event given in the indictment and stated: 'forced to beg' instead. From the rationale of the Appellate Court's judgment, it is evident that that this court is of an opinion that the first-instance court correctly established the factual situation, namely: 1) that the defendant used force and threats to force the residents of the children's home to beg and give him the money they received; 2) that the defendant repeatedly hit the children with his hands in the area of the body, threatened to beat and kill them if they refuse to beg on his behalf; 3) that on one occasion he grabbed the minor victim with both hands and strangled him, demanding him to go beg; 4) that the described actions, due to age difference between the victims and the defendant, caused fear in both minors, and that under to force and threats, they went to Autokomanda in Belgrade, begged for money and then handed it over to the defendant. The above-mentioned factual situation was qualified as a criminal act of coercion by the first-instance court, which was subsequently confirmed by the Appellate Court.

⁶⁷ "Human Trafficking Victims in Criminal Proceedings – Analysis of Judicial Practice for 2021 for the criminal offense of human trafficking, mediation in prostitution and trafficking in minors for adoption", ASTRA.

⁶⁸ The criminal offence of coercion is defined under Art. 135. of the Criminal Code: "(1) Whoever by use of force or threat coerces another to do or refrain from doing something, or to endure, shall be punished with imprisonment up to three years. (2) Whoever commits the offence specified in paragraph 1 of this Article in a cruel manner or by threat of murder or grievous bodily harm or abduction, shall be punished with imprisonment of six months to five years. (3) If the offence specified in paragraphs 1 and 2 of this Article result in grievous bodily harm or other serious consequences, the offender shall be punished with imprisonment from one to ten years. (4) If the offence specified in paragraphs 1 and 2 of this Article results in death of the person under coercion or if committed by a group, the offender shall be punished with imprisonment from three to twelve years. (5) If the act specified in paragraph 1 and 2 of this Article is committed by the organized criminal group, the offender shall be punished with imprisonment from five to fifteen years."

The question remains whether, considering the destructiveness of the actions described in this court case and its significant coincidence with the nature of the criminal offense of human trafficking, the provisions of Article 388, paragraph 1 (possibly also Article 135) of the Criminal Code should be revised, in order to indisputably qualify these actions as a criminal offense of human trafficking.

We cannot ignore the feeling of unfairness when, under the circumstances in question, the perpetrators are punished for the act of coercion, which carries a lesser sentence (up to three years), instead of human trafficking, which carries a prison sentence of three to twelve years.

For the purpose of this analysis, we present the assumptions of the rules of syllogism, on the basis of which the court reached the aforementioned decision, with the aim of pointing out the problem and possible solutions to it.

Of the numerous expressions used in paragraph 1 of Article 388 of the Criminal Code, we wish to point out the key words that, in our opinion, led the court to a legal qualification based on an indisputably established factual situation. According to our understanding, the court did not find that there is a causality that leads to the legal qualification: 'trafficking in human beings'. Namely, if someone **recruits** another person **under force or threat**⁶⁹ **for the purpose of begging, they will be punished with imprisonment from three to twelve years.**⁷⁰ The use of force and threat have been proven in this case, as well as begging. What remains disputable is the interpretation of the term 'recruit'. The Criminal Code does not provide a definition of this term⁷¹. According to the dictionary, 'to recruit' means: 1. *to persuade, to influence someone to join someone's ranks, to win over* 2. *to engage someone to do some kind of work (to hire)*.⁷² Another source provides the following definition: "Usually, when we say that someone is 'recruited', we want to say that he/she is forced, enticed, seduced or in some other cunning way, lured to join an organization or to do something. Generally, prior to that moment, the 'recruited' person would see this action (or this organisation) as wrong and completely unacceptable. However, after 'recruiting', he/she changes their mind and it all seems like a good idea."⁷³ Having in mind that, according to the court's standpoint, and based on the established actions performed by the defendant, this was **not a case of recruitment, but rather coercion by force or threat, the judgment in question was passed.**

⁶⁹ We have focused our attention to the term "recruitment" because the prosecutor of the Higher Public Prosecutor's Office used this specific term in the indictment.

⁷⁰ We emphasized the terms referred to in paragraph 1 of Art. 388 of the RS CC because, based on the established factual situation, it was not found that the defendant: misled or kept the aggrieved parties in delusion, abused authority, trust, relationship of dependence, difficult circumstances of another, kept personal documents or gave or received money or other benefits. Also, it was not established that the defendant: transported, transferred, handed over, sold, bought, brokered the sale, secretly or held the aggrieved.

⁷¹ The definition of recruitment does not exist in the Strategy for the Prevention and Suppression of Trafficking in Human Beings, Especially in Women and Children and the Protection of Victims, the General Protocol for the Protection of Children from Violence, or the Special protocol on acting of the judicial bodies in protection of victims of human trafficking in the Republic of Serbia.

⁷² Dictionary of Serbo-Croatian Literary Language - Rečnik srpkohrvatskoga književnog jezika, Prva knjiga, Matica srpska, Matica hrvatska, Novi Sad, Zagreb, 1967.

⁷³ A Large Dictionary of Lesser-known Words and Expressions - Veliki rečnik manje poznatih reči i izraza, <https://velikirecnik.com/2017/12/09/vrbovanje-vrbovati/>

Case 2: “I will buy you prosthetic arms, an apartment, a store and I will find you a wife”

Via the judgement of the District Court in Belgrade,⁷⁴ three defendants were convicted for the criminal offense of human trafficking under Article 111b of the RS Criminal Code⁷⁵. In the period from August 2002 and 6 November 2007, the defendants, operating in Bosnia and Herzegovina and Serbia, deceived, maintained deception, misused trust, dependant relationship and difficult circumstances of the aggrieved (born in 1983), suffering from slight developmental and severe bodily disabilities - his both arms were amputated, left arm was amputated at his shoulder, the right arm was amputated above the elbow. The defendants recruited, transported, and transferred across the border and held the aggrieved in order to acquire material gain through exploitation - begging. Initially, the first defendant tried to persuade the mother of the aggrieved to allow him to take her son to Italy for begging, by promising to buy him prosthetic arms. When the mother refused, the defendant misused the trust he enjoyed with the aggrieved, given that they knew each other since the aggrieved was born and that the defendant was their neighbour. The first defendant also used the fact that the aggrieved suffered from slight developmental disability and was gullible, credulous, susceptible and easily influenced. The defendant led the victim into the delusion that he would buy him prosthetic arms, that he would find him a wife, buy him an apartment and a store. Finally, at the end of August 2002, the defendant managed to recruit the aggrieved for begging and took him to Sarajevo, Doboja and other locations in BiH, where the aggrieved was held and exploited through begging. The defendant kept his travel documents. The defendants monitored the aggrieved while he was begging on the streets and took the money he had collected. The first defendant used these funds to buy himself a house in Makiška kolonija, a kiosk and a store in Makiš, Serbia, leading the aggrieved to believe that the property was purchased for him. When the aggrieved tried to escape, the defendant used force and beat the victim, who could not defend himself due to his disability, and forced him to continue begging by threatening to kill him. When the aggrieved was banished from BiH on accounts of begging, the defendant brought him back to Serbia, where the aggrieved continued to beg. The defendant was assisted by the second and third defendants who held the aggrieved in several locations in Zemun. The first defendant paid them for their service from the money the aggrieved earned by begging, 500.00 dinars per day, and kept the rest for himself. Based on the above, the first defendant committed the criminal offense of human trafficking, and the second and third defendants committed the criminal offense of aiding and abetting in human trafficking, and they were sentenced to prison.

When it comes to the exploitation in the criminal offense of human trafficking under Article 388 of the CC, according to data obtained from first-instance judgements, 82% or 14 victims were exposed to sexual exploitation in 2019 (of which 7 victims

⁷⁴ Judgement of the District Court in Belgrade K no. 1995 07 dated 29.12.2008

⁷⁵ The criminal offense of human trafficking was introduced in the Criminal Code of the Republic of Serbia, in the chapter Criminal offenses against the dignity of the person and morals, for the first time in Article 111b, in 2003, as a separate criminal offense. On 29 September 2005, the National Assembly of the Republic of Serbia adopted the Criminal Code, which, under the heading - Crimes against humanity and other right guaranteed by international law, provides for a new, significantly amended criminalization of human trafficking, as a special criminal offense under Article 388

were minors), and **12% were exposed to labour exploitation (begging) or 2 victims (in both cases victims were minors)**, while 6% or 1 victim (a minor) was forced to commit the crime of theft. The criminal offense of human trafficking was most often committed by leading and keeping the victims in deception, as well as by abuse of trust and difficult material, social or family circumstances of the victims (in all 17 cases of human trafficking).⁷⁶ When deliberating on the sentence, absence of prior convictions is most often appreciated as a mitigating circumstance. There are still cases where the court considers certain personal and family circumstances of the defendant (“a family man”, “father of minor children”) as mitigating, even if minor victims were exposed to sexual exploitation, or when the defendant forced his minor son and stepdaughter to beg.⁷⁷ When it comes to the type of exploitation in the criminal offense of human trafficking, according to the data obtained from the first-instance judgements, in 2021, 12 out of the total of 13 victims of this criminal offense were exposed to sexual exploitation, which makes up 92%, **while in 1 case the aggrieved was a victim of labour exploitation, i.e., begging.**⁷⁸

...

One of the indicators of the success in combating human trafficking is the victims' exercise of their rights in court proceedings.

In Serbia, there are not many cases of criminal act of human trafficking, including cases with begging as a form or one of the forms of exploitation.

Instructing victims of forced begging (as well as victims of other forms of coercion and human trafficking) to pursue property claims in a special (litigation) procedure cannot be considered a good judicial practice.

The US State Department's Report on Human Trafficking for 2020⁷⁹ emphasises the need for the adoption of a victim-centred approach, measures to protect victims-witnesses in court, training of procedural authorities in connection with such approach. The report also points to inconsistency in assigning the status a particularly sensitive witness to victims of human trafficking, including children. The second, GRETA report for Serbia⁸⁰ also highlights the issue of protecting victims in court proceedings, especially in attaining compensation and legal aid, along with the need for greater utilisation of available measures to protect victims from re-traumatization during court proceedings.⁸¹ In the third GRETA report for Serbia⁸²,

⁷⁶ “Human Trafficking Victims in Criminal Proceedings – Analysis of Judicial Practice for 2021 for the criminal offense of human trafficking, mediation in prostitution and trafficking in minors for adoption”, ASTRA

⁷⁷ “Human Trafficking Victims in Criminal Proceedings – Analysis of Judicial Practice for 2021 for the criminal offense of human trafficking, mediation in prostitution and trafficking in minors for adoption”, ASTRA

⁷⁸ “Human Trafficking Victims in Criminal Proceedings – Analysis of Judicial Practice for 2021 for the criminal offense of human trafficking, mediation in prostitution and trafficking in minors for adoption”, ASTRA

⁷⁹ Report dated 25 June 2020

⁸⁰ Report of the Group of Experts on Action against Trafficking in Human Beings, which oversees the implementation and fulfilment of obligations undertaken by the signatory states by signing the 2005 Council of Europe Convention on Action against Trafficking in Human Beings, GRETA (2017)33

⁸¹ Improving the position of victims of human trafficking in court proceedings, ASTRA, Belgrade, 2021.

⁸² Third GRETA Evaluation Report for Serbia, 16 June 2023. See more at: <https://rm.coe.int/greta-evaluation-report-on-serbia-3rd-evaluation-round-greta-2023-09-a/1680ab9bc6>

the steps taken by the Serbian authorities in developing a legislative framework to combat human trafficking are welcomed: the introduction of a period of recovery and reflection and temporary residence permits, issued on humanitarian grounds to victims of human trafficking into the Law on Foreigners; provisions related to victims of human trafficking in the Law on Health Care and the Law on Free Legal Aid; the establishment of the National Rapporteur on human trafficking. However, this report also underscores: 1) that further steps are required to ensure that better access to justice and effective remedies are available to victims of human trafficking; 2) that victims' access to compensation for damages is still limited, and that it is necessary for the authorities to ensure that victims of human trafficking are systematically informed about their right to compensation, in order to make full use of the laws on confiscation of property from perpetrators and obtain compensation; 3) that the authorities should establish, without further delay, a state compensation scheme (Compensation Fund) that would be made available to victims of human trafficking; 4) that criminal acts of human trafficking should be investigated proactively and in a timely manner, in order to ensure that the procedure leads to effective, proportionate and dissuasive sanctions; 5) the necessity to pay additional attention to the identification of victims of trafficking among migrants and asylum seekers, as well as to provide sufficient staff and resources to the Centre for Human Trafficking Victims' Protection, which would in turn, facilitate timely identification of victims of human trafficking; 6) to allocate adequate funds for services aimed at victims of human trafficking provided by specialized non-governmental organizations.

RECOMMENDATIONS

Based on the findings, insights and viewpoints presented in this analysis, and taking into account the conclusions embedded throughout the analysis or highlighted in text-boxes, we present these specific recommendations. We wish to note that the recommendations have already been incorporated in different parts of the text. Below, these recommendations are listed explicitly and systematically.

- 1) The basis to 'decriminalize' begging as a misdemeanour exists. It is necessary to conduct an expert discussion and carry out an additional analysis (e.g. from a sociological, psychological and legal point of view) and a comparative practice analysis to determine whether begging should remain a misdemeanour under the Law on Public Peace and Order, or whether it should be removed from said regulation.
- 2) It is necessary to improve the awareness and understanding regarding begging among experts who work with children, and to increase institutional capacities to protect children from abuse through begging.
- 3) It is necessary to amend or supplement the Criminal Code by defining child neglect and child abuse.
- 4) It is necessary to amend the Criminal Code in line with the UN Convention on the Rights of the Child and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Recommendations of the UN Committee on the Rights of the Child, and based on the analysis of judicial practices conducted by ASTRA since 2011, in order to improve the position of victims of human trafficking and related crimes - mediation in prostitution, trafficking of minors for adoption.
- 5) In centres for social work, record keeping practices need to be improved so as to allow for clear insights into the application of supervision over the exercise of parental rights, the initiation of legal proceedings for the deprivation of parental rights and the initiation of criminal proceedings for neglect and abuse of a minor. These records should include reasons for employing the aforementioned legal instruments, including child begging as a form of abuse of parental rights, i.e. child neglect.
- 6) It is necessary to improve the set of social protection services, measures and programmes, so that they provide more comprehensive and sustainable answers to the identified needs of children from families with functional problems. Services that have already been tested and proved to be adequate (e.g. family outreach worker) should be formally standardized and made available to all users.

- 7) It is necessary to revise the provisions of Article 388, paragraph 1 of the Criminal Code, as well as Article 135 of the same Code, to allow for actions that constitute a criminal offense of coercion (Article 135) in the current judicial practice, to qualify as a criminal offense of human trafficking (Article 388), due to a significant overlap in the nature these two criminal offences.
- 8) It is necessary to organise training and education, so as to sensitize and encourage judges in criminal proceedings pertaining to property claims of victims of forced begging (as well as victims of other forms of coercion or human trafficking), arising from the commission of a criminal act, to discuss and decide in keeping with the provisions of the Criminal Procedure Code.⁸³

The reasoning behind each of the given recommendations has been elaborated in the analysis.

⁸³ RS Official Gazette, nos. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 - decision of the CC and 62/2021 - decision of the CC

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