

Written contribution to the 2021 Annual Report for Serbia on Political Criteria and chapters 23 and 24

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CONTENTS

- Discriminatory provision of the Law on Financial Support to the Family with Children 3**
- The right to adequate housing for Roma..... 5**
 - Displacement of an informal Roma settlement near the city landfill in Vinča 5**
 - Forced eviction of Vijadukt settlement 7**
 - Unaffordability of social housing..... 8**
- Measures for the protection of the most vulnerable population during the COVID-19 pandemic 8**
- Exclusion of the most vulnerable Roma from the possibility of receiving one-time financial assistance of 100 euros 10**
- Position of Tradeswomen During the Pandemic of COVID-19..... 12**
- Unequal access to education of children in Serbia..... 12**
- GANHRI Reaccreditation of the Ombudsperson 14**

DISCRIMINATION AND EXCLUSION OF THE MOST MARGINALIZED POPULATION

Discriminatory provision of the Law on Financial Support to the Family with Children

The Law on Financial Support to the Family with Children (hereinafter: LFSFC) remains in direct contravention with efforts to ensure social inclusion of Roma and improvement in the effective exercise of their rights. Namely, Article 25 paragraphs 1 – 6 of the Law, as amended in 2018,¹ introduced new conditions for parental allowance, including that children must be fully and timely vaccinated and attend elementary and obligatory preschool education regularly.

As noted in the European Commission's Report on Serbia from 2019, new provisions of the Law on financial support to families with children include the condition that the right to parental allowance depends on the children being vaccinated.² However, only 12.7% of Roma children have received all recommended vaccines, compared to 70.5% of non-Roma children in the country.³ Recent data also confirms the existence of a gap between Roma and non-Roma children in the immunization coverage, as well as in school and pre-school attendance. Thus, according to data from UNICEF and the Republic Statistical Office from 2019, only around one-third (35%) of Roma children received all vaccines on time, compared to 69% of children in the general population.⁴ The situation is even worse when it comes to attending preschool institutions. The coverage of Roma children with education in early childhood is only 7% and in the general population 61%.⁵ While in the general population 3% of preschool children do not attend the pre-school preparatory program in time, in the Roma population 24% of children do not attend the pre-school preparatory program.⁶ About 1 out of 6 marginalized Roma children of compulsory attendance age are still out of the education

¹ The LFSFC (Official Gazette of the RS, No. 113/2017 and 50/2018) was amended in an urgent procedure in June 2018 and entered into force on 1 July 2018.

² European Commission, Serbia 2019 Report, page 30.

³ *Ibid.* See also UNICEF and Statistical Office of the Republic of Serbia, *2014 Serbia Multiple Indicator Cluster Survey and Serbia Roma Settlements Multiply Cluster Survey, 2014, Final Reports*, Belgrade, Serbia, p. iv, available at: https://mics-surveys-prod.s3.amazonaws.com/MICS5/Europe%20and%20Central%20Asia/Serbia%20%28Roma%20Settlements%29/2014/Final/Serbia%20%28National%20and%20Roma%20Settlements%29%202014%20MICS_English.pdf.

⁴ UNICEF and Statistical Office of the Republic of Serbia, *Serbia Multiple Indicator Cluster Survey 2019 and Serbia Roma Settlements Multiply Indicator Cluster Survey 2019, Survey Findings Report*, Belgrade, 2020, xv, available at: <https://www.unicef.org/serbia/en/MICS6-Multiple-Indicator-Cluster-Survey-for-2019>.

⁵ Serbia Multiple Indicator Cluster Survey and Serbia Roma Settlements Multiple Indicator Cluster Survey, Statistical Snapshot, p. 35.

⁶ *Ibid.*

system.⁷ The completion rate in compulsory education among Roma girls is only 57%, compared to 93% among non-Roma girls and 95% non-Roma boys.⁸

The data on immunization coverage and school and pre-school attendance suggest that **conditions for parental allowance have a disparate impact upon Roma children**. If at least one child does not attend the preparatory preschool program or has not received all the obligatory vaccines, it is not possible to exercise the right to the parental allowance for any child from that family.

Roma children who remain outside the education system and who are not covered by immunization are, without doubt, one of the most marginalized groups in Serbia. Article 25 of the LFSFC disproportionately affects exactly these children and the right to parental allowance is denied to the children most in need. Instead of Serbia increasing efforts to promote non-discriminatory access to opportunities and services in all fields for Roma and to ensure their effective inclusion, the unfair provisions of the LFSFC have further exacerbated their situation and increased the gap between Roma and non-Roma children.

In March 2019, the A 11 Initiative wrote a letter to the Minister without Portfolio, who was also a member of the working group monitoring the effects of the LFSFC and drafting amendments to it, alerting to the need to change the provision discriminating against Roma children. However, the Minister's office replied that this case (i.e. discrimination against Roma children) was not within the remit of the Minister, who primarily dealt with demographic (population) policy, and that it forwarded the letter to the Ministry of Labor, Employment, Veteran and Social Affairs (hereinafter: MLEVSA), which failed to respond to it.

It is also pertinent to mention that, after examining the fulfillment of the recommendations from the Concluding Observations in relation to the third periodic report of Serbia on the implementation of the International Covenant on Civil and Political Rights, the UN Human Rights Committee concluded that recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation.⁹ **The Human Rights Committee concluded that Serbia, inter alia, had not complied with the recommendations relating to Roma exclusion. Furthermore, the Committee requested that, within the next reporting cycle, Serbia provide specific information**

⁷ UNDP, Roma at glance, Serbia, available at:

https://www.google.com/url?q=http://www.eurasia.undp.org/content/dam/rbec/docs/Factsheet_SERBIA_Roma.pdf&sa=D&source=hangouts&ust=1541498169882000&usq=AFOjCNF_B1337qwA9_ETdGLr83i3F3l82w, p. 2.

⁸ *Ibid*, p. 4.

⁹ Human Rights Committee, Follow-up letter sent to the State Party – Discontinuance of the Follow-up procedure, 26 November 2020, available at: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/SRB/INT_CCPR_FUL_SRB_44136_E.pdf

on the forthcoming amendments to the Law on Financial Support to the Families with Children, particularly the articles 22(8) and 25 and its impact on the Roma community.¹⁰

The Ministry for Family Care and Demography and the MLEVSA in March 2021 announced the changes of the LFSFC and published the Draft Law on Amendments to the LFSFC.¹¹ However, discriminatory conditions from Article 25, which exclude many Roma children from the right to parental allowance, remained unchanged.¹² The Draft Law amending the LFSFC from March 2021, shows that both ministries (for family and demographic care and for social affairs) ignored warnings and questions about the discriminatory effects of Article 25 of the Law and failed to amend the requirements for the parental allowance which discriminate against Roma children.

→ Serbia must amend its Law on Financial Support to Family with Children so as to remove Article 25 which excludes marginalized Roma children and prevents them from exercising the right to parental allowance.

The right to adequate housing for Roma

By adopting the Law on Housing and Building Maintenance in 2016, the Republic of Serbia has partially improved the national legislative framework regarding the guarantee of the right to adequate housing and protection against forced evictions. However, despite the mentioned improvement of the legal framework, the **failure of the competent state bodies to fully and consistently apply national and international regulations and standards that guarantee the right to adequate housing** continued in the reporting period.

Displacement of an informal Roma settlement near the city landfill in Vinča

Due to violations of the Environmental Protection and Social Policy of the European Bank for Reconstruction and Development (EBRD) which finances the project of building a waste incinerator at the city landfill in Vinča, the A 11 - Initiative for Economic and Social Rights (Initiative A 11) filed a complaint in November 2020 before the EBRD's

¹⁰ Ibid; the Human Rights Committee, Report on follow-up to the concluding observations of the Human Rights Committee, Addendum, Evaluation of the information on follow up to the concluding observations on Serbia page 4, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/SRB/INT_CCPR_FUL_SRB_44136_E.pdf

¹¹ Call for public consultations on amendments of the LFSFC available at: <https://javnerasprave.euprava.gov.rs/javna-rasprava/270>.

¹² Draft Law amending the LFSFC available at: <https://javnerasprave.euprava.gov.rs/ParticipationAttachment/GetParticipationAttachmentFile/1202>.

Independent Project Accountability Mechanism (IPAM)¹³. The complaint was filed before IPAM due to the **violation of the EBRD Policy as well as domestic and international regulations and standards during the resettlement of an informal Roma settlement near the landfill in Vinča**, carried out in December 2018. On that occasion, about 20 households were displaced, whose members lived and worked at the landfill for many years. During the process that preceded the relocation, and during the resettlement itself, the human rights of the inhabitants of this informal Roma settlement were violated.

Contrary to legal and obligations arising from ratified international agreements, at least four families with registered residence in Belgrade, as well as four families with residence outside Belgrade (in Municipality Vladimirci and the City of Šabac) were **left without any alternative accommodation**.¹⁴ The preparation of the process of resettlement of the informal Roma settlement at the landfill in Vinča took place in the absence of authentic consultations with the residents of the settlement, which includes the right of residents to relevant information, participation throughout the process, and the right to propose alternatives to meet their housing needs, that the competent authorities should have taken into account and consider.¹⁵ On the day of the relocation, during the demolition of the buildings in which they lived, several families had all their movable property destroyed, without receiving compensation for it.¹⁶ Human rights organizations have not been notified of the day of resettlement, which has prevented them from monitoring the displacement.¹⁷ After the displacement, the City of Belgrade did not take measures of social inclusion, such as assisting in employment and re-establishment of income, and/or improving the access to social protection and healthcare for the displaced population.¹⁸ On the other hand, alternative accommodation in social housing offered to some families is not affordable¹⁹.

¹³ The use of the mentioned complaint mechanism is a consequence of the fact that the deadlines for all legal remedies provided by the Law were missed due to the legal ignorance of the inhabitants of the settlement and the failure of the City of Belgrade to provide them with all the necessary and relevant information.

¹⁴ Law on Housing and Maintenance of Buildings ("Official Gazette of RS", No. 104/2016 and 9/2020 - other law), Art. 79. par. 1

¹⁵ Law on Housing and Maintenance of Buildings ("Official Gazette of RS", No. 104/2016 and 9/2020 - other law), Art. 81 par. 2

¹⁶ Basic Principles and Guidelines for Evictions and Displacement Based on the Development of the UN Special Rapporteur on the Right to Adequate Housing, 60.

¹⁷ Law on Housing and Maintenance of Buildings ("Official Gazette of RS", No. 104/2016 and 9/2020 - other law), Art. 86. par. 1 p. 1

¹⁸ Law on Housing and Maintenance of Buildings ("Official Gazette of RS", No. 104/2016 and 9/2020 - other law), Art. 87.

¹⁹ Affordability implies that the costs of an individual or household for housing needs should be at a level that does not jeopardize the fulfilment and satisfaction of other basic living needs; Law on Housing and Building Maintenance ("Official Gazette of RS", No. 104/2016 and 9/2020 - other law) Art. 79. par. 3. pts. 2; General comment no. 4 of the United Nations Committee on Economic, Social and Cultural Rights in conjunction with Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights ("Official Gazette of the SFRY - International Agreements", No. 7/71)

Forced eviction of Vijađukt settlement

Due to the construction of the road on the "Koridor 10" route **in January 2021, about 60 mostly Roma families were forcibly evicted from the abandoned facilities of the Vijađukt company.** As these were families of extremely unfavorable social status who live mainly on financial social assistance and informal work, due to which they were not able to provide themselves with alternative accommodation, Initiative A 11 called on the competent institutions to carry out resettlement in accordance with the procedure prescribed by the Law.²⁰

Nevertheless, forced evictions were carried out in violation of all legal procedures, which include adopting an action plan on resettlement, deciding on the necessity of eviction, organizing consultations with residents, providing adequate alternative accommodation, and taking social inclusion measures after relocation. Instead, each household from this settlement was offered a **one-time monetary compensation of 19,000 euros**, without taking into account the specific needs and differences between families. Apart from the fact that such a solution, as well as its practical implementation, is completely contrary to the international and domestic regulations, it does not represent an adequate response to the housing and other needs of people affected by the resettlement, especially having in mind their social status.

In addition to the fact that it was extremely difficult to find a residential building on the real estate market in the territory of the City of Belgrade for the amount of monetary compensation offered, several families were given an inappropriately short deadline to do so during Christmas holidays.

It is additionally important to point out that **the Protector of Citizens was involved in the resettlement process**, whose role should have been to act preventively by mediating and giving advice and opinions on issues within its competence, to improve the work of administrative bodies and protect human freedoms and rights. Just **contrary to the role it was supposed to play, the Protector of Citizens participated in proposing the implementation of this illegal solution, which was not in line with the best interests and needs of the inhabitants of the informal settlement.**

→ Serbia should ensure effective implementation of the Law on Housing and Building Maintenance, and especially sections of the law prescribing housing support and the procedure for relocation of informal settlements and ensure that there is the affordability of social housing for the most vulnerable population.

²⁰ Law on Housing and Maintenance of Buildings ("Official Gazette of RS", No. 104/2016 and 9/2020 - other law), Art. 78 - 87.

Unaffordability of social housing

The unsustainability of the existing model of social housing in terms of its affordability for beneficiaries of financial social assistance, as well as low-income tenants, is indicated in data collected by Initiative A 11. Namely, **in Kamendin settlement in Zemun Polje, where the largest number of social housing in the city is located, 11% of users were disconnected from the electricity distribution network due to debts, while a procedure for forced collection of debt for communal services (heating, water costs, etc.) was initiated against 47% of tenants.** Due to debts for lease costs, the City of Belgrade has initiated and finalized court proceedings for eviction against 12 users of social housing, while eight court proceedings for the eviction are still ongoing. Beneficiaries of social housing are additionally financially burdened by paying property taxes, even though this is a property that does not represent their private property.²¹

COVID-19 AND THE SITUATION OF THE MOST VULNERABLE POPULATION

Measures for the protection of the most vulnerable population during the COVID-19 pandemic

Different research showed that access to water is one of the key challenges Roma from informal settlements face.²² Difficulties related to water access and implementation of preventive measures are also evidenced by the special report of the Ombudsperson on living conditions in ten Roma settlements visited during the state of emergency. In this report, except for one visited settlement, it was evidenced that Roma have problems in access to safe drinking water.^{23,24}

However, these problems persist, and there was just a small number of local self-governments that improved the living conditions of Roma during the pandemic and

²¹ Law on Property Tax ("Official Gazette of the RS", No. 26/2001, "Official Gazette of the FRY", No. 42/2002 - decision of the SUS and "Official Gazette of the RS", No. 80/2002, 80 / 2002 - other law, 135/2004, 61/2007, 5/2009, 101/2010, 24/2011, 78/2011, 57/2012 - decision US, 47/2013, 68/2014 - other law, 95 / 2018, 99/2018 - decision US, 86/2019 and 144/2020), Art.2. par. 1. pts. 2.

²² Lj. Živković, A. Đorđević, *General Characteristics of Substandard Roma Settlements in Serbia and a Proposal for Further Development Initiatives for the Improvement of the Living Conditions of the Roma Community*, OSCE Mission to Serbia, Belgrade, 2015, available [here](#). See also: UN Human Rights Unit, Social Inclusion and Poverty Reduction Unit of the Government of the Republic of Serbia: *Mapping of Substandard Roma Settlements According to Risks and Access to Rights in the Republic Of Serbia with Particular Attention to the COVID-19 Epidemic*, Belgrade, December 2020, available [here](#).

²³ Ombudsperson, *Special Report of the Ombudsperson: Conditions in Roma settlements during the state of emergency and application of measures during the epidemic of corona virus (COVID-19)*, 19 May 2020, available [here](#).

²⁴ See also: A 11 – Initiative for Economic and Social Rights, *Human Rights in Serbia During the First Wave of Coronavirus: from denial of danger to state of emergency*, Belgrade 2020, available [here](#).

implemented the recommendations that the Ombudsperson published in the abovementioned Special Report.²⁵ In addition to that, the lack of specifically designed measures for the protection of the most vulnerable population affected their access to social rights and in some cases even further marginalized them. For instance, even though the **Belgrade Shelter for Adults and the Elderly did not accept homeless people referred to them by the centers for social work in Belgrade in the period from March 15 to November 16²⁶**, the homeless population in some cases, when found in the street during the curfews, were fined before the Misdemeanor Court in Belgrade.²⁷

Finally, the A 11 Initiative would like to emphasize that Serbia is the **only country in the region that has not introduced any special social policy measures towards the most vulnerable citizens during the state of emergency and the corona crisis**. Unfortunately, the Republic of Serbia failed to pay special attention to the most vulnerable categories of the population since the beginning of the COVID-19 pandemic, even though this was its legal obligation under Article 2 (1) of the International Covenant on Economic, Social and Cultural Rights and the non-discrimination provisions of the European Convention on Human Rights. This **failure of the state to take positive measures to protect the most vulnerable is worrying as there are no indications that this approach will change**. States are obliged to allocate the maximum available resources for the progressive realization of all economic and social rights, especially of those that are most marginalized, and the Republic of Serbia has failed to do so during the crisis.

In addition to that, the Government failed even to reply to the appeals to take into account the situation of the most vulnerable population when adopting the measures for the prevention of the spread of the disease. For example, on 17 March 2020, the A 11 Initiative sent the appeal to the Government of Serbia to establish a so-called **third Crisis Staff to deal with the protection of the most vulnerable during the coronavirus crisis, as well as to analyze the effects of the adopted economic measures on the most vulnerable**. Furthermore, the set of urgent measures²⁸ developed in cooperation with the Social Inclusion and Poverty Reduction Unit of the Government of Serbia and experts for social policies was submitted to the Prime Minister, Ms. Brnabić, at the beginning of April 2020.²⁹ Still, there is neither response to this document, nor the dialogue about the protection of the most vulnerable during the pandemic initiated by the Government.

²⁵ Letter received from the Ombudsperson demonstrated that out of all local self-governments that received the Special Report on the *Conditions in Roma settlements during the state of emergency and application of measures during the epidemic of corona virus (COVID-19)*, with recommendations, only five municipalities implemented them: Novi Sad, Ljig, Malo Crniće, Boljevac and Niška Banja, Letter no. 9877 from 14 April 2021.

²⁶ For more information about this, please see [here](#).

²⁷ Decisions of the Court on file with the A 11 Initiative.

²⁸ Urgent measures developed at the beginning of the coronavirus pandemic are available [here](#) (available only in Serbian language).

²⁹ For more information, please see: <https://www.a11initiative.org/podnet-predlog-mera-za-sprecanje-i-ublazavanje-posledica-korona-virusa-po-socijalno-iskljucene-i-posebno-ranjive-kategorije-stanovnistva/> (Available in Serbian language only).

Exclusion of the most vulnerable Roma from the possibility of receiving one-time financial assistance of 100 euros

As one of the measures to mitigate the economic consequences of the COVID-19 pandemic, in April 2020, the Government of the Republic of Serbia stipulated that all adult citizens of Serbia would be paid a one-time financial aid of 100 euros in dinars equivalent.³⁰ **Since possession of a valid ID card and a unique personal number was required for registration and payment of one-time cash assistance of 100 euros, Roma without documents were excluded from the possibility of receiving this type of aid.**³¹ Apart from the fact that undocumented Roma are among the most vulnerable citizens in Serbia, they are also particularly exposed to the risk of the economic consequences of the pandemic.³²

The possibility of receiving a one-time financial aid of 100 euros did not depend on the needs and vulnerability, but exclusively on the possession of documents. On the face of it, possession of documents is a seemingly neutral condition that is not related to ethnicity. However, the application of this seemingly neutral criterion disproportionately affects members of the Roma national minority, since, in Serbia, Roma are the most represented among those facing problems in accessing personal documents.

According to a UNHCR survey, **3.9% of Roma in Serbia do not have basic identity documents, and about 5.2% of Roma living in Roma settlements (about 2,700 people) do not have an ID card.**³³ The Special Report of the Protector of Citizens on the Reproductive Health of Roma Women from 2017 also points out that **there are still cases of legally invisible Roma and Roma who are not allowed to register their residence.**³⁴ The Strategy for Social Inclusion of Roma Men and Women for the period 2016 to 2025 points out that, due to the inefficiency of the competent authorities and problems related to determining permanent residence, a large number of the poorest Roma still face the inability to access financial social assistance.³⁵

³⁰ Article 15 of the Decree on fiscal benefits and direct benefits to business entities in the private sector and financial assistance to citizens in order to mitigate the economic and social consequences caused by COVID-19 (hereinafter: the Decree) stipulates that upon the end of the state of emergency declared after the outbreak epidemic of coronavirus in Serbia, all adult citizens of Serbia will be paid the amount of 100 euros in dinars equivalent (Official Gazette of the RS, No. 54/2020 and 60/2020).

³¹ The method of application for this type of aid and the method of payment are regulated in more detail by the Rulebook on the manner of application and the manner of payment of one-time financial assistance (hereinafter: the Rulebook) (Official Gazette of the RS, No. 73/2020, 76/2020 and 78/2020). Article 4 of the Rulebook stipulates that citizens, when submitting an application for the payment of this assistance, submit a unique personal identification number (JMBG) and the registration number of a valid ID card. Therefore, persons who do not have a JMBG and a valid ID card could not receive this type of assistance.

³² C. Willis, "Economic Effects of the COVID-19 Pandemic on Roma Communities in Albania, Bosnia & Herzegovina, Moldova, Montenegro, Serbia and Ukraine", The European Centre for Minority Issues, October 2020.

³³ UNHCR, [Lica u opasnosti od apatridije u Srbiji – Ocena napretka 2010-2015](#), p. 13 and 22.

³⁴ Ombudsperson, The Special Report of the Ombudsperson on the Reproductive Health of Roma Women, 2017.

³⁵ The Government of the Republic of Serbia, Strategy for Social Inclusion of Roma Men and Women for the Period 2016 to 2025, p. 53.

Therefore, there is no doubt that problems related to access to personal documents are most common among Roma, that the number of Roma facing these difficulties is not negligible and that due to lack of documents they could not exercise the right to financial assistance to mitigate the economic consequences of the pandemic. From the mentioned reports and strategic documents, it is noticeable that, in addition to pointing out that the problems related to access to documents are most often faced by Roma, it is also indicated that they are the poorest and socially excluded members of this national minority. This further means that **access to the financial assistance of 100 euros was impossible for citizens who are among the poorest and most marginalized in Serbia, and whose position was further worsened during the epidemic.**

By introducing financial assistance to mitigate the economic consequences of the pandemic, the state did not apply this measure fairly and consistently to all within its jurisdiction. **The fact that Roma are the most represented among those to whom one-time financial assistance of 100 euros remained inaccessible, indicates that this measure is also in contradiction with the prohibition of discrimination.**

According to the case law of the European Court of Human Rights, a general policy and measure that is seemingly neutral, but has a disproportionately detrimental effect on persons or groups that are recognizable only by ethnic criteria, can be considered discriminatory even if it is not specifically targeted at that group.³⁶ If it turns out that a certain neutrally formulated rule affects a significantly higher percentage of members of a certain vulnerable group, this may be the first indicator of indirect discrimination.

Furthermore, the Committee on Economic, Social and Cultural Rights cites as an example of indirect discrimination situations when possession of a certain document, that may be inaccessible to ethnic minorities, is required for access to rights.³⁷

→ When envisaging measures to mitigate the consequences of the COVID-19 epidemic, the state should apply these measures consistently and fairly to everyone in its jurisdiction, in accordance with the principles of non-discrimination, human dignity, and human rights protection, while taking into account the needs of the particularly vulnerable and those who cannot provide for their livelihood in any other way.

³⁶ *Oršuš v. Croatia*, para. 50.

³⁷ The Committee further explains that, for instance, requiring a birth registration certificate for school enrolment may discriminate against ethnic minorities or non-nationals who do not possess, or have been denied, such certificates. CESCR, [General comment No. 20: Non-discrimination in economic, social and cultural rights](#), 2009, para. 10(b).

Position of Tradeswomen During the Pandemic of COVID-19

The position of tradeswomen (who are considered as “essential workers” during the pandemic) is being further exacerbated since the beginning of the pandemic because of the constant exposure to the possibility of infection due to the nature of their job and the organization of their work during the pandemic. Lack of protection measures against infection in the workplace, the lack of effective access to the right to fair and favorable working conditions at the time of contagious disease, disrespect of working hours, and denial of the right to sick leave, are some of the identified cases of violations their rights.³⁸

The research conducted by the A 11 Initiative showed that **workers do not use Labor Inspectorates as a mechanism for protection from discrimination at the workplace.** This research conducted in all regional branches of the Labor Inspectorate demonstrated that Labor Inspectorates in only four districts (Cacak, Novi Sad, Vranje, and Zrenjanin) received reports of discrimination in the workplace.

→ Serbia should amend the Law on Prohibition of Discrimination to provide the Labor Inspectorate and other inspections with the authority to submit the complaints to the Commissioner for the Protection of Equality, as well as to allow the trade unions to submit these complaints.

Unequal access to education of children in Serbia

Since the onset of the COVID-19 pandemic, there have been many obstacles to the equal enjoyment of the right to education among children in Serbia, and a whole group of children has been inadvertently discriminated.

Namely, upon the introduction of the state of emergency, education for elementary and secondary school students switched to an online format. The educational model has been adapted as a result of the epidemiological situation, whereby classes were shortened to 30 minutes from the previous 45-minute format,³⁹ while schools have been allowed to individually decide whether they will be implementing distance learning or in-school learning.⁴⁰ However, decisions about the format of education (whether online

³⁸ For more information, please see: A 11 - Initiative for Economic and Social Rights, “The Position of Tradeswomen During the Pandemic of COVID-19”, Belgrade, April 2021.

³⁹ Rulebook on a Special Format of Education, “Official Gazette of the RS” No. 110/2020-3 – relevant segment: Recommendations for the realization of classes during emergency situations

⁴⁰ MONDO, “Danas odluka o nastavi! Kon kaže: Svaka škola sama odlučuje, a o maskama kaže ovo...”

or in-person) have been placed in the hands of the Crisis Headquarters for the Suppression of the COVID-19 Disease, as it is charged with making all decisions pertaining to the prevention, mitigation, and suppression of the COVID-19 disease.⁴¹

However, all schools have at one time or another introduced **distance learning via television or the internet, which has effectively limited access to education to a great number of children, having a particularly detrimental effect on, particularly vulnerable children.** Namely, **children belonging to the Roma national minority, living in informal Roma settlements were disproportionately affected by these measures,** while measures taken to facilitate their equal access to education have not been sufficient. Namely, **while 64.4% of households in Serbia have a laptop, computer, or a tablet, this number drops to 28.8% for households located in Roma settlements,**⁴² clearly indicating a stark rift between the residents of Roma settlements and the general population concerning access to computer technologies i.e., important tools for the realization of the right to education in the distance learning model. Furthermore, from the 702 substandard Roma settlements mapped via a recent study, some **14.35% of the residents thereof do not have access or have irregular access to electricity,**⁴³ making access to education via technological means impossible for a considerable number of children.

Although that is the case, the competent **Ministry of Education, Science and Technological Development has not introduced adequate measures to improve access to education for children from vulnerable groups** (socio-economic). Namely, the only instructions provided by the Minister of Education, Science and Technological Development to these educational institutions in relation to the latest online shift that began in late March, is that they should “find alternative ways to provide support in education... to children of lower socioeconomic status, as well as to other students that lack access to the necessary technology;” and that certain information important for realizing the right to education should be made accessible to all children and parents.⁴⁴ Although schools are also part of the State apparatus, this approach seems to neglect

<https://mondo.rs/Info/Drustvo/a1357571/Nastava-od-septembra-skole-same-odlucuju-o-modelu-nastave-Predrag-Kon.html>
(available only in Serbian)

⁴¹ Via virtue of article 2 of the Decision on the Formation of the Crisis Headquarters for the Suppression of the COVID-19 Infectious Disease, “Official Gazette of the RS” No. 132/2020-1.

⁴² Serbia Multiple Indicator Cluster Survey 2019 and Serbia – Roma Settlements Multiple Indicator Cluster Survey 2019, UNICEF 2020, pp. 21 and 24, available at:

<https://www.unicef.org/serbia/media/16726/file/MICS%206%20Multiple%20Indicator%20Cluster%20Survey%20for%202019.pdf>

⁴³ Mapping of Substandard Roma Settlements According to Risks and Access to Rights in the Republic Of Serbia with Particular Attention to the COVID-19 Epidemic, Social Inclusion and Poverty Reduction Unit of the Government of the Republic of Serbia and the UN Human Rights Team in Serbia, p. 14, available in Serbian at: http://sociojalnoukljucivanje.gov.rs/wp-content/uploads/2020/12/Mapiranje_podstandardnih_romskih_naselja_prema_rizicima_i_pristupu_pravima_sa_narocitim_osvrtom_na_COVID-19.pdf

⁴⁴ Letter of the Minister of Education, Science and Technological Development on the realization of educational activities via distance learning for elementary and secondary school students, Letter No. 601-00-9/2020-1, dated: 16 March 2021, available attached to this submission in Serbian.

the difference in budgeting and resources of schools in various local self-government units throughout Serbia, and therefore their capacity to individually address this problem. It also highlights a **lack of a systemic and targeted approach to resolving such a pressing issue related to the enjoyment of the right to education, accessibility thereto, and discrimination.** And even though the Ministry has procured and is distributing laptops and other equipment necessary for the education of children belonging to particularly vulnerable groups,⁴⁵ targeted policy, and normative solutions are lacking, let alone practice that follows.

→ Serbia should introduce specific measures for the improvement of access to education for children coming from socio-economic vulnerable groups and bridge the digital divide between Roma and non-Roma children.

ACCESS TO LEGAL REMEDIES IN CASES OF VIOLATIONS OF BASIC HUMAN RIGHTS

GANHRI Reaccreditation of the Ombudsperson

In October 2019, the A 11 – Initiative for Economic and Social Rights and CRTA submitted its Joint Submission to the GANHRI Sub-Committee on Accreditation (hereinafter: SCA) on the occasion of re-accreditation of Serbia's National Human Rights Institution (Protector of Citizens). Issues raised in this report were the following: a) The procedure of appointing the new Ombudsperson; b) Financial independence of the Ombudsperson; c) Appointment of the Ombudsperson's Deputies; d) (Lack of) reactions of the Ombudsperson in different cases relevant for the protection of human rights of persons deprived of liberty and criminal suspects; **e) Legislative and other initiatives of the Ombudsperson relevant for the protection of economic and social rights; f) Lengthy proceedings in front of the Ombudsperson.**

In addition to the fact that there is a **decrease in the number of national authorities implementing recommendations related to economic and social rights,** it was noticed that there are numerous problems in the work of the Ombudsperson regarding complaints concerning violations of the economic and social rights of citizens.

In the reaccreditation process, the SCA concluded that the Ombudsperson did not provide information that would dispel the indicated concerns. So, despite the previous practice regarding the reaccreditation of the Ombudsperson, the Alliance postponed

⁴⁵ News available on the website of the Ministry in Serbian language [here](#) and [here](#).

the decision on maintaining the grade "A", due to numerous issues that cause concerns and on which the institution needs to respond during 2021.

Expecting that steps will be taken to resolve these issues in the subsequent deadline, the **final decision on the accreditation of the Protector of Citizens has been deferred to the end of 2021** when the institution will either be granted status "A" – which indicates full compliance with the Paris Principles or status "B" – which signifies their partial respect.

After such a decision was made, we must point out that the Ombudsperson appeared in public with a very unpleasant and hostile attitude towards the organizations that submitted their reports in the process⁴⁶. **Calling the postponement of reaccreditation a distortion of the facts, he presented the reporting organizations as unprofessional, without knowledge, and marginal**⁴⁷. The A 11 Initiative sent the Open Letter to the Ombudsperson⁴⁸ because of this situation but received no response until today.

The A 11 Initiative is an organization cooperating with the Ombudsperson as a part of the National Preventive Mechanism against Torture (hereinafter: NPM) since June 2020. Although the initial idea of our participation in the work of the NPM was to advance the work of this body in the domain of the economic and social rights of persons deprived of liberty, until today, the A 11 Initiative was never invited to the visits conducted by this body to prisons and pre-trial detention facilities.

Implementation of the Law on Free Legal Aid

The research conducted by the A 11 Initiative demonstrated that the Law on Free Legal Aid **did not significantly improve the access to justice for the most vulnerable population** and that the lack of inclusiveness of the Law on Free Legal Aid exacerbated access to justice for these groups of the population.⁴⁹

On the other hand, the experiences from cases where the A 11 Initiative supported individuals to access free legal aid system, demonstrated that at least some vulnerable citizens (namely internally displaced population) are insufficiently informed about the rights they have in the free legal aid system, and even about the existence of the Law on Free Legal Aid. In addition to that, experience shows that administrative bodies in some cases fail to provide legal aid for as long as ten months, that the decisions upon

⁴⁶ More information available [here](#).

⁴⁷ More information available [here](#).

⁴⁸ For more information about the Letter, please see: <https://www.a11initiative.org/otvoreno-pismo-zastitniku-gradjana-agresivnim-javnim-nastupima-problemi-u-postovanju-ljudskih-prava-nece-nestati/> (Available only in Serbian language).

⁴⁹ For more information about this, please see: A 11 – Initiative for Economic and Social Rights, *The Implementation of the Law on Free Legal Aid from the Perspective of Internally Displaced Population*, January 2021.

free legal aid applications were delivered only orally, or that the applications were rejected without any explanation.