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**Forced Arranged Marriage of Minors Among Traditional Romani  
Communities in Europe**

**Submission by the European Roma Rights Centre (ERRC) to the United Nations Special Rapporteur on Trafficking in persons, Especially Women and Children, as part of deliberations toward the next annual report of the Special Rapporteur to the UN Human Rights Council, according to Commission on Human Rights Decision 2004/110 and Human Rights Council's decision 2006/102**

**Introduction**

The *European Roma Rights Centre (ERRC)* is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves, in particular, strategic litigation, international advocacy, research and policy development, and training of Romani activists.

This document was prepared by the European Roma Rights Centre (ERRC) for the United Nations Special Rapporteur on Trafficking in persons, Especially Women and Children, as part of deliberations toward the next annual report of the Special Rapporteur to the UN Human Rights Council, according to Commission on Human Rights Decision 2004/110 and Human Rights Council's decision 2006/102. It is submitted in lieu of the questionnaire provided by the office of the Special Rapporteur. The focus of this document is traditional, arranged marriages in the Romani community, and human rights issues arising from these practices. This submission is not a comprehensive survey, but rather a summary of concerns arising from ERRC documentation and public information available in this area. The present submission is organised as follows:

1. Human Rights Standards
2. Profile of the problem
3. Aspects of the Human Rights Impact of Child Marriage in the Roma Community:
  - a. Domestic Violence
  - b. Denial of the Right to Education and its Effects on Employment
  - c. Impact on health
  - d. Inability to Seek and or Receive Justice for Harms Arising from Child Marriage
  - e. Child Marriage and Trafficking in Human Beings
4. Policy and Law Issues
5. Recommendations

## **1. Human Rights Standards**

Child marriages, as a subset of forced marriages, are impermissible under international law. Article 16.2 of the Universal Declaration of Human Rights<sup>1</sup>, Article 2 of the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages<sup>2</sup>, Article 16 of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)<sup>3</sup> and Article 23.3 of the International Covenant on Civil and Political Rights (ICCPR)<sup>4</sup> require states to ensure “free and full consent” for persons entering into marriage. Article 5a of CEDAW sets out that “State parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”. Article 16 of CEDAW states: “States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations”. Article 16.2 of the same Convention says that “the betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.” CEDAW’s General Recommendation No. 21 of states that “a woman's right to choose a spouse and enter freely into marriage is central to her life and to her dignity and equality as a human being.”

Article 2 of the Convention of the Rights of the Child (CRC)<sup>5</sup> prohibits discrimination on the basis of ethnicity. Article 3.1 of the CRC sets out: “In all actions concerning children [...] the best interests of the child shall be a primary consideration.” Article 24.3 states that “state parties shall take all effective and appropriate measures with a view to abolishing traditional practises prejudicial to the health of children” and Article 28 establishes the right to education. All European countries have ratified CEDAW, CRC and the ICCPR.

## **2. Profile of the Problem**

The Romani minority of Europe is linked to persons coming from India many centuries ago. Roma – including the various persons and communities regarded as “Gypsies” in Europe -- are an extremely heterogeneous group. Roma have faced persecution and discrimination by the majority society for hundreds of years. Although precise figures are unavailable, there are possibly over ten million of Roma in Europe today. Throughout Europe, Roma face widespread discrimination and poverty. Romani women face double discrimination as a result of gender and belonging to a disadvantaged minority.

Among practices placing Romani women in a particular disadvantage vis-a-vis Romani men and the majority society are arranged marriages of minors<sup>6</sup> and other marriages in which parents abuse their powers as the guardians of underage persons by arranging for underage children to be

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<sup>1</sup> The full text of the Universal Declaration of Human Rights can be found at <http://www.unhchr.ch/udhr/lang/eng.htm>

<sup>2</sup> The full text of the Convention on Consent to Marriage, Minimum Age for Marriage and registration of Marriages can be found at <http://www.unhchr.ch/html/menu3/b/63.htm>

<sup>3</sup> Full text of the Convention for the Elimination of all forms of Discrimination Against Women can be found at <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

<sup>4</sup> Full text of the International Covenant on Civil and Political Rights can be found at <http://www.ohchr.org/english/law/ccpr.htm>

<sup>5</sup> Full text of the Convention of the Rights of the Child can be found at <http://www.unhchr.ch/html/menu3/b/k2crc.htm>

<sup>6</sup> According to Article 1 of the Convention on the Rights of the Child a child is defined as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” Cognizant that many countries in Europe apply graded legal definitions of adulthood, in which the age of majority is arrived at progressively, and frequently in stages between the ages of 16 and 18, for the purposes of this submission, an “arranged marriage of a minor” is taken to mean any act constituting a traditional legal bond or oral or written contract of marriage involving one or more persons below the age of 16.

married.<sup>7</sup> The practice of child marriage is particularly prevalent among certain Romani groups in the countries of Central and Southeastern Europe and the former Soviet Union, as well as in diaspora communities of groups in Western Europe and elsewhere linked to these countries.

Marriages among Romani minors might involve the exchange of money or gold in the form of a dowry.<sup>8</sup> These arranged marriages sometimes contractually specify certain conditions, such as a minimum number of children. In most if not all cases, elements of explicit or covert coercion are involved in persuading one or more of the parties to marry aware that children do not constitute fully empowered moral agents and therefore would not in any case be capable of concluding a fully informed choice. In no cases of which the ERRC is aware is even the pretence of standards of informed consent met. Romani girls are more affected by child marriages than Romani boys, as girls are expected to marry early and often with teenagers over 16 or adult men.

Traditional, arranged Romani marriages of Romani girls often involve virginity testing, an invasive and in most if not all cases degrading practice. There are various modalities of virginity testing but they generally include the practice of observing or even breaking the girl's hymen in some way or another in order to prove the girls virginity. The harmful effects that virginity testing has on the health of the young brides has been denounced by a number of Romani women's NGOs and activists.<sup>9</sup>

Empirical and anecdotal evidence indicates that strict demands regarding virginity lead to women marrying early.<sup>10</sup> Furthermore, failure to prove virginity results in the loss of value in the eyes of the community, which then results in the inability of the girl or woman at issue to find a husband, as well as being stigmatized by the community.<sup>11</sup> During a recent research mission to Albania, the ERRC heard testimony from local activists that girls that fail to prove their virginity are more likely to become victims of trafficking.<sup>12</sup>

### **3. Aspects of the Human Rights Impact of Child Marriage in the Romani Community**

In most if not all cases, the arranged marriage of children in traditional Romani communities in Europe creates the conditions for serial human rights abuses, including diminished or nullified education and employability, high illiteracy rates, various negative health effects as a result of early/forced sexual activity, as child marriage frequently exposes Romani girls to sexual abuse and exploitation, early pregnancies and muted psychological development. These factors create the pre-conditions for threats to the right to an adequate standard of living arising from dependence of the bride on the groom and his family<sup>13</sup>, as well as a range of other concerns including vulnerability to domestic violence. These harmful practices take place throughout Europe with impunity among traditional Romani communities and/or families. These forced, arranged

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<sup>7</sup> For the purposes of this submission, all arranged marriages of minors are considered forced marriages, insofar as minors are not in a position to decide freely on matters of the gravity of those involved in the decision to marry. As such, arranged marriages of minors, even where the "consent" of the persons being "married" appears to have been secured, or even in cases in which the initiative for the marriage proceeds from the children themselves, constitutes an abuse of the powers of the parent over his or her child-ward.

<sup>8</sup> See Fonseca, Isabel, *Bury me Standing: The Gypsies and their Journey*, First Vintage Departures Edition, 1996, USA, pp 124-133.

<sup>9</sup> See for example "Joint Statement of European Roma women activists on the occasion of the EUMC round table with Romani Women", May 3, 2006, Romania, on file at the ERRC.

<sup>10</sup> See for example Kondur, Zemfira, et al., "Research Report: Virginity Cult Within Roma Society", p. 5, as well as Mida, Robert, "Report about the Roma People in Mukacheve, Ukraine", 2006, pp. 4. Both documents are on file at the ERRC.

<sup>11</sup> Fonseca, p. 134.

<sup>12</sup> ERRC field report "Mapping the Situation of Trafficking Affecting Roma and Egyptian Individuals: Grass Roots Organisations and Local Communities", May 2006, on file at the ERRC.

<sup>13</sup> Romani girls are generally expected to move to the groom's house after the wedding and become part of his family. They are also expected to work day and night

marriages involve minors in some cases reportedly as young as 9 years old.<sup>14</sup> Brief discussion of some of these matters follows below.

#### a) Domestic Violence

Victims of child marriage face heightened vulnerability to domestic violence. In a recent survey carried out among 237 Romani women in Macedonia, a country where child marriage is still common among certain Roma groups, over 70% of the women interviewed stated they had been victims of violence at the hands of their partners, their in-laws and other members of their families. The national average is 23%. While there are several factors that influence the higher incidence of domestic violence among Roma, the powerless position in which Romani women and girls end up as a result of child marriage as well as its consequences (lack of education and hindered employment opportunities, etc) is a key factor. The great majority of domestic violence incidents go underreported due to a number of factors: First, violence against women is accepted in some Romani families. Secondly, there is the fear of being ostracised and shamed by their communities and families. Thirdly, perpetrators of violence against women are rarely held accountable for their acts, which discourage women from seeking legal help. Fourth, Romani women fear further victimisation on the part of the police and/or others. In addition, there are a number of practical issues that make it virtually impossible for young, uneducated Romani girls and women to escape these situations. These include lack of alternative housing, inadequate economic means to survive on their own, and/or lack of employment opportunities.

#### b) Denial of the Right to Education and its Effects on Employment:

Child marriage frequently precludes girls from attending school and thereby results in nullification of the right to education, as well as diminished employment opportunities. The effects that child marriage and other factors have on the education and employability of Romani women and girls are reflected in a study based on recent research on the situation of Romani women carried out by the Open Society Institute's Roma Participation Programme in Romania, a country where child marriage is still common among certain Romani groups. The study notes: "There is a gender gap in access to formal education between Romani women (among whom, 23 percent have not received any formal education) and Romani men (among whom, 15 percent have not received any formal education). The gap in access to formal education is even more significant between Romani women and women in the general population. At 23 percent, the number of Romani women who have not received any kind of formal education is almost six times higher than among women in the general population (4 percent)".<sup>15</sup>

In Montenegro, according to another study, "Roma girls often must leave school very early in order to remain virgins while they prepare for an early marriage and begin performing their household duties. Among the 850 Roma women polled, 90% got married when they were under 16 years old, 3% when they were between 16 and 20, and 7% when they were older than 20. Eight out of ten marriages (80%) are made through mediators." The same report notes that "The most important thing for a Roma girl is to get into the marriage 'honestly', otherwise her husband has the right to humiliate and abuse her during their entire marriage."<sup>16</sup> This research contrasts with a different study carried out in Central and South Eastern Europe by the same organisation (UNDP) which also looks at school drop out rates and child marriage among the Roma population between 6 and 22 years old. The report finds a much lower incidence of child

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<sup>14</sup> The arrangement may take place as early as birth. In cases in which the child bride is pre-pubescent, she may move in with the family of the groom at an early age, but sexual relations would not be consummated before the beginning of menstruation.

<sup>15</sup> Surdu, Mihai and Laura Surdu. *Broadening the Agenda: The Status of Romani Women in Romania*. Open Society Institute, 2006. the full report can be found at: [http://www.soros.org/initiatives/roma/articles\\_publications/publications/broadening\\_20060313/broadening\\_agenda.pdf](http://www.soros.org/initiatives/roma/articles_publications/publications/broadening_20060313/broadening_agenda.pdf)

<sup>16</sup> Institute for Strategic Studies and Prognoses and United Nations Development Program, *Household Survey of Roma Ashkaleia and Egyptians refugees and internally displaced persons*, Montenegro, 2003.

marriages.<sup>17</sup> In the survey carried out in Montenegro 699 Roma were interviewed, 352 (58%) of those were no longer at school, and in 11 cases (8%) the reason for leaving school was early marriage. This great difference in research results indicates the lack of adequate and coherent data regarding the extent of this practice as well as how difficult is to research this issue. The same study revealed high rates of school abandonment as a result of child marriage for countries such as Croatia, where out of 149 Roma who were not attending school and in 32 cases (21%) the reason was early marriage. In the Hungarian survey, out of 53 Roma respondents who had dropped out of school 17% (or 43 individuals) did so as a result of early marriage

An unpublished report by a Romani volunteer after working a year from September 2004 to August 2005 in Mukacheve, a town in southwestern Ukraine, noted that in the local predominantly Romani primary school,<sup>18</sup> the number of female Romani students suddenly dropped after the 5<sup>th</sup> grade, when Romani boys and girls are between 12 and 13 years old. In the previous years, the percentage of Romani girls among all Romani pupils was over 50%, but in the 5<sup>th</sup> year it was only 20-25%. In his report, the author observes that the girls were married to adult men several years older (20-25 years old), whereas the boys of their age would continue to attend school.<sup>19</sup>

### c) Health

Child marriage also has significant impacts on the physical and psychological health situation of Romani girls and any children they may bear. Rates of infant mortality are increased and Romani girls face increased risk of complications during pregnancy and delivery, which may lead to death. Romani custom in traditional communities dictates that the young bride should move to her husband's family house. Therefore, girls who have fallen victim to child marriage are rendered extremely dependent on their husbands and husbands' families, they are alienated from their biological families at a very early age and are, for these reasons as well as others, at high risk of domestic violence, poverty and/or further exploitation in the event of any subsequent disruption to the family. Anecdotal evidence collected during ERRC roundtable workshops in Russia with local Romani women indicates that some Romani girls have required hospitalisation after virginity testing as a result of heavy bleeding. There are reported negative psychological affects linked to forced marriages, including for example depression.<sup>20</sup>

### d) Inability to Seek and/or Receive Justice for Harms Arising from Child Marriage

Romani women and girls have fewer avenues to challenge child marriage, to obtain justice in such cases or arising from related harms and/or to seek redress for these harms, as a result of lack of access to education and awareness of human rights, a culture of obedience to male family authorities, bad relations with -- and mistrust of -- the police,<sup>21</sup> and racial and/or other discrimination. Human rights violations against Romani women and girls in the context of child marriage are sheltered by near total impunity. The ERRC is unaware of any formal complaint ever brought forward by any of the children affected, despite the very evident harms at issue.

In a recent case of child marriage coming to the attention of the ERRC, in Caras Severin County, Romania, M.S., a 10-year-old Romani girl, was sold by her parents to the parents of D.M., a 17-year-old youth. The contract for the arrangement specified that M.S. would bear at least two children. Romanian authorities may have provided a modicum legal recognition for the arrangement by agreeing to the adoption of M.S. by the parents of D.M. Apparently no adequate investigation of the circumstances of the "adoption" was undertaken by Romanian child

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<sup>17</sup> United Nations Development Fund, *Vulnerable Groups in Central and South Eastern Europe* 2005. The full report can be found at <http://vulnerability.undp.sk>

<sup>18</sup> For more information on racial segregation in education across Central and Eastern Europe please see ERRC website <http://www.errc.org/cikk.php?cikk=1915&archiv=1>

<sup>19</sup> Mida, p.7.

<sup>20</sup> Mida, pp. 4-7.

<sup>21</sup> For instances of police violence please see ERRC website <http://www.errc.org/>

protection authorities. At the age of 12, M.S. gave birth by caesarean section to a child, but was told by doctors not to have any more children. At this point, the parents of D.M. attempted to reclaim the dowry from the parents of M.S., citing default of contract. This conflict came to violence between the two families, and the Romanian authorities were alerted for a second time. Romanian police have pursued legal action against D.M., who is now reportedly 19 years old, for the crimes of trafficking and sex with a minor. He now faces a significant term of imprisonment. However, the parents of D.M. and the parents of M.S. have to date faced no legal consequences whatsoever for their actions.

#### e) Child Marriage and Trafficking in Human Beings

Poverty, discrimination and marginalisation are factors linked to trafficking and present in the Romani community. Although child and/or arranged marriages are not trafficking per se, forced child marriages can result in the trafficking of the young bride and potentially increase her and her children's vulnerability to trafficking. The further barriers that Romani women and girls face place them in desperate situations which makes them particularly vulnerable to being trafficked. A report by the World Bank and the Center for Economic and Social Studies (CESS) quoted in an OSCE report<sup>22</sup>, has found a connection between trafficking for prostitution and early marriages. The research found that 5 percent of the 660 families (330 Roma and 330 Egyptian) interviewed had a case in their immediate or extended family of a young divorced Roma mother trafficked for prostitution. A direct link between child marriages and trafficking is exemplified in the following case provided by Animus Association Bulgaria:

Ms T. is a young adopted Bulgarian girl of Romani origin. In 2002 when she was 13 years old she was sold in marriage to a Roma family in Holland by her adoptive parents. She was supposed to marry the son of the Dutch family and was then taken to Holland by her adoptive parents. The case report provided by Animus states: "As soon as her family left she was forced to work as a prostitute by her so called 'mother and father in law'. She was kept locked in their house for about a year (she doesn't remember exactly because she lost track of time) and clients were coming to her. Ms T. firmly refused to work as a prostitute which led to her being constantly beaten and raped by the pimps. They cut her hair off as a punishment for her unbending 'misbehaviour'. Eventually Ms T. managed to escape from the house in which she was kept in captivity by breaking a window and creeping out through the glass. She called the Police and they started an investigation while she was placed in a Catholic shelter and waited for the Bulgarian Embassy in Holland to issue a passport for her. According to her, the Dutch police officers did not believe her statements even though evidence of her presence in the trafficker's house was found and neighbours testified to have seen her running away from the house covered in blood all over. Despite her objections Ms T. was sent back to Bulgaria and no institution in the country was notified about her case. As she had nowhere to go she turned to a border police officer immediately after her arrival in Bulgaria and he referred her to Animus Association Foundation". Following medical tests she was found to be 7 months pregnant.. Ms T's is currently staying at home for children without parental care. Her infant child is currently awaiting adoption, but is facing difficulties due to unclear legal status.<sup>23</sup>

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<sup>22</sup> Organisation for Security and Cooperation in Europe (OSCE)-Office for Democratic Institutions and Human Rights (ODIHR). *Awareness Raising for Roma Activists on the Issue of Trafficking in Human Beings in South-Eastern Europe*. Warsaw 2006. The full report can be found at:

[http://www.osce.org/documents/odihhr/2006/04/18692\\_en.pdf](http://www.osce.org/documents/odihhr/2006/04/18692_en.pdf)

<sup>23</sup> Petrova, Maria, "Case Report provided by Animus Association", 2003, on file at the ERRC.

## **Policy and Law Issues**

Marriage involving at least one individual under 16 are banned by domestic law in most European countries.<sup>24</sup> In some cases this results in the children born from the marriage not being registered.<sup>25</sup> Unregistered children are more vulnerable to trafficking as traffickers specially target them because it is more difficult to locate an unregistered child.<sup>26</sup> The same report quoted previously carried out by the World Bank says “it is not unusual for a girl to have two babies around the age of 15. The early marriages are not registered as they are illegal and the children of these young couples are very seldom registered, which makes them vulnerable to trafficking and illegal adoption.”<sup>27</sup>

European States fail to apply international standards when Romani women and girls are the subjects of violations. Despite the widespread problem and the very negative effects of child marriage among Romani girls and women we are unaware of any government taking this issue seriously. As the case of Ms M.S. indicates, some governments such as Romania applied criminal law on trafficking on cases of child marriage and punish the children. In the same case, social workers were apparently aware of the issue but failed to act. The ERRC is unaware of few if any cases in which the parents have face any legal consequences for their actions.

There is also an extreme lack of data on the extent and scope of the problem. A report for the Council of Europe, Parliamentary Assembly found no data on child marriages in Europe, “although they [child marriages] indubitably exist”.<sup>28</sup> Information on these practices among traditional Romani communities is scant.<sup>29</sup> There is a dearth of data on the extent of these practices, and there is also insufficient public information on the effects this issue has on Romani women and girls, on Romani communities, as well as on the public at large. Recent efforts by the ERRC to research these issues in Austria and among several Roma rights activists indicate widespread unwillingness to discuss these issues by a range of persons and agencies, not limited to the victims themselves. Lack of access to reliable data are a barrier to the recognition of the problem and to securing commitment from all actors (civil society, service providers, law enforcement officials and government officials) to force States to take effective action to protect the rights of Romani children.

## **Recommendations**

- States are urged to develop comprehensive legal and policy programs to end child marriage; these should include a) comprehensive policy reforms that will focus on educational issues and social inclusion of Romani communities b) firm punitive measures that target parents and other persons facilitating child marriages.
- There is a need for reliable research and data on child marriages affecting Romani minors.

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<sup>24</sup> There are some exceptions to this. For example according to Article 3 of the Romanian Family Code, men can get marry at the age of 18 years and women at 16. The law also provides for the possibility of granting special permission, in special circumstances, to women to marry when they are 15.

<sup>25</sup> ERRC field report “Mapping the Situation of Trafficking Affecting Roma and Egyptian Individuals: Grass Roots Organisations and Local Communities”, May 2006, on file at the ERRC.

<sup>26</sup> ERRC interview with social workers of the organization Terre des Hommes, Tirana, Albania, April 2006.

<sup>27</sup> OSCE-ODIHR Report *supra* note 22, pp 13.

<sup>28</sup> Rapporteur Mrs Rosmarie Zapfl-Helbling, Council of Europe, *Forced Marriages and Child Marriages 2005 Report*. The full text of the report can be found at: <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc05/EDOC10590.htm>

<sup>29</sup> Some tabloid and other media in Central and Southeastern Europe periodically report on child marriages in the traditional community. For example, there is regular media coverage of the annual so-called “bride market” in Bulgaria, in which marriages are arranged, including the marriage of minors (see for example *Roma Men go Wife Shopping*. Reuters. <http://today.reuters.com/TV/VideoStory.aspx?storyid=92b0d7604cec38fd9fc7046c88839ca31f198500>) In addition, some other sources have reported on these practices.

- Education in traditional Romani communities is needed to change prevailing attitudes and practices which result in child marriages.
- Measures should be adopted to encourage Romani girls to complete school, as well as to heighten awareness among parents of the benefits of education, such that these considerations outweigh other, countervailing forces. In order for this to become a reality, material conditions in excluded Romani communities must change. Roma must have equal access to quality education, employment, healthcare, housing, and social services.
- States should take note of the fact that some trafficking in Europe takes place in the context of child marriage in some traditional communities.
- Existing laws, both international and national, must be enforced by state authorities. Individuals must be held accountable when they have violated the human rights of others, especially in a case with long term consequences suffered by Romani children forced to become brides or grooms.
- Measures should be adopted to support Romani organisations and others in challenging child marriage at the local level.