



DISTORTED IMAGE

**Economic and Social Rights
in Serbia in 2021**



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CONTENTS

Why is the image distorted?	7
The right to work employment	10
Normative activities.....	11
Labour rights in the context of the COVID-19 pandemic.....	13
Minimum price of labour.....	15
Protection of labour rights.....	16
Employment of the hard-to-employ.....	17
Case study: Construction of the Linglong factory in Zrenjanin – human trafficking for the purpose of labour exploitation.....	20
Labour relations and exercising the right to health care.....	25
The right to social protection	28
Key problems in the field of social protection in 2021.....	29
Decree on measures of social inclusion of beneficiaries of financial social assistance – forced work of beneficiaries of financial social assistance.....	35
Law on Financial Support to Families with Children	37
Unresolved problems in the field of financial protection of families with children.....	39
Impossibility of exercising the right to parental and child allowance for the fifth and each subsequent child.....	43
Law on Social Card.....	45
Financial assistance to mitigate the consequences of the COVID-19 pandemic.....	47
Case study: Financial assistance to mitigate the consequences of the pandemic.....	49
Difficulties in accessing personal documents.....	49

Impossibility to exercise the right to financial assistance for mitigation of the consequences of the epidemic.....	50
Roma without permanent residence and ID card – without support measures and protection from discrimination.....	51
The right to adequate housing.....	54
Implementation of the Law on Housing and Building Maintenance.....	56
Case Study: Eviction of the Settlement “Vijadukt” in Belgrade.....	57
Adoption of the National Housing Strategy for the period 2022–2032.....	60
Social housing.....	61
The right to health.....	65
Budget investments the health sector.....	67
Access to health care for persons without personal documents.....	68
Costs of childbirth and other medical interventions of undocumented persons.....	70
Access to health care for persons accommodated in social welfare institutions.....	73
Access to health care after changing a permanent residence.....	75
Access to health care for people on move.....	76
The right to health care and environmental protection.....	78
The right to education.....	80
Adoption of the Strategy for the Development of Education until 2030.....	81
Improving the normative framework in the field of education.....	85
Analysis of existing measures for inclusive education and support for children and students from vulnerable groups.....	86

Involvement of parents in decision-making processes in education.....	86
Implementation of Individualized Education Plans.....	87
Analysis of the current situation in the educational system by levels of education.....	90
<i>Preschool education</i>	90
<i>Primary education</i>	92
<i>Secondary education</i>	94
Education of students from the refugee population	95
"Online" education during the COVID-19 virus pandemic.....	97
The main data, recommendations and conclusions obtained through research conducted during 2021.....	98
Conclusion.....	101

Introduction

Why is the image distorted?

This report attempts to collect and present the most important challenges regarding the realization of economic and social rights in Serbia during 2021. We focus on five areas that are key for the enjoyment of these rights - labour, health, social protection, education, and housing - documenting and analyzing systemic barriers to the exercise of these rights. We consider several issues in turn, including illegal practices of public authorities that prevent the exercise of these rights, regulations, and public policies that do not take into account the position of particularly vulnerable categories of citizens or direct and systemic violations of economic and social rights.¹

The past year was marked by several significant events that are important for a better understanding of economic and social rights in Serbia. Despite the growth of the gross domestic product, economic indicators, and even the dominant narrative of how the Republic of Serbia is becoming an “economic tiger,” this progress has barely been felt by the most vulnerable population. Moreover, the dominant approach to development often takes place at the expense of the most vulnerable citizens or leads to their further marginalization and impoverishment. That is why the **picture is distorted** - while, on the one hand, we can see cranes and factories, new roads and railways, on the other hand, those who are the most vulnerable gain almost no benefit from that progress. Their economic and social rights are at least neglected, and very often they are systematically violated.

As in 2020, the year behind us was a pandemic year marked by the adaptation of the economy, public authorities, and citizens to measures for preventing the spread of coronavirus. Some measures have negatively affected the realization of economic and social rights in the country, and especially affected those who are most vulnerable. At the same time, some of the anti-crisis measures will have long-term negative consequences on the realization of economic and social rights. In the first year of the fight against coronavirus, Serbia was one of the few European countries that did not introduce any measures aimed at mitigating the consequences that the struggle against coronavirus had on the most vulnerable. In the second year, some categories of citizens in need of additional support to overcome this unprecedented crisis were finally recognized.

There were large increases in public spending, often in less essential areas such as the linear payment of assistance to all citizens or the purchase of vitamins for pensioners.

¹ All gender-specific words are used to denote and refer equally to both sexes.

Therefore, this increased public spending can be said to be a **missed opportunity** to address some of the long-lasting problems in exercising economic and social rights in Serbia by better targeting the most vulnerable and thinking about how to respond to the coronavirus crisis.

The Constitutional Court did not make any decision in the procedures for the assessment of the constitutionality and legality of general acts that are important for the exercise of economic and social rights in 2021. Thus, the decision of the Constitutional Court on the legality and constitutionality of the introduction of forced labor for beneficiaries of financial social assistance has been waited on for over seven years, while the decision of the same court on the constitutionality of certain provisions of the Law on Financial Support to Families with Children has had a disproportionately negative impact on Roma children. In 2021, there were no cases of direct application of the provisions of the International Covenant on Economic, Social, and Cultural Rights in proceedings before courts of general jurisdiction, which potentially shows a low level of knowledge of these rights, both when it comes to citizens and when it comes to judicial authorities.

The year behind us was also marked by the beginning of a dialogue on improving the protection of economic and social rights in Serbia, through the signing and ratification of the **Optional Protocol to the International Covenant on Economic, Social and Cultural Rights**, established by the A 11 Initiative with the Ministry of Human and Minority Rights and Social Dialogue. The finalization of this procedure will complete the system of protection of human rights in Serbia. Also, the establishment of another international mechanism for the protection of economic and social rights will have a positive impact on the implementation of both constitutional guarantees and those contained in international treaties. The signing and ratification of the Optional Protocol would show that these rights are respected and protected in the same way as civil and political rights and confirm the principled commitment of the Republic of Serbia to promote and protect the rights of the most vulnerable citizens in the country.

Also, 2021 was marked by the limited improvement of the normative framework that is important for the exercise of economic and social rights, primarily through amendments to the Law on Prohibition of Discrimination and prescribing of the obligation of public authorities when preparing a new regulation or public policy relevant to exercising the rights of socio-economically vulnerable individuals or groups of individuals to **make an assessment of the impact of regulations or policies in which it assesses their compliance with the principle of equality**. On the other hand, there were noticeable

attempts to further reduce the achieved level of guaranteed rights, primarily in the field of labour and labour relations, through the planned expansion of the scope of works considered as "seasonal work." Also, it is important to mention that, on the normative level, a particularly worrying novelty is the use of new technologies and digitalization for stricter control of beneficiaries of financial social assistance and for automated decision-making process on the rights from the social protection system, which were established by the Law on Social Card.

In the end, the case of human trafficking for labour exploitation of workers from Vietnam who are engaged in the construction of the **Linglong tire** factory in Zrenjanin reminded us of how extreme **systemic violations of economic and social rights** can be. Over 400 workers from Vietnam were placed in inhumane conditions when their passports were confiscated, and they were conditioned by various financial penalties to work 26 days a month. When the whole case was documented and presented in detail in media, the silence of the competent state bodies, and even the dilution of this issue, clearly showed that this would be one of the cases that reminded us of the culture of irresponsibility for human rights violations in Serbia. The picture is made even worse by the fact that this case involved the of building a factory that should bring new jobs and gross domestic product growth. Therefore, in the future, we will have to deal with answering the question of what kind of growth we want and at what price.

The report is divided into seven sections, in which, after this introductory text, we will focus on issues of labor, social protection, housing, health, and education, and end with some concluding remarks.

**The right to
employment**

The year 2021 was, more than ever in the field of labour and employment, marked by attempts to implement normative activities aimed at lowering the achieved level of labour rights and their further fragmentation. On the one hand, the state pursued a policy whose main narrative is the reduction of unemployment and economic development, and on the other hand, it prepared and proposed regulations that reduce the achieved level of labour rights.

Normative activities

There were no significant legislative activities last year due to the pandemic, but drafts of certain regulations whose amendments had been announced were passed in 2021. In September, the public debate on the Draft law on Safety and Health at Work ended. The new draft envisages greater safety measures for workers, authorizations for inspectors, but also for employees who perform occupational safety and security activities within work units. One of the main objections to the draft is that it did not sufficiently deal with remote work and work from home, as forms of work that became especially important during the pandemic. Also, at the end of the year, public debates were held regarding the Draft law on Labour Practice and the Draft law on Social Entrepreneurship, the areas that had been not sufficiently regulated before. The Draft law on Social Entrepreneurship implies a broader concept of social entrepreneurship, which in practice will mean that the status of social entrepreneurship can be acquired by an entrepreneur, company, cooperative, association, sports association, foundation, and other legal entity. The expert public that participated in the discussion positively assessed the definition of vulnerable social groups, as well as their work activation.

The Draft law that should be given special attention, regarding the **number of negative consequences it could bring, is the Draft law on Work Engagement due to the increased volume of work in certain activities.**² This law is a kind of continuation of the Law on Simplified Work Engagement on Seasonal Jobs in Certain Activities (the so-called Law on Seasonal Work),³ whereas the scope of occupations to which it applies has now been increased. The originally passed Law on Seasonal Engagement, which is still in force, aimed to regulate the work of seasonal workers and reduce work illegal employment; however, due to poor legal solutions, which, among other things, include the conclusion of oral contracts and the prevention of effective protection of workers, the expected result in terms of better protection of seasonal workers has not been

² The Draft law is available at: <https://www.paragraf.rs/dnevne-vesti/070921/070921-vest11.html>.

³ The Official Gazette of RS, no. 50/2018.

achieved.⁴ Considering the existing legal possibilities for hiring workers, it can be said that the Draft law on Work Engagement for the increased volume of work in certain activities is unnecessary, because contracts covered by the Labour law can be applied to the jobs it covers, which provide workers with a higher degree of protection.

The Draft law extended its effect to areas that do not include only seasonal work, but it includes seasonal workers engaged in specific jobs in the sector of agriculture, forestry, and fisheries, certain physical jobs in construction, some services-related jobs, accommodation, and food sectors, and catering. It also includes tourist guides, hostesses, those who deal with housekeeping, cleaning, babysitting, and taking care of the elderly, as well as cleaning residential buildings. With the adoption of this law, all those engaged in the aforementioned jobs were left without the rights guaranteed by the Labour Law, because their work will not be considered as an employment relationship. Considering the jobs covered by this draft, it can be clearly noticed that it regulates the **jobs that are paid the lowest and those that are mostly performed by women**. As with the Law on Seasonal work, an oral contract is envisaged to be concluded, which leads to further flexibility and precarization of work. In situations where there is discrimination, mobbing and other violations of rights, the possibility of proving work and working conditions is almost impossible. The "I Also Live Out of Season" initiative, consisting of the Centre of Modern Skills, the Platform for Theory and Social Practice of Common Goods and A 11 Initiative, demanded that the **Draft law be withdrawn from the procedure** as it threatens to seriously violate workers' rights, and 162 signatories, individuals and organizations, sent an identical request to the address of the Ministry of Labour, Employment, Veteran and Social Affairs. However, after the public debate, the Ministry did not accept any of the proposals, nor did it further explain the intention to propose the disputed provisions. Nevertheless, the conclusion of the public hearing states that additional consultations will be held with the International Labour Organization (hereinafter: ILO) on whether some of the ILO conventions have been violated. It remains to be seen whether, after additional consultations, the Draft law will undergo significant changes.

The analysis of the proposals and adopted regulations leads to the conclusion that there is a trend of reducing the achieved level of rights by passing regulations, as well as fragmentation of the Labour Law, so that special laws provide for the relations that were

⁴ *Second-Class Workers: Non-Standard Work In Serbia*, Joint - Platform for Theory and Social Practice of Common Goods, 2021, available at: https://zajednicko.org/wp-content/uploads/2021/02/publikacija_Radnici-drugog-reda-nestandardni-rad-u-Srbiji.pdf.

already regulated by that law. In addition, it is important to note that drafting of regulations and their adoption are often not transparent enough, because they exclude representatives of the profession and civil society organizations from working groups, or their involvement in these processes is insufficient. Publishing of public debates is not transparent enough, and once the public debates are completed, there are no adequate explanations why certain proposals were not adopted. In this way, workers and marginalized groups often remain invisible in legislative solutions, there is no assessment of the impact on their position, which in practice further exacerbates their already poor position.

Labour rights in the context of the COVID-19 pandemic

The International Labour Organization, in its report "World Employment and Social Outlook – Trends 2021,"⁵ largely relies on market predictions and job availability trends in relation to the pandemic and its consequences. Therefore, this year was also mostly marked by the consequences of the pandemic which, in addition to job losses, also affected the quality of work, reduction of working hours and access to the labour market. All this leads to an increase in poverty on a global level, and the report states that, compared to 2019, there are now additional 108,000,000 workers worldwide who can be classified as poor and extremely poor.⁶ It is estimated that workers in the informal labour market have suffered the most. The crisis also threatens progress in achieving gender equality, as women have suffered disproportionate job losses, while their unpaid working hours are increasing and, by the way of doing business during pandemic, their occupations are often described as extremely difficult and unsafe.⁷ Therefore, all these circumstances **transformed the pandemic into a labour and social crisis**. In this sense, in order to improve the situation on the labour market, the ILO in its activities turns to the recovery strategy, envisaging four principles: 1) promoting greater economic growth and creating productive employment; 2) supporting the increase of household income and transition in the labour market; 3) strengthening the institutional basis for inclusive, sustainable and resilient economic development; 4) involving in social dialogue in order to develop and provide recovery strategies aimed at the well-being of people.

⁵ International Labour Organization, World Employment and Social Outlook: Trends 2021, 2021, available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_795453.pdf.

⁶ *Ibid.*, p. 12.

⁷ *Ibid.*, p. 14.

The COVID-19 pandemic affected the movements on the labour market and especially affected the most vulnerable in Serbia. However, the statistics that are officially published do not sufficiently capture the situation. For example, according to the data of the National Employment Service (hereinafter: NES), in December 2021, **a total of 481,202 unemployed persons were registered, of which 269,930 were women**,⁸ and within that number there were 94,179 unemployed women over the age of 50. Data on the nationality of the unemployed, although recorded, are not published in monthly bulletins, so, for example, it is not possible to determine the number of unemployed Roma. The same is true when considering the position of persons with disabilities. Although recorded in internal statistics, data on unemployment of persons with disabilities are not published in a continuous period, so it is difficult to follow employment trends. Failure to show data on unemployment of persons coming from vulnerable social groups leads to even greater invisibility of their position on the labour market.

In Serbia, despite the almost unchanged situation during the pandemic and its serious consequences, **in 2021** there was a change in considering the measures of the state towards employees and particularly vulnerable individuals. Namely, **since the beginning of the pandemic, special financial assistance was, for the first time, directed at the unemployed**. Thus, by the decision of the Government, it was determined for unemployed citizens who were registered with the National Employment Service to receive 60 euros of one-time assistance in order to reduce the consequences of the pandemic. Therefore, the positive change in relation to state benefits is noticeable, although the general assessment is that the amount of financial assistance was not sufficient support to improve the living standards of the unemployed and groups of the population who are hard-to-employ.⁹

As in 2020, it is noticeable that workers in some professions were far more endangered due to the nature of their work and the impossibility of applying all anti-epidemic measures. Thus, for example, **workers in shops** pointed out that their rights to a safe and healthy working environment were endangered due to the organization of work and poor implementation of the measures that were in force.¹⁰ Employers did not fully implement or meet the standards prescribed by special protection measures in the event of the epidemic

⁸ Monthly statistical bulletins of the National Employment Service, available at: <https://www.nsz.gov.rs/filemanager/Files/Dokumenta/Statisti%C4%8Dki%20bilteni/2021/Bilten%20NSZ%20Decembar%202021.pdf>.

⁹ The Government of the Republic of Serbia, 60 Euros from the State to the Unemployed in June, available at: <https://www.srbija.gov.rs/vest/529480/u-junu-nezaposlenima-60-evra-pomoci-od-drzave.php>.

¹⁰ *The Position of Tradeswomen During the Pandemic of COVID-19*, available at: https://www.a11initiative.org/wp-content/uploads/2021/06/The-Position-of-Tradeswomen-During-The-Pandemic-of-Covid-19_Spreads_FINAL.pdf p. 11.

of infectious disease. The research of the A 11 Initiative showed that workers in trade facilities have low expectations and low motivation to address the competent inspections, and that they expect that every problem they point out will be solved to their detriment, most often because inspectorates do not determine violations of rights and do not influence the improvement of their working environment in a specific case.¹¹ In addition to that branch, workers in the textile industry are also in a very difficult position.¹² This is supported by the recent case of the death of a worker, who was fired due to her health condition and died shortly afterwards.¹³ Therefore, it can be concluded that occupational safety and health during the pandemic became more important than before, but also that sudden changes on the labour market led to a reduction in the achieved level of labour rights, and in the race for survival, employers often decided to save as much as possible at the expense of their workers.

Minimum price of labour

The position of workers and the scope of exercising rights are certainly observed through the prism of the amount of earning as well. For many employers, especially in industry and trade, the minimum price of labour is the standard for most of salaries of workers occupying lower and middle positions. During 2021, negotiations were held on increasing the minimum price of labour, which were accompanied by extensive campaigns of human rights defenders and numerous celebrities advocating for the increase in order to meet the basic living needs of workers.¹⁴ The unions' proposal was that the minimum price of labour be 40,000 dinars, which would be in line with the amount of the minimum consumer basket, while employers were in favour of maintaining the same price of labour, or to slightly increase it.

¹¹ *Ibid.*

¹² For more information on the position of workers in the textile industry, see: Clean Clothes Campaign, <https://cpe.org.rs/clean-clothes-campaign/>.

¹³ The worker, a mother of three children, after 15 years of service was declared redundant in the plant of the Italian company Valy d.o.o. in Loznica. She died as a result of high blood pressure and stroke. She had previously complained to her employer about health problems, but no one believed her and she was declared redundant. A few days later, she died of a stroke. In addition, another 150 workers were declared redundant, most of whom were union members, single mothers and widows. More about it: <https://www.masina.rs/konferencija-mediji-otkazi-vali-sindikata-sloga/>. <https://www.021.rs/story/Info/Srbija/291101/Sindikata-Sloga-Preminula-otpustena-radnica-pogona-Valy-iz-Loznice.html>.

¹⁴ Organization *Clean Clothes Campaign*, in cooperation with the Federation of Independent Trade Unions of Serbia and the United Branch Trade Unions "Independence", launched the campaign "Increase the Minimum Wage", supported by numerous individuals, organizations and the media, available at: <https://cpe.org.rs/vesti/dizimini-malac-nastavljam-borbu-za-platu-za-zivot/>.

No agreement was reached this time either, i.e. the social dialogue did not succeed, so the Government of the Republic of Serbia decided on the amount of 35,012 dinars, which will be applied from 2022.¹⁵ The minimum price of labour has been determined for years so that it is below the amount of the minimum consumer basket, which in itself does not represent a real amount, thus keeping a significant number of workers on the edge of poverty. **The average minimum wage (based on the average number of working hours per month) of 35,012 dinars currently covers only 85.9% of the minimum consumer basket.** In addition, the value of the minimum consumer basket used during the negotiations to determine the minimum labour price, is not the value at the time of the negotiations, but the last value reported by the Statistical Office of the Republic of Serbia.¹⁶ In addition, the actions of employers, who, despite the intention to keep the minimum as an exception, set the minimum as a standard in payment for a large number of lower-qualified jobs. Also, there is still a significant number of employers who, after the payment of that amount, ask the workers to return a part of their salary "in hand." This circumstance, although frequent, is very difficult to prove, and mostly such violations of rights are only mentioned in the confessions of workers, with a small number of initiated proceedings. In addition, in practice, there are still situations where some employers do not pay workers even that minimum amount, but, contrary to the law, workers receive salaries of about twenty thousand dinars. This mostly happens in smaller staff teams, although during 2021 we could witness that it happened to almost all the workers of one factory from Knjaževac, who stopped working in protest.¹⁷

Protection of labour rights

The aspect of protection of labour rights and its effectiveness in practice is of great importance when we talk about improving labour rights and the position of workers in general. **The Labour Inspectorate** is certainly the most important body in the protection of labour rights and the first instance which workers address. However, when considering the Inspectorate's effect in determining the violations of labour rights, it can be concluded that, in relation to the overall situation of violations of rights, **its action is insufficiently effective.**

¹⁵ Decision on the amount of the minimum labour price for the period January - December 2022, Official Gazette of RS, no. 87/2021.

¹⁶ Joint submission on the occasion of the 71st session of the UN Committee on Economic, Social and Cultural Rights and Audit of the Republic of Serbia, A 11 - Initiative for Economic and Social Rights, available at: <https://www.a11initiative.org/wp-content/uploads/2022/03/Zajednicki-podsetnik-komitetu-UN.pdf>, p. 17.

¹⁷ For more details, see: <https://nezavisnost.org/strajk-zbog-plata-od-minimalca-u-pogonu-djuzepe-leva-u-knjazevcu/>.

The report “The Position of Tradeswomen During the Pandemic of COVID-19”¹⁸ talks about acting, or rather non-acting, of labour inspections – specifically that there are very few reports of discrimination at work, and if there are any they are mainly rejected. It is important to note that in the mentioned case, the worker from Knjaževac reported her employer to the labour inspection, but the inspection ultimately did not determine any violations. In that sense, it should be mentioned that the **Commissioner for the Protection of Equality has been stating for several years that labour regulations should be adjusted in terms of more precise regulation of the rights of workers, as well as strengthening inspections’ controls** and inspection bodies, as one of the recommendations for improving the situation.¹⁹ The minimal use of the inspectorate’s powers and insufficient knowledge of discrimination issues lead to further undermining of rights and sends a message to workers that they will not receive protection in cases of violations of their rights. A large number of requests for the protection of labour rights are also sent to the Commissioner for the Protection of Equality, which in its annual statistics state that it receives the largest number of complaints precisely because of discrimination at work or during employment.²⁰ The analysis of the complaints submitted to the Commissioner in 2021 indicated that in the field of labour, and especially in the field of employment, already vulnerable groups become even more vulnerable and subject to discrimination. All persons from vulnerable social groups are at high risk of discrimination, primarily persons with disabilities, minors and the elderly, Roma men and women, and members of the LGBTI population.²¹

Employment of the hard-to-employ

Despite strategically set goals to increase the employment of Roma people, Roma remain one of the most vulnerable groups, often without permanent employment, with minimal income, and engaged in the most difficult jobs.²² The unfavourable position of Roma in the labour market is most often due to a lack of adequate education as well as prejudice and

¹⁸ *The Position of Tradeswomen During the Pandemic of COVID-19*, A 11 – Initiative for Economic and Social Rights, 2021, available at: https://www.a11initiative.org/wp-content/uploads/2021/04/Polozaj-radnica-u-trgovinskim-radnja-ma_SRP.pdf.

¹⁹ Regular annual report of the Commissioner for the Protection of Equality for 2021, available na: <http://ravnopravno.st.gov.rs/wp-content/uploads/2022/04/Poverenik-za-zastitu-ravnopravnosti-Godisnji-izvestaj-za-2021-compressed.pdf>.

²⁰ For instance, according to data from 2021, out of the total number of complaints, one quarter (24,6%) referred to this area. *Ibid.*, p. 43.

²¹ Special Report of the Commissioner for the Protection of Equality on Discrimination in the Field of Labour and Employment, p. 10.

²² Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia for the Period from 2022 to 2030, 4.2.2. Employment.

negative stereotypes about them. It is estimated that their participation in informal work is 71%, unlike other groups of the population, whose participation is 17%. This percentage of work on the informal market mostly includes the collection of secondary raw materials and waste, seasonal work, music and cleaning jobs. Data for 2021 show that 37,987 persons of Roma nationality were registered with the NES, and until the end of November 2021, a total of 4,771 persons of this number were employed, of which only 1,441 were Roma women.²³ The position of Roma on the labour market is also indicated by the fact that, out of the total number of unemployed persons of Roma ethnicity in the sample of the mentioned survey, almost 75% have never been employed, and that 25% of persons have been unemployed for more than 12 months.²⁴

Also, there are a number of people who are simply not active job seekers, i.e. they appear before the NES to the extent that it is their obligation. The research conducted among Roma men and women in Kraljevo, for example, shows that those who do not seek employment most often justify it by the need to take care of minor children (30%), lack of qualifications in relation to the current job market (17%), while other reasons include the lack of personal documents, age, illness, need to care for a sick family member and lack of knowledge of the language.²⁵ The Roma who participated in this research did not state that they have expectations that their employment status would improve if they got involved in the measures implemented by the NES, and especially did not believe in the success of measures regarding the NES' assistance to find a job.²⁶ This state of affairs was confirmed by the analysis of the application of incentive measures for self-employment. It is necessary to point out that despite the relatively good conception, the conditions that unemployed Roma must meet in order to be entitled to this type of subsidy remain unattainable for most of those at risk within this community.²⁷ As for the unions and their dealing with the position of vulnerable groups, it can be said that these topics arise and that there is an awareness of the need for them, but that the situation largely depends on the way the unions work and operate. However, such issues are not of strategic influence on the work of even those unions that, as a rule, have proven to be sensitive, but they occur on a case-by-case basis.²⁸

According to a survey of the **position of women in unions**, most union members believe

²³ *Ibid.*, Table 3: Unemployment and employing the Roma registered with NES.

²⁴ Position of Roma Men and Women in the Labour Market in Kraljevo, Praxis, 2021, p. 13.

²⁵ *Ibid.*

²⁶ *Ibid.*, p. 16.

²⁷ Special Report of the Commissioner for Protection of Equality and A 11 - Initiative for Economic and Social Rights on the Implementation of the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia, p. 45.

²⁸ *The Position of Women in Trade Unions in Serbia*, V. Vilić, K. Beker, FemPlatz, 2021, p. 64.

that women's labour rights are adequately represented on the union's agenda (58.4%), about one-third do not know or are unsure, and 12.2% believe they are not. Until recently, incentive measures for the employment of hard-to-employ categories of persons have been mainly related to measures regarding tax relief, subsidies for the employment of persons with disabilities, Roma, persons over 50 years of age and others.²⁹ One of the measures, which has been applied since the middle of 2020, is **"My first salary"**, an incentive measure for youth employment.³⁰ This "measure"³¹ implies engagement through professional training, based on the status of the beneficiaries of the programme, where the beneficiaries perform an internship lasting nine months, after which there is no obligation of the employer to hire them. Young people with secondary education are provided with a monthly financial compensation in the amount of 22,000 dinars, while those with higher education receive 26,000 dinars. Employers can pay extra for their engagement, but this is very rare in practice.³² As with previous measures of this kind, a noticeable problem is the impossibility of permanent employment, as well as the fact that in practice these measures are applied mainly to jobs that do not require high qualifications, such as shops, cash registers, auxiliary workers in shopping malls, cinemas and similarly. Therefore, the question arises as to how much the majority of engagement in these jobs has achieved the purpose of the measure, which is primarily aimed at gaining work experience and greater competence in the labour market.³³ As this is not employment, or any other relationship provided by the Labour Law, so the person who is a beneficiary of this program is not entitled to annual leave, sick leave (even during a pandemic), transportation fees, or other rights prescribed by the Labour Law. In addition, beneficiaries of the program are paid only those contributions that relate to cases of injuries at work and occupational diseases.

²⁹ Public call of NES: Subsidy for employment of unemployed persons from the category of hard-to-employ, available at: http://www.nsz.gov.rs/live/digitalAssets/15/15809_javni_poziv_za_dodelu_subvencije_za_te_e_zapo_ljive_u_2021._godini.pdf.

³⁰ Government of RS (2020b), Decree on the Youth Employment Promotion Program "My First Salary", The Official Gazette of RS, no.107/20.

³¹ Programme of the Government of the Republic of Serbia "My First Salary", available at: <https://mojapravlata.gov.rs/o-programu>.

³² According to the data presented in the publication *Analytical Report on the Situation on the Labour Market of Serbia in the Context of the Economic Crisis Caused by the COVID-19 Pandemic*, published by the Regional Cooperation Council, the section dealing with the analysis of the measure "My first salary" states that even though the employers had the opportunity to pay young people an additional part besides the compensation, these benefits were used by relatively few employers, so that additional compensation was received by about 700 young people, or less than 10% of the total number of participants of the programme. According to the answers of the respondents, the additional amount of compensation in most cases ranged up to 5,000 dinars per month, available at: <https://www.esap.online/download/docs/Analytical-report-labour-market-Serbia-sr.pdf/eabcd3e55985dbe4b974909ea7058187.pdf>, p. 48.

³³ In the final round of matching, 8,453 unemployed young people were referred to 5,177 employers, which represents a plan implementation rate of about 85%. In line with the intentions, the largest number of persons was hired by employers from the private sector (7,165), while the representation of young people involved is significantly lower within the public sector (1,288). The programme is dominated by people with a secondary level of education, and the largest number of required profiles came from employers in the manufacturing industry and trade. *Ibid.*, p. 46.

Unlike previous state programmes of this type, which, in addition to employment, included the obligation for a person to be employed for some time, now there is no employment or employment obligation, and certainly no sanction if the company implementing the program terminates the relationship with the beneficiary of the programme. Contracts are concluded under the name "Agreement on the implementation of the program My first salary", between the NES, the organization of the programme and the person who is the beneficiary of the programme. It can be noted that, **except for the word "salary" in the title, neither the type of contract nor the mutual relations of the contracting parties can be said to be about employment or some kind of professional training.** It can be concluded that by organizing such a programme, the state has provided employers with low-paid labour force without prescribing the obligations provided by the Labour Law.

In addition, the analysis of the measures envisaged by the Action Plan of the Employment Strategy shows that unemployed Roma, unemployed women, youth and people with disabilities are recognized as extremely vulnerable categories. Also, these groups are recognized as priorities within support measures: implementation and application for professional practice, internships for young people with higher education, internships for the unemployed with secondary education, acquiring practical knowledge and skills by performing specific jobs by establishing employment with a private sector, subsidies for employment of unemployed persons from hard-to-employ category, support for self-employment and other measures of active employment policy.³⁴

Case study: Construction of the Linglong factory in Zrenjanin – human trafficking for the purpose of labour exploitation.

When it comes to systemic and especially severe violations of labour rights and the state's attitude towards economic and social rights, the case that marked 2021 is certainly the violation of the rights of workers from Vietnam. Namely, at the end of the year, journalists and human rights activists in Serbia found out about a case of mass labour exploitation of workers engaged in the construction of the Linglong Tyre Factory in Zrenjanin. After the information published by the independent media about the poor living and working conditions of almost 500 workers from Vietnam, representatives of the A 11 Initiative and ASTRA - Actions against Trafficking in Human Beings visited the workers engaged in the construction of this factory.

³⁴ Action Plan for the period from 2021 to 2023 for the implementation of the Employment Strategy of the Republic of Serbia for the period from 2021 to 2026.

The aim of the visit was to investigate allegations of violations of labour rights and potential labour exploitation. At that time, about 500 workers were engaged in building of the construction site, who came to Serbia during March, April and May 2021. During the visit, the workers were interviewed in order to obtain more information based on which a report was made that mapped potential violations of rights.³⁵

One of the most important facts observed on that occasion was that while the workers had employment contracts with them, none had a passport or any other document, such as a work or residence permit. Inspecting the employment contracts, it could have been concluded that the workers were engaged in shifts of nine hours, with a lunch break of one hour. The contracts were concluded for a certain period of time, although without an indication of the precise date of the expiration of the contractual relationship. Also, by inspecting the contracts, it could have been stated that the workers were obliged to work 26 days a month, and if for some reason they failed to work that number of days, financial sanctions and salary reductions were envisaged. In cases when workers would be late for work, the envisaged sanction was non-payment of per diems for that day. In case they wanted to cancel the contract, they would bear the costs of the trip to Vietnam and would be obliged to return a certain amount of money to the employer. Therefore, although it is formally allowed, the possibility of terminating the contract would entail high costs that many workers could not cover. Also, the contracts explicitly prohibit any type of trade union organization, with the provision that such type of organization is the reason for termination of employment. Such a provision is in direct conflict with the freedom of trade union organization guaranteed by the Constitution and international documents in force in the Republic of Serbia. It is important to point out that the contracts were in English, that the workers from Vietnam mostly did not know English or had a basic knowledge of it, and it is very questionable whether they actually knew what they had signed. The workers said that they had signed contracts with intermediary agencies that sent them to work in Serbia, and that they had paid them between 2,000 and 2,200 US dollars for that. They have concluded employment contracts with China Energy Engineering Group Tianjin Electric Power Construction Co., Ltd, Belgrade Branch, Sichuan Dinglong Electric Power Engineering, a Serbian branch. Having in mind the legal regulations and the fact that their contracts are null and void in our legal system, the question arises as to how the workers were issued work permits, who issued them, and whether all provisions of domestic regulations were respected in the process of issuing work permits.

³⁵ A 11 Initiative and NVO Astra, *Living and Labour Conditions of the Linglong factory construction workers from Vietnam*, November 2021, available at: https://www.a11initiative.org/wp-content/uploads/2021/12/Report_Ling-Long_ENG.pdf.

The employment contract, which A 11 Initiative had an insight into, regulates sick leave so that employees are entitled to it if the “health agency” or local hospital approves it, whereas the procedure for approving the sick leave is not clearly prescribed. During the visits of activists to the Linglong workers' barracks, the workers testified that in cases of coronavirus infection they had been self-organized and set aside space for the recovery of the sick, that for the days when they did not go to the construction site due to illness, access to health services was possible only through “Chinese managers,” who generally did not approve of going to the hospital. Although the contract stipulates that the employer provides the workers with accommodation and food, or compensation for that, the workers pointed out that the meals served to them were extremely low in nutritional and caloric values, so they were forced to provide meals on their own. During the visit of the representatives of the A 11 Initiative, the workers were hunting rabbits and other small game in the fields surrounding the barracks in which they were accommodated, in the industrial zone, in order to provide themselves with a meal.³⁶

The workers pointed out that the employer had not provided all the means or equipment needed for work, and that he had reduced their salary by the amount of work equipment such as work suits, boots and gloves. Every 10 days, the workers received gloves, and if they were damaged in the meantime, they had to buy new ones with their own funds. The accommodation of the workers did not meet the living conditions. There was no heating in the barracks where they were accommodated, they slept on beds without mattresses, with only two water heaters for about 500 people, and in most of them there was no electricity or drinking water, nor warm water to take a shower, and the laundry was washed by hand, in cold water.

Based on everything found on the spot and the testimony of workers during the first visit A 11 Initiative together with ASTRA - Anti trafficking action in Human Beings - sent several official letters and/or reports requesting immediate response from the authorities regarding potential violations of rights.³⁷ Shortly after the information about this case was published in the media, stating the reason for the danger of gas leaks,³⁸ most of the workers

³⁶ *Ibid.*

³⁷ Letters and reports were sent to the following institutions: Republic Public Prosecutor's Office, Higher Public Prosecutor's Office in Zrenjanin, Office for Coordination of Activities in the Fight against Trafficking in Human Beings, Zrenjanin Police Administration, Ministry of Labour, Employment, Veterans and Social Affairs / Department for Social Protection of Victims of Human trafficking, Labour Inspection, Labour Inspection in Zrenjanin, Ministry of Health - Department for Sanitary Inspection and the Office of the Ombudsman.

³⁸ See: N1, *The Protector of Citizens is checking allegations about the position of Vietnamese workers in Linglong Factory*, 18 November 2021, available at: <https://rs.n1info.com/vesti/zastitnik-gradjana-linglong-radnici-iz-vijetnama/>.

were moved to several other locations, while a smaller number of them still lived in the original facilities, although they were previously declared dangerous. Although most of the workers were relocated to accommodations that were significantly better than before, they were under constant surveillance by private security at the new locations, which did not allow contact with people outside the company, and therefore with human rights activists. In addition, their passports were officially returned, with the excuse of the company that they only kept the documents temporarily. The act of transferring workers to better accommodation and returning passports seemed to completely eliminate all irregularities and previous circumstances, and then the case itself was monitored less carefully, and the reactions of the competent institutions were still lacking. In general, one could get the impression that the public authorities were trying to dilute the situation, so they insisted mostly on the statement that the company had been controlled 18 times since its construction by inspections under the Ministry of Labour, Employment, Veterans and Social Affairs and “more than 50 times” by inspections within the competence of the Ministry of Construction, Transport and Infrastructure. However, none of the reports from these inspections has been made public.³⁹

Bearing in mind that, since the publication of this case and the suspicion of human trafficking for the purpose of labour exploitation, the state authorities have not taken the necessary steps even after several months, A 11 Initiative has filed several criminal charges for violating the right to strike and unlawful deprivation of liberty. At the time of writing and publishing this report, no information has been received on initiating proceedings to establish the facts and verify the allegations of violations of the law, and the question remains whether the competent institutions have used their powers and acted in accordance with the laws of the Republic of Serbia.⁴⁰

It is important to point out that this case has attracted the attention of numerous stakeholders outside of Serbia. In addition to other human rights organizations and European trade unions, members of the European Parliament were also interested in the labour exploitation of Vietnamese citizens, and publicly called on Serbia to react.

³⁹ A 11 – The Initiative for Economic and Social Rights submitted requests for access to information of public importance to the Ministry of Interior, the Ministry of Labour, Employment, Veterans and Social Affairs and the Ministry of Construction, Transport and Infrastructure, in order to obtain reports and decisions on inspections. By the end of 2021, the requested information had not been provided.

⁴⁰ Criminal charges have been filed, one against a responsible person in China Energy Engineering Group Tianjin Electric Power Construction Co. Ltd with a branch in Belgrade, and another against the responsible persons in Linglong International Europe d.o.o. Zrenjanin, both for a well-founded suspicion that they committed a crime, i.e., violation of the right to strike. Also, on the basis of a well-founded suspicion that they committed the criminal offense of unlawful deprivation.

Also, at a session held on 16 December 2021, the members of the European Parliament adopted a Resolution in which, among other things, the Republic of Serbia was called to investigate reports on the treatment of Vietnamese workers in the Linglong Tyre Factory in Zrenjanin. In the part of the text of the Resolution concerning this case, the Parliament expressed deep concern over the alleged forced labour, human rights violations and human trafficking in order to exploit about 500 Vietnamese workers on the construction site of the Linglong Tyre Factory in Zrenjanin.⁴¹ In addition, the resolution called on Serbian authorities to “carefully investigate the case” and ensure respect for basic human rights, especially workers’ rights, to submit the results of their investigations to the European Union and hold perpetrators accountable. The authorities in Serbia were especially called upon to provide free and unimpeded access to the Linglong Tyre Factory in Zrenjanin and the accommodation facilities of Vietnamese workers for non-governmental organizations, civil society organizations, EU officials and other officials from international organizations.

When it comes to the international aspect of this case, communications were initiated before the three United Nations Special Rapporteurs. Namely, according to the submission of the A 11 Initiative for Economic and Social Rights, the procedure was initiated before the Special Rapporteur on Trafficking in Persons Beings. According to the rules of the initiated procedure, all actors in this case, both legal entities, i.e. companies, and countries that may be related, were asked to state their opinion on the circumstances of this case, and their answers are still awaited.⁴²

It is notable that the whole case has been under the veil of political pressure since it was disclosed, considering that the company that the state represents as one of its biggest investors is accused of human right violations. This is also indicated by the inactions of the competent authorities, as it can be said with certainty that they did not use their powers to determine whether there was a violation of rights. Such actions were accompanied by statements of the President of the Republic of Serbia and several ministries whose goal was to downplay the violations of the rights of Vietnamese workers and draw attention to the fact that there is a campaign against the economic development of the country and attraction of investors. With such a set of circumstances, based on the practice developed in this case, we can expect further violations of labour rights and the absence of a reaction

⁴¹ The full text of the Resolution as of 16 December 2021 on forced labour in the Linglong factory and environmental protests in Serbia is available: https://www.europarl.europa.eu/doceo/document/TA-9-2021-0511_EN.html.

⁴² UN, Office of the High Commissioner for Human Rights, UN experts deeply concerned by alleged trafficking of Vietnamese migrant workers to Serbia, available at: <https://www.ohchr.org/en/2022/01/un-experts-deeply-concerned-alleged-trafficking-vietnamese-migrant-workers-serbia>.

from the competent institutions. If the case of violation of the rights of workers from Vietnam ended without any sanction and determination of violation of rights, it would contribute to a number of negative tendencies towards workers' rights in Serbia.

Labour relations and exercising the right to health care

The umbrella Labour law⁴³ does not recognize workers, but employees, i.e. only those workers whose employment status is regulated by an employment contract, excluding workers hired based on service contracts, engaged in temporary and occasional jobs, vocational training and development, additional work, as well as many who work without a contract. For all the aforementioned categories, the Law says that they "work outside the employment relationship" and thus it does not guarantee them rights such as the right to paid sick leave,⁴⁴ rights to occupational safety and health, health care, protection of personal integrity, dignity and other rights in case of illness, reduction or loss of working capacity and age. In practice, these contracts are abused and used as a substitute for an employment contract, so that the employer does not have to guarantee workers the rights stemming from the employment relationship. According to the latest data from the Labour Force Survey published in 2021, a total of 115,900 workers in Serbia work without the right to health insurance, while 154,200 workers work without the right to paid sick leave. As many as 21.5% of workers endanger their mental and physical health by working overtime without any financial compensation, in order to earn for their basic needs.⁴⁵

On the other hand, the Law on Simplified Work Engagement in Seasonal Jobs in Certain Activities additionally makes the status of workers uncertain. The law prescribes the already mentioned oral contracts, which are in conflict with the provisions of the Labour law, and further violates the rights of workers outside the employment relationship with the aim of having "cheaper" workers, among other things affecting the lower-level health care guaranteed to them. For instance, a worker is guaranteed health insurance *only* in the event of an injury at work and an occupational disease, and not for other situations of impaired health. Sharp public debate⁴⁶ on the extension of the provisions of this law to a

⁴³ The Official Gazette of RS, no.24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 – decision of the Constitutional Court, 113/2017 i 95/2018 – authentic interpretation.

⁴⁴ That is, the right to salary compensation during temporary incapacity for work, which is defined in more detail in Article 73 of the Law on Health Insurance.

⁴⁵ Statistical Office of the Republic of Serbia, Labour Force Survey, 2021, available at: <https://publikacije.stat.gov.rs/G2021/Pdf/G20215671.pdf>.

⁴⁶ See, for instance: Machine, *And after the conversation "Will we all be seasonal?" opinions on the new law remain divided*, 2 June 2021, available at: <https://www.masina.rs/i-nakon-razgovora-hocemo-li-svi-biti-sezonci-ostaju-podeljena-misljenja-o-novom-zakonu/>.

number of new sectors, i.e. the adoption of the new Law on Work Engagement in certain jobs in accordance with the increased needs of employers,⁴⁷ marked the year 2021.⁴⁸

Law on Safety and Health at Work,⁴⁹ which directly regulates this area, is not harmonized with the umbrella Labour Law and brings a different definition of the employee, which is a positive circumstance in this case. According to this law, an employee is a natural person who is employed by an employer, as well as a person who *performs work or is trained to work for an employer on any basis, except for a person who is employed by an employer to perform support staff at home* (which is a legal solution that disproportionately affects women, and endangers their right to health). This law prescribes the obligation of the employer to provide working conditions which, as far as possible, reduce injuries at work, occupational diseases and work-related diseases and which mainly create a precondition for full physical, mental and social well-being of employees. Moreover, the right to safe and healthy working conditions is guaranteed by Article 60 of the Constitution of the Republic of Serbia. A series of examples that marked the year 2021 testify to gross violations of these legal and constitutional solutions.

The previously mentioned example of workers engaged in the construction of the Linglong Tyre Factory is not alone. Similar conditions of endangering the health of workers have been recorded in other Chinese,⁵⁰ as well as other foreign investors' factories. For example, in August 2021 an orthopaedist from Leskovac warned the public about a new type of patient whose disease he called "Aptiv syndrome," after the British company that operates in that city.⁵¹

⁴⁷ Text of the Draft law available at: <https://www.paragraf.rs/dnevne-vesti/070921/070921-vest11.html>.

⁴⁸ The "I live out of season" initiative, which gathered 162 signatories from civil society organizations, academia and trade unions, demanded that the Ministry of Labour, Employment, Veteran and Social Affairs withdraw the Draft law. The initiative reacted sharply to the idea of the Ministry to expand the effect of this law and thus include the sector of agriculture, forestry and fisheries, physical work on construction, services, accommodation and food, help in home, cleaning of residential buildings - which would make workers in these areas be left without most of the rights guaranteed by the Labour law and without the possibility to fight for those rights by trade union organization. The initiative especially appealed to the necessity of an unequivocal obligation of the employer to conclude a contract with the employee in writing, as required by the domestic labour legislation, and which the existing draft of this law repeals. See also: A 11 – Initiative for Economic and Social Rights, We Were Right, 28 January 2022, available at: <https://www.a11initiative.org/bili-smo-u-pravu/>.

⁴⁹ The Official Gazette of RS, no.101/2005, 91/2015 i 113/2017 – other law.

⁵⁰ See, for instance: Balkan Insight, "As prisoners": Chinese workers complain about exploitation and the ban on movement, 26 January 2021, available at: <https://balkaninsight.com/2021/01/26/kao-zatvorenici-kineski-radnici-u-boru-se-zale-na-eksploataciju-i-zabranu-kretanja/?lang=sr>.

⁵¹ The full post published on 31 July 2021, available at: <https://www.facebook.com/photo.php?fbid=6253540397990255&set=a.5034268799917427&type=3>.

This disease is characterized by chronic fatigue and depression, inflammation of the tendons and tendon sheaths, lumbago, and sciatica. According to the doctor, the workers of Aptiv, mostly young women, come in with these symptoms on a weekly basis.

Diseases or syndromes being named after the workplaces of patients is extremely alarming and shows that a more active role of the state and competent inspection services is necessary in protecting workers from harmful consequences on their health made by jobs which generally do not pose a significant risk to their health. Both the Law on the Prevention of Harassment at the Workplace and the Law on Safety and Health at Work prescribe that an employee has the right to refuse to work if he/she is in imminent danger to life and health. However, workers exposed to such working conditions often have no other option to meet their basic living needs. The situation in which the trade union organization is weak, and the judicial protection of labour rights is often waited for too long, leaves the workers no other option but to accept the performance of such jobs, which directly endanger their health.

**The right to
social
protection**

Key problems in the field of social protection in 2021

In 2021 the field of social protection remained burdened with problems that had been pointed out in previous years in the reports of numerous international institutions and treaty bodies monitoring the fulfilment of obligations related to economic and social rights.

The amount of financial social assistance is still inadequate, insufficient to enable escape from the circle of poverty and so low that individuals and families entitled to financial social assistance cannot provide the existential minimum necessary for a decent life. The already insufficient amount of financial social assistance is reduced by arbitrary attribution of lost income⁵² and interruptions in financial social assistance payments.⁵³ Certain provisions of bylaws⁵⁴ and laws⁵⁵ provide for the abolition of financial social assistance, even if the denial of these benefits leads to a complete loss of funds necessary to ensure the existential minimum. And when it comes to financial support for families with children, the conditions for parental allowance are set so that the most vulnerable Roma children are excluded from the possibility of exercising this right, and the limit on the number of children in the family that can exercise the right to child allowance increases the risk of marginalization and lack of adequate support for families with a larger number of children which, according to data on ethnicity, housing vulnerability, educational and employment status, are among the most vulnerable families with children.

At the beginning of March 2021, the A 11 Initiative submitted to the Ministry of Human and Minority Rights and Social Dialogue (hereinafter: MHMRSD) an **overview of “sectoral regulations” that prevent or hinder the exercise of economic and social rights of the most vulnerable citizens in the Republic of Serbia.**⁵⁶ Among other things, it was pointed out at the disadvantages of the Law on Social Protection, the Law on Financial Support to Families with Children, the Property Taxes Law and the Decree on Measures

⁵² See Article of the Law on Social Protection and Rulebook on forms in the procedure for exercising the right to financial social assistance (The Official Gazette of RS, no. 39/2011).

⁵³ Article 85, Paragraph 3 of the Law on Social Protection.

⁵⁴ Article 4, Paragraph 1, Item 1 of the Decree of Measures of Social Inclusion of Beneficiaries of Financial Social Assistance (The Official Gazette of RS, no. 112/2014).

⁵⁵ See, for instance, Article 83, Paragraph 1, Item 2 of the Law on Social Protection (The Official Gazette of RS, no. 24/2011).

⁵⁶ Document was prepared based on the conclusions of the meeting which MHMRSD held on 25 February 2021 with civil society organizations active in the field of social protection. Available at: https://www.a11initiative.org/wp-content/uploads/2021/12/PREGLED-PROPISA_ZA-MINLJMPDD_final.docx.

of Social Inclusion of Beneficiaries of Financial Social Assistance.⁵⁷ At the end of 2021, none of the highlighted disadvantages were eliminated. The Law on Financial Support to Families with Children (LFSFC) was amended in 2021, but the provisions excluding the most marginalized Roma children and whose discriminatory character was pointed out by the A 11 Initiative, both in the mentioned document and during the public debate on the latest amendments to that regulation, remained unchanged.

Upon the initiative of civil society organizations active in the field of social protection,⁵⁸ the Ministry of Human and Minority Rights and Social Dialogue held a **thematic social dialogue on the social protection system**⁵⁹ on 15 June 2021. The thematic dialogue on the social protection system resulted in **"binding actions"**⁶⁰ agreed on by civil society organizations and representatives of the Ministry of Labour, Employment, Veterans and Social Affairs (MLEVSA) and the Ministry of Family Welfare and Demography (MFWD).⁶¹ This document envisages, among other things, that the MLEVSA will involve civil society organizations in the process of development of the Strategy of Social Protection, which will be based on the revision of the existing social protection system based on the Revised European Social Charter, ECHR and ICESCR, as well as constitutional human rights guarantees in Serbia.⁶² It also requires that the MLEVSA, in cooperation with other competent ministries, will prepare amendments to the Law on Social Protection, which will increase the coverage and improve the adequacy of financial social benefits aimed at the poor.⁶³ In order to increase the adequacy of child allowance and include children of higher birth order and children from particularly vulnerable groups, it is envisaged that the competent ministries will conduct an analysis to determine the reasons for the continuous reduction of the number of children receiving child allowance.⁶⁴

⁵⁷ A 11 – Initiative for Economic and Social Rights, *Overview of "sectoral regulations" which prevent or hinder the exercise of economic and social rights of the most vulnerable citizens in the Republic of Serbia*, 14 March 2021, available at: https://www.a11initiative.org/wp-content/uploads/2021/12/PREGLED-PROPISA_ZA-MINLJMPDD_final.docx.

⁵⁸ The proposal for organizing social dialogue regarding the situation of social protection and social policy in Serbia was submitted by the Autonomous Women's Centre on 16 March 2021, and the proposal was supported by more than 20 civil society organizations working in the field of social protection.

⁵⁹ For more details on the thematic dialogue, see: Ministry for Human and Minority Rights and Social Dialogue, "Čomić: Through Dialogue Towards the Improvement of Social Protection Beneficiaries", 14 June 2021, available at: <https://www.minljmpdd.gov.rs/lat/aktuelnosti-vesti.php>, as well as: Social Inclusion and Poverty Reduction Unit, "Thematic Social Dialogue on the Social Protection System in the Republic of Serbia Held".

⁶⁰ Despite the name, these "binding" actions are not binding and have not been published in the Official Gazette.

⁶¹ "Binding actions from the social dialogue on the social protection system in the Republic of Serbia agreed on by civil society organizations, representatives of the competent Ministries of Labour, Employment, Veterans and Social Affairs and the Ministry of Family Welfare and Demography as of 10 June 2021", available at: <https://minljmpdd.gov.rs/doc/drustveni-dijalog/obavezujuca-postupanja100621.doc> (hereinafter: *Binding instruction from social dialogue on social protection system as of 10 June 2021*).

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

On the same day as the thematic dialogue on social protection was held, non-governmental organizations Team 42 and Praxis submitted an initiative for amendment to some of provisions of the Law on Social Protection to the Ministry for Human and Minority Rights and Social Dialogue, which was supported by 34 civil society organizations and in which they referred to numerous flaws in the law or its implementation.⁶⁵

At the end of 2021, Serbia still does not have a Social Protection Strategy, nor have the amendments to the Law on Social Protection, which were announced more than six years ago, been adopted.⁶⁶ In addition to the lack of public policies on poverty reduction and social inclusion, **institutional capacities for social inclusion and poverty reduction are declining**. In 2009, the Government of the Republic of Serbia established Social Inclusion and Poverty Reduction Unit (SIPRU).⁶⁷ The mandate of this project unit, funded by international organizations, was to strengthen the Government's capacity to develop data-based social inclusion policies and to coordinate and monitor their implementation. However, that project unit was dismissed on 31 December 2021, when the project that financed its work ended, and the Government suspended funding.⁶⁸

Work on amendments to the Law on Social Protection continued in 2021,⁶⁹ but, judging by the Draft Law on Amendments to the Law on Social Protection published in July 2018, and then in July 2019, it is questionable whether the amendments to that law will solve the key problems in the field of social protection.⁷⁰ The **state's answer to the list of questions** adopted by the Committee on Economic, Social and Cultural Rights in October 2019,

⁶⁵ Praxis, "Non-governmental organizations Team 42 and Praxis submitted an initiative for amendments to certain provisions of the Law on Social Protection", 15 June 2021, available at: <http://www.praxis.org.rs/index.php/en/praxis-in-action/status-and-socioeconomic-rights/item/1620-nevladine-organizacije-tim-42-i-praxis-podnele-inicijativu-za-izmene-pojedinih-odredaba-zakona-o-socijalnoj-za%C5%A1titi>.

⁶⁶ A 11 – Initiative for Economic and Social Rights, *Second-class rights, op. cit.*, 13.

⁶⁷ More information about Social Inclusion and Poverty Reduction Unit available at: <http://socijalnoukljucivanje.gov.rs/>.

⁶⁸ Social Inclusion and Poverty Reduction Unit, *Twelve years of work of Social Inclusion and Poverty Reduction Unit of the Republic of Serbia*, available at: <http://socijalnoukljucivanje.gov.rs/rs/dvanaest-godina-rada-tima-za-socijalno-ukljucivanje-i-smanjenje-siromastva-vlade-republike-srbije/>.

⁶⁹ See, for instance, the announcement of Ministry of Labour, Employment, Veterans and Social Affairs, "Development of the Draft law on Amendments to the Law on Social Protection – aimed at increasing the well-being of citizens", 5 March 2021, available at: <https://www.minrzs.gov.rs/sr/aktuelnosti/vesti/izrada-nacrta-zakona-o-izmenama-i-dopunama-zakona-o-socijalnoj-zastiti-cilj-povecanje-dobrobiti-gradjana>.

⁷⁰ For more details, see: A 11 – Initiative for Economic and Social Rights, *Second-class rights, op. cit.*

within the third reporting cycle on the implementation of the International Covenant on Economic, Social and Cultural Rights, leads to the same conclusion. Namely, the state was asked to what extent the calculation of social benefits based on the new Law on Social Protection can ensure that beneficiaries of social welfare assistance in vulnerable situations enjoy the right to an adequate standard of living and other rights guaranteed by the Covenant. The Committee also reminded the State of the recommendations from the previous reporting cycle aimed at ensuring an adequate standard of living for all citizens, especially for persons and groups in situations of vulnerability.⁷¹ Despite the above-mentioned recommendations of the Committee regarding the increase of social welfare assistance,⁷² referring to limited funds for these purposes, the State stated that it was not possible to envisage changes in the amount and manner of calculating financial social assistance in the Draft Law on Amendments to the Law on Social Assistance.⁷³ It remains to be seen whether the line ministry will prepare amendments to the Law on Social Protection that will increase the coverage and improve the adequacy of financial social benefits aimed at the poor - as provided by the "binding instructions" stemming from the June 2021 thematic dialogue on social protection - or the problems of citizens who cannot get out of the circle of poverty or meet the basic existential needs with the help of social benefits will continue to be neglected.

The necessity of changes in this segment is also indicated by the observations of the European Committee on Social Rights, which found **the amount of social assistance** to which socially vulnerable individuals in Serbia are entitled to be **obviously inappropriate**, since it does not exceed the poverty threshold.⁷⁴ Although the Committee concluded that such a situation is contrary to the obligations from the European Social Charter (revised),⁷⁵ that amount has still not been significantly changed, so in October 2021 the nominal amount of financial social assistance for an individual or right holder,

⁷¹ CESCR, List of question in relation to the third periodic report of Serbia, E/C.12/SRB/Q/3, 12 November 2019, p. 19, p. 3 and p. 21, p. 4, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fSRB%2fQ%2f3&Lang=en. For recommendations from the previous reporting cycle, see: CESCR, Concluding observations on the second periodic report of Serbia, 10 July 2014, Paragraph 24(a) i 24(b), available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fSRB%2fCO%2f2&Lang=en.

⁷² CESCR, Concluding observations on the second periodic report of Serbia, op. cit., Para. 24(a) and 24(b).

⁷³ Replies of Serbia to the list of questions in relation to its third periodic report, 29 June 2020, E/C.12/SRB/RQ/3, Para. 88, p. 18, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fSRB%2fRQ%2f3&Lang=en, Para. 94, p. 19.

⁷⁴ European Committee of Social Rights, *Conclusions 2017 - Serbia - Article 13 Paragraph 1 - Adequate assistance for every person in need*, available at: <http://hudoc.esc.coe.int/eng?i=2017/def/SRB/13/1/EN>. In 2017, financial social assistance for an individual, or right holder, amounted to 8,201 RSD.

⁷⁵ *Ibid.*

amounted to 9,115 dinars.⁷⁶ For able-bodied individuals, i.e. families in which the majority of family members are able to work, that amount is about 58 euros (about 6,900 dinars) per month, considering that they receive financial social assistance only for nine months during the year.⁷⁷ Specifically, the provision of the Law on Social Protection, which envisages **three-month interruptions in the receipt of financial social assistance** for able-bodied individuals, i.e. families in which the majority of members are able to work, is still in force. Article 85, Paragraph 3 of the Law prescribes that an able-bodied individual, i.e. a family in which the majority of members are able to work, is entitled to **financial social assistance for up to nine months during the calendar year**. Neither of the two versions of the Draft law on Amendments to the Law on Social Protection published so far provided for the deletion of this provision, despite the fact that the Committee on Economic, Social and Cultural Rights pointed out that interruptions in receiving financial social assistance are one of the key problems that are contrary to obligations under Article 9 of the Covenant.⁷⁸

As in the previous two years,⁷⁹ in 2021 the A 11 Initiative encountered cases where requests for financial social assistance (hereinafter: FSA) were rejected due to the **excessive and arbitrarily attributed amount of lost income**. Thus, for example, the request for financial social assistance was rejected by the decision of SWC Palilula to Maja,⁸⁰ an unemployed Roma woman and single mother who lives with her four-year-old child in an informal settlement, in an illegal barrack, without any property of greater value. Her request was rejected because she was attributed a lost income of 14,720 dinars, which exceeds the amount of financial social assistance.⁸¹ The lost income was calculated on the basis of the price of cleaning the business premises through the youth cooperative - a job that was never offered to the applicant. Maja is registered with the National Employment Service.

⁷⁶ Minister of Labour, Employment, Veteran and Social Affairs, Decision on nominal amounts of financial social assistance, The Official Gazette of RS, no. 99/2021 as of 22. 10. 2021.

⁷⁷ For the same assessment as of 2017, see: European Committee of Social Rights, *Conclusions 2017 – Serbia – Article 13 Paragraph 1 – Adequate assistance for every person in need*, available at: <http://hudoc.esc.coe.int/eng?i=2017/def/S-RB/13/1/EN>. It was concluded that the financial social assistance on a monthly basis for able-bodied individuals, i.e., families in which the majority of members are able to work, amounted to 47 euros.

⁷⁸ Committee on Economic, Social and Cultural Rights, *Concluding observations on the second periodic report of Serbia*, 10 July 2014, op. cit.

⁷⁹ Also, during 2019, 2020 and 2021, the A 11 Initiative encountered cases of rejection of FSA requests due to the attribution of unrealistically high amounts of lost incomes - for example, 14,720 dinars (decision of the Social Welfare Centre in B. no. 55310-8819/2021 as of 7. 10. 2021), 15,000 dinars (decision of Social Welfare Centre "B" No. 3280/2019 as of 17 October 2019), 12,000 (decision of the Social Welfare Centre in B. No. 55310/6441/2019 as of 23 January 2020) or even 25,760 dinars, for the family (decision of Social Welfare Centre in B. no. 5310-985/2020).

⁸⁰ All names have been changed to protect user privacy.

⁸¹ Decision of Social Welfare Centre in B, No. 55310-8819/2021 as of 7. 10. 2021.

However, the NES never offered her the mentioned cleaning jobs or any other job. Maja did not have the opportunity to earn the income attributed to her, which left her without the right to financial social assistance. The request of Zora, a single mother who lives with four minor children, was also rejected because she was attributed with a lost income of 22,080⁸² dinars. She also had her lost income calculated on the basis of the price of jobs available through the Youth Cooperative "Bulevar," even though the applicant is in her forties and without any theoretical possibility to be hired through the Youth Cooperative because the upper age limit for doing business through youth cooperatives is 30 years.⁸³ Neither she nor Maja were offered any jobs, although she was registered with NES.

In practice, lost income is not calculated based on the real possibilities of socially vulnerable people to get a job with which they could earn the attributed income, but on the basis of the price of labour paid to those individuals who manage to get a job. As a result, those who have failed to get any employment, especially those most at risk in the labour market (such as Roma women, internally displaced persons, and people with disabilities), are left without the income necessary to meet their livelihood needs.

This reduces the number of beneficiaries of financial social assistance, but not by employment or improving their position in the labour market, but by arbitrarily attributing lost income.⁸⁴ It is needless to point out the impact of the abolition of social benefits on individuals who cannot earn any income and have no other way to provide an existential minimum.

In addition to the fact that there were no changes in the legislative framework that could lead to the improvement of the position of socially vulnerable individuals and the implementation of recommendations of international organizations and treaty bodies related to problems such as inadequate amount of or interruptions in receiving social assistance, the Constitutional Court has also not reacted to the years-long initiative to

⁸² Decision of Social Welfare Centre in B, No. 55310/7399/2021 as of 10. 8. 2021.

⁸³ See Article 23 of the Law on Cooperatives (The Official Gazette of RS, no. 112/2015). Similar to this example, by the decision of the City Social Welfare Centre in B. no. 5310-985 / 2020, which rejected the request of E. E. for determining that he lost the income of 9,200 dinars per month by doing jobs which required no qualifications - packing of goods, where, according to the price list of the Youth Cooperative "Bulevar", net hour is 230 dinars. The applicant was 48 years old, which means that due to his age limit, he did not have the theoretical ability to perform the jobs offered through the youth cooperative, nor to realize the lost income due to which his request for financial social assistance was rejected.

⁸⁴ In addition to the already mentioned examples, the arbitrary attribution of lost income is illustrated by the example of I.D., whom first was determined the amount of lost income of 15,000 dinars, and then, after filing and accepting the appeal, for the same period, based on exactly the same evidence and facts, no lost income was determined. Decision of SWC "B" No. 3280 as of 15 June 2020.

assess the constitutionality and legality of provisions that discriminate against socially vulnerable individuals and lead to their further marginalization and risk of falling into even deeper poverty. Thus, for more than six years, the Constitutional Court has not decided on initiatives and proposals for assessing the constitutionality of the Decree on measures of social inclusion of beneficiaries of financial social assistance,⁸⁵ which forces this group of people to perform unpaid work under the threat of losing the right to social assistance. For more than three years, no decision has been made on the initiative to assess the constitutionality of Article 25 of the Law on Financial Support to Families with Children, which makes it difficult to access the right to parental allowance to the most vulnerable Roma children.⁸⁶

Decree on measures of social inclusion of beneficiaries of financial social assistance– forced work of beneficiaries of financial social assistance

Decree on measures of social inclusion of financial social assistance has been in force in Serbia since October 2014. The mentioned decree stipulates, among other things, that able-bodied beneficiaries of financial social assistance are included in socially useful work, i.e. work in the local community, upon the order of the social welfare centre. Those who refuse this type of activation can have their social assistance they are entitled to by the law, reduced or abolished.⁸⁷ Due to the discriminatory nature, introduction of forced labour and endangering the existence of socially vulnerable citizens, three initiatives were submitted in October 2014, as well as the proposal of the Protector of Citizens to assess the constitutionality of the Decree, which the Constitutional Court has not reacted to for more than seven years.⁸⁸

At the thematic dialogue between the MHMRSC and civil society organizations on social protection as of June 2021, in formulating the “binding actions” resulting from that dialogue, there was no step forward beyond anticipating that civil society organizations would propose that the MHMRSC urgently consider repealing the current Decree on

⁸⁵ A 11 Initiative, *Second-class rights, op. cit.*, 14.

⁸⁶ *Ibid*, 17.

⁸⁷ See Article 4 of the Decree. A survey conducted by A 11 Initiative in 2018 found that thousands of beneficiaries of financial social assistance were forced to perform unpaid work in order to exercise their constitutionally guaranteed right to social protection, and that the application of this Decree varies from municipality to municipality.

⁸⁸ A 11 Initiative, *Second-class rights, op. cit.*, 14.

measures of social inclusion of beneficiaries of financial social assistance,⁸⁹ while the Ministry will start the process of analysing the effects of the Decree in order to design and develop activation of financial social assistance beneficiaries, taking into account EU standards and good practices in this area and international human rights obligations.⁹⁰

The example from Niš also testifies to the manner of application of the mentioned bylaw and its impact on the position of beneficiaries of financial social assistance. In September 2021, the mayor of Niš announced that, based on the Decree on measures of social inclusion of beneficiaries of financial social assistance, beneficiaries of this type of social benefits will be employed as municipal wardens who would control compliance with epidemiological measures. Having in mind that this is unpaid work, A 11 Initiative issued a statement in which it pointed out that the announced type of employment would result in **labour exploitation of financial social assistance beneficiaries**.⁹¹ The A 11 Initiative also reminded that, according to the case law of the European Court of Human Rights, any work or service to which individuals are forced under threat of punishment or which they did not voluntarily apply for is considered forced labour, and that this type of work is prohibited by the Convention of the International Labour Organization. The mayor of Niš was asked to give up the announced engagement of beneficiaries of financial social assistance without any compensation or to do so under the conditions prescribed by the law, by offering them fair and equitable compensation for the work performed.⁹²

After the reaction of the A 11 Initiative to the announcement of the mayor of Niš that the beneficiaries of social assistance in that city will be hired as communal wardens and that they will perform that work without any compensation, the deputy mayor said that the beneficiaries of social assistance hired as communal wardens will be paid, i.e. that, in addition to guaranteed social benefits, they will receive an additional 18,500 dinars per month.⁹³ Although this was an undoubted improvement compared to the previously

⁸⁹ Initially, the proposal, jointly drafted by CSOs participating in the dialogue, provided that the conclusion regarding the Decree envisaged that the Ministry of Labour, Employment, Veteran and Social Affairs would propose to the Government of the Republic of Serbia to repeal the current Decree on Social Inclusion Measures of Beneficiaries of Financial Social Assistance. The original version of the proposal of binding conclusions is in the possession of the author.

⁹⁰ "Binding acting from the social dialogues on social protection system as of 10 June", *op. cit.*

⁹¹ For more details, see A 11 – Initiative for Economic and Social Rights, "Labour Exploitation of Social Assistance Beneficiaries in the Municipality of Nis", 7 September 2021, available at: <https://www.a11initiative.org/radna-eksploatacija-korisnika-socijalne-pomoci-u-nisu/>.

⁹² *Ibid.*

⁹³ For more details, see, for instance, T. Tasić, "Davidović: Social Assistance Beneficiaries Hired as Wardens Will Be Paid", *Južne vesti*, 9 September 2021, available at: https://www.juznevesti.com/Drushtvo/Davidoviceva-Bice-place-ni-korisnici-socijalne-pomoci-angazovani-kao-komunalni-redari.sr.html?fbclid=IwAR2RGYLRiJRGRFnEPTRnFm1vMxPGpQNeby_rr3LTMU9UT1SmJ22la9CCyMQ.

announced unpaid engagement of beneficiaries of financial social assistance, it should be borne in mind that the amount of compensation for this type of employment is still below the minimum wage in the Republic of Serbia.

The **list of questions** adopted by the Committee for Economic, Social and Cultural Rights in October 2019 included an explicitly asked question about the number of beneficiaries of financial social assistance who were forced to perform unpaid work in order to retain the right to social assistance.⁹⁴ In its response the state failed to answer that question and to submit the requested data.⁹⁵

Law on Financial Support to Families with Children

Several protests followed the implementation of the Law on Financial Support to Families with Children⁹⁶ and the entry into force of the amendments to that regulation, on 1 July 2018, in response to the unfair solutions introduced by that regulation.⁹⁷ A motion⁹⁸ and several initiatives⁹⁹ to assess the constitutionality of several provisions of the LFSFC which were pointed out to be in conflict with anti-discrimination regulations, the

⁹⁴ CESCR, List of questions in relation to the third periodic report of Serbia, E/C.12/SRB/Q/3, 12 November 2019, para. 19, p. 3, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fSRB%2fQ%2f3&Lang=en.

⁹⁵ In the answer to paragraph 19 of the list of questions, it is only stated that the beneficiaries of financial social assistance will be *enabled* to perform, among other things, socially useful work, i.e. work in the local community, in order to actively overcome the unfavourable social situation, without stating how many beneficiaries of financial social assistance were actually forced to perform unpaid work in order to retain the right to social assistance that belongs to them on the basis of the Law on Social Protection. Replies of Serbia to the list of questions in relation to its third periodic report, 29 June 2020, E/C.12/SRB/RQ/3, p. 88, p. 18, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fSRB%2fRQ%2f3&Lang=en.

⁹⁶ Although the primary goal of the Law on Financial Support to Families with Children is not to reduce poverty, but to provide an incentive to increase the birth rate, the provisions of the law that may affect the position of poor children or exclude children belonging to the most vulnerable groups from the possibility to exercise the rights to certain benefits, have been considered here.

⁹⁷ A series of protests have been organized by the Initiative "Moms are the law", which pointed out to the inadequate solutions in the LFSFC. News about the held protests is available at: <https://rs.n1info.com/tag/mame-su-zakon/>.

⁹⁸ Commissioner for the Protection of Equality, "Commissioner for the Protection of Equality Brankica Janković submitted to the Constitutional Court of Serbia a proposal to assess the constitutionality and legality of several provisions of the Law on Financial Support to Families with Children", 13 September 2018, available at: <http://ravno-pravnost.gov.rs/rs/saopstenje-predlog-za-ocenu-ustavnosti/>.

⁹⁹ NORBS, "Initiative for assessment of constitutionality and legality of the Law on Financial Support to Families with Children Submitted to the Constitutional Court", available at: <https://norbs.rs/aktivnosti/ustavnom-sudu-je-podneta-inicijativa-za-ocenu-ustavnosti-i-zakonitosti-zakona-o-finansijskoj-podrsi-porodici-sa-decom/>. A 11 – Initiative for Economic and Social Rights, "A 11 Initiative Submitted the Initiative for Assessment of Constitutionality of the Law on Financial Support to Families with Children", 8 October 2018, available at: <https://www.a11initiative.org/inicijativa-a-11-podneta-inicijativu-za-ocenu-ustavnosti-zakona-o-finansijskoj-podrsi-porodici-sa-decom/>.

Constitution of the Republic of Serbia and ratified international treaties, have been submitted. The Constitutional Court ruled on some of these initiatives in 2021, which led to new amendments to the LFSFC.¹⁰⁰

Namely, in May 2021, **three decisions of the Constitutional Court, which established the unconstitutionality of several provisions of the Law on Financial Support to Families with Children, were published.** One of them referred to the provision which stipulated that the right to compensation of income (salary) due to absence from work (for the purpose of special child care) cannot be exercised for a child who is entitled to the allowance for assistance and care of another person, as a result of which the parents of children with disabilities were put in a worse position and had to choose between the two options.¹⁰¹

The mentioned decisions of the Constitutional Court were accompanied by **new amendments to the Law on Financial Support to Families with Children.**¹⁰² Among other things, the unconstitutional provision that forced parents of children with disabilities to choose between salary compensation and allowance for assistance and care of another person was deleted.¹⁰³ The unconstitutional provisions that put insured women in agricultural business in a less favourable position¹⁰⁴ were also changed, as well as the unconstitutional provision which conditioned the lower limit in the amount of the

¹⁰⁰ Law on Amendments to the Law on Financial Support to Families with Children, The Official Gazette of RS, no. 66/2021 as of 30 June 2021.

¹⁰¹ Decision of the Constitutional Court of RS no. IUz-266/2017, which determines that the provision of Article 12, paragraph 7 of the Law on Financial Support to Families with Children (The Official Gazette of RS, no. 113/17 and 50/18) is not in accordance with the Constitution. In addition to this decision, the Constitutional Court, by Decision IUz-216/2018 (published in the Official Gazette of the RS, No. 46/2021 of 7 May 2021), established the unconstitutionality of Article 17, Paragraph 2 and Article 18, Paragraphs 2, 4 and 6 of the Law on Financial Support to Families with Children). Thanks to that decision, among other things, the provisions that put agricultural insurers in an unequal position regarding the calculation of the base for benefits based on birth and care of a child and special child care were changed. Finally, decision IUz-247/2018 (published in the Official Gazette of RS, No. 51/2021 of 21 May 2021) established the unconstitutionality of the provision of Article 14, Paragraph 8 of the Law, which provided that the monthly amount of income compensation, i.e. salary compensation during maternity leave, may not be less than the minimum wage, if the competent authority has recorded at least six months of previous insurance in employment, or if the competent authority has recorded at least six lowest bases on which contributions are paid which have the character of *income*. This provision has been declared unconstitutional in the part in which the guarantee of income compensation in the amount that cannot be lower than the amount of the minimum salary is conditioned by the previous length of insurance of at least six months.

¹⁰² Law on Amendments to the Law on Financial Support to Families with Children, The Official Gazette of RS, no. 66/2021 as of 30 June 2021 (hereinafter: LA LFSFC 2021).

¹⁰³ See the Article 6 LA LFSFC 2021.

¹⁰⁴ See the Article 6 LA LFSFC 2021. It has been envisaged that other benefits based on birth and child care and special child care may be received by the mother who was an agricultural insurer in the period of 18 months before the birth (instead of 24 months, as was the case before the amendments and before this distinction of the agricultural insurers and other insured declared unconstitutional).

minimum wage with the previous length of insurance in the case of salary compensation during maternity leave.¹⁰⁵

Here it is useful to look at the **consequences of the decisions of the Constitutional Court on the unconstitutionality** of a certain general act or its provisions on individual acts adopted on the basis of unconstitutional regulations, and more broadly, the harmful consequences of unconstitutional regulations in general, which are regulated by Articles 61-62 Constitutional Court.¹⁰⁶ Following the aforementioned decisions of the Constitutional Court and the forced decisions of the LFSFC,¹⁰⁷ the two line ministries issued instructions to the social welfare centres and local administrations according to which individual decisions made on the basis of repealed provisions should be reviewed and amended *ex officio*, including those suspending further payments or denied the right to an allowance for allowance for the care and assistance of another person, which could not be exercised in parallel with the right to extended paid leave for child care.¹⁰⁸ However, as the Constitutional Court in its decision did not determine another way to eliminate the harmful consequences of unconstitutional laws (to which it is authorized by Article 62 of Law on Constitutional Court), those parents who, having in mind the unconstitutional provisions of the law in force, did not submit requests for that allowance were left without the possibility of compensation.¹⁰⁹

Unresolved problems in the field of financial protection of families with children

Finally, it is also necessary to see **which provisions of the Law on Financial Support to Families with Children have not been (substantially) amended**, despite the indication

¹⁰⁵ Article 5 of LA LFSFC 2021.

¹⁰⁶ Jelena Jerinić, 13 October 2021. See also BBC in Serbian, "Children with Disabilities and Serbia: The state has changed the law, but there is still no money for parents of children with special needs", 25 October 2021, available at: <https://www.021.rs/story/BBC/288082/Deca-sa-invaliditetom-i-Srbija-Drzava-promenila-zakon-ali-jos-nema-novca-roditeljima-dece-sa-posebnim-potrebama.html>.

¹⁰⁷ See also Mario Reljanović, "Law on financial ruin of families with children - the facade holds as the foundations slide", *Peščanik*, 15 March 2021, available at: <https://pescanik.net/zakon-o-finansijskoj-propasti-porodice-sa-decom-fasada-drzi-dok-temelji-klize/>.

¹⁰⁸ *Ibid.* See also the Ministry of Family Welfare and Demography and the Ministry of Labour, Employment, Veteran and Social Affairs, "Instruction on the conduct of municipal-city administrations and social welfare centres in the application and implementation of decisions of the Constitutional Court of the Republic of Serbia no. luz-216/2018, IUz / 2018, and luz-266/2017 ", 2 August 2021, available at: <http://minbpd.gov.rs/wp-content/uploads/2021/11/Instrukcija-o-postupanju-opstinskih-gradskih-uprava-i-centara-za-socijalni-rad-u-primeni-i-sprovoenju-odluka-Ustavnog-suda-Republike-Srbije-br.-IUz-2162018-IUz-2472018-i-IUz-2662017-1.pdf> (hereinafter: Instruction of MFWD and MKEVSA, 2 August 2021).

¹⁰⁹ J. Jerinić, 13 October 2021.

of their discriminatory character.¹¹⁰ These are primarily provisions related to discriminatory conditions regarding parental allowance, which have a disproportionately negative impact on Roma children.¹¹¹ In October 2018, A 11 Initiative submitted an initiative to assess the constitutionality of the provisions of Article 25 of the LFSFC, due to which a family cannot exercise the right to parental allowance if at least one of the children has not received all mandatory vaccines or does not regularly attend primary school, or pre-school preparatory program (PPP). Although seemingly neutral, these provisions have a disproportionately negative effect on Roma children, which is clearly evident from the data on the difference in immunization coverage and primary school attendance, or PPP attendance, between Roma and non-Roma children. Namely, according to the data of the Statistical Office of the Republic of Serbia and UNICEF for 2019, the education coverage of Roma children in early childhood is only 7%, while in the general population it is 61%.¹¹² While in the general population 3% of preschool children do not attend the pre-school preparatory program, in the Roma population 24% of children do not attend the pre-school preparatory program. The net attendance rate of preschool education in the general population is 97%, while the rate for children in Roma settlements is significantly lower and totals 76%.¹¹³ The primary school completion rate among children living in Roma settlements is 64%.¹¹⁴ A 2018 regional survey on Roma by the United Nations Development Program shows that, on average, one in six Roma children of primary school age remains outside the education system.¹¹⁵ The same survey indicates that only 57% of Roma girls complete primary education, compared to 93% of non-Roma girls and 95% non-Roma boys. The vaccination coverage of Roma children is also lower: according to UNICEF and the Statistical Office of the Republic of Serbia for 2019, only about one third of Roma children (about 35%) received all vaccines on time, compared to 69% of children in the general population.¹¹⁶

¹¹⁰ A 11 Initiative, *Second-class rights*, op. cit. See also Mario Reljanović, "Why the Law on Financial Support to Families with Children Needs to be Amended", *Peščanik*, 16 October 2018, available at: <https://pescanik.net/zasto-se-mo-ra-izmeniti-zakon-o-finansijskoj-podrsci-porodici-sa-decom/>. The report of the European Commission for 2019 also points to new provisions of the Law on Financial Support to Families with Children, which condition parental allowance with immunization, reminding of the differences in the coverage of vaccines between Roma and non-Roma children.

¹¹¹ Problems affecting the poorest and most vulnerable children will be discussed here. For other unresolved issues in the Law on Financial Support to Families with Children, see, for example, Mario Reljanović, "Discrimination against Women Entrepreneurs Continues", *Peščanik*, 30 August 2021, available at: <https://pescanik.net/diskriminacija-pre-duzetnica-se-nastavlja/>.

¹¹² Statistical Office of the Republic of Serbia and UNICEF, *Multiple Indicator Cluster Survey on the Position of Women and Children in Serbia and Multiple Indicator Cluster Survey on the Position of Women and Children in Roma Settlements in Serbia*, Report on Research Findings, Belgrade, 2019, xvii (hereinafter: MICS 2019).

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

¹¹⁵ UNDP, *Roma at Glance – Serbia*, April 2018, available at: https://www.eurasia.undp.org/content/dam/rbec/docs/-Factsheet_SERBIA_Roma.pdf.

¹¹⁶ MICS 2019, op. cit., xv.

Inequalities in the coverage of compulsory immunization are also pointed out in the Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia for the period from 2016 to 2025, adopted by the Government of the Republic of Serbia, which points out that coverage of Roma children by immunization is close to that of children in the general population only in regard to receiving BCG vaccine before the age of one, while the coverage of special vaccines in later ages decreases.¹¹⁷

The Constitutional Court has not yet ruled on this initiative, so the legislator has decided to keep the provisions that prevent the most vulnerable Roma children from exercising their right to parental allowance. A 11 Initiative also reminded them of the necessity of amending these provisions in the comments submitted to the competent ministries during the public debate on the amendments to the LFSFC, which lasted from 8 March to 2 April 2021.¹¹⁸ The report on the public debate on the Draft law on Amendments to the Law on Financial Support to Families with Children only summarizes that “all proposals and suggestions from the public debate were considered, and the text of the Draft law was prepared in accordance with available budget funds.”¹¹⁹ Budgetary resources are not an acceptable justification for retaining obviously discriminatory provisions of Article 25.

It is necessary to keep in mind that Article 25 of the LFSFC is in contradiction with the recommendation of the Human Rights Committee made during the consideration of the third periodic report of the Republic of Serbia on the implementation of the International Covenant on Civil and Political Rights, emphasizing that the state should intensify its efforts to promote an equal access to rights and services in all areas for members of the Roma community.¹²⁰ Due to excessive differences in coverage of compulsory immunization and education, the conditions of Article 25 of the Law disproportionately affect Roma children, and are in substantial contradiction with the mentioned recommendation. Examining the fulfilment of the recommendations from the Concluding Observations in relation to the third periodic report of the Republic of Serbia, the

¹¹⁷ Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia for the period from 2016 to 2025, 2016, p. 50.

¹¹⁸ A 11 Initiative, Comments to the Draft law on Amendments to the Law on Financial Support to Families with Children, 2 April 2021, available at: : https://www.a11initiative.org/wp-content/uploads/2021/04/Komentar-ZFPPD_Inicijativa-A-11.pdf.

¹¹⁹ Ministry for Family Welfare and Demography, Report, <http://minbpd.gov.rs/wp-content/uploads/2021/05/1a.-iz-vestaj-javna-rasprava-NZID-ZFPPD-12.04.2021..doc>.

¹²⁰ Human Rights Committee, Concluding observations on the third periodic report of Serbia, CCPR/C/SR/CO/3, 2017, p. 3, p. 15.

Committee concluded that Serbia, among other things, had not fulfilled the recommendations regarding the exclusion of Roma.¹²¹ Furthermore, the **Human Rights Committee requested that, within the next reporting cycle, Serbia provide specific information on how the amendments to the Law on Financial Support to Families with Children and Article 25 of that Law affect the Roma community.**¹²² In order to avoid repeated conclusion that the Roma related recommendations have not been met and show that it is fulfilling its obligations under the Covenant on Civil and Political Rights, Serbia will need to further explain amendments to the Law on Financial Support to Families with Children, with special reference to Article 25 and its impact on the Roma community. All this was pointed out during the public debate on the amendments to the LFSFC, but without any effect or substantial changes to the provisions of the LFSFC that make it difficult to access the right to parental allowance for particularly vulnerable Roma children – those who due do marginalization did not timely receive mandatory vaccines and/or are left outside the education system.

The need to support Roma children, not impose additional sanctions, in access to education and health care is shown by the fact that only 7% of Roma children believe that they have never encountered discrimination during schooling, while as many as 59.9% of Roma children state that they have encountered discrimination at school at least ten times.¹²³ Instead of acting in accordance with the principle of the best interest of the child and providing support in overcoming these obstacles, Roma children are punished for social exclusion and the actions or failures of their families.

Finally, it should be remembered that the list of issues adopted by the Committee on Economic, Social and Cultural Rights in relation to the consideration of the third periodical report of Serbia, in the section on the protection of families and children, includes the steps taken by the state to amend the Law on Financial Support to Families with Children

¹²¹ Human Rights Committee, Follow-up letter sent to the State party – Discontinuance of the follow-up procedure, 26 November 2020 (general distribution – 21 February 2021), available at: https://tbinternet.ohchr.org/Treaties/C-CPR/Shared%20Documents/SRB/INT_CCPR_FUL_SRB_44136_E.pdf.

¹²² *Ibid*, str. 4.

¹²³ Dr Goran Bašić, *Roma in the Republic of Serbia: Challenges of Discrimination*, European Group for Minority Rights, March 2021, available at: http://praxis.org.rs/images/praxis_downloads/MRG_Rep_RomaSerb_SE_Mar21_E.pdf, p. 8. The same research points to the problems of Roma in accessing the right to health: 33.1% of Roma included in the research pointed out that they were discriminated against by doctors up to 10 times, and 15% more than 10 times.

in order to increase access to social protection services for the Roma population.¹²⁴ The answer to that question was completely missing in the answer of the state.¹²⁵ Just as warnings about the impact of the LFSFC on the position of Roma children were ignored during the public debate on amendments to the LFSFC and in earlier appeals to the working group to amend the regulation,¹²⁶ **the state did not answer any questions in the field of financial support to families with children that refer to the Roma community as part of the list of questions of the Committee for Economic, Social and Cultural Right.**

Impossibility of exercising the right to parental and child allowance for the fifth and each subsequent child

The number of children in the family who can exercise the right to child and parental allowance is limited. The Article 22, paragraphs 1 and 3 and Article 26, paragraph 1 of the LFSFC, which prescribe the conditions for exercising the right to parental or child allowance, also limit the number of children for whom it is possible to exercise these rights. Thus, Article 22 of the Law stipulates that the right to parental allowance is exercised by the mother for the first, second, third and fourth child, provided that she is a citizen of the Republic of Serbia and has a permanent residence registered.¹²⁷ The right to child allowance, another material benefit provided by the LFSFC, is exercised for the first, second, third and fourth child in the order of birth in the family, and only exceptionally for

¹²⁴ CESCR, List of issues in relation to the third periodic report of Serbia, E/C.12/SRB/Q/3, 12 November 2019, Para. 20, p. 3, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fSRB%2fQ%2f3&Lang=en.

¹²⁵ Replies of Serbia to the list of issues in relation to its third periodic report, 29 June 2020, E/C.12/SRB/RQ/3, p. 88, str. 18, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fSRB%2fRQ%2f3&Lang=en.

¹²⁶ In March 2019, A 11 Initiative sent a letter to the Minister without Portfolio, a member of the National Council for the Rights of the Child and a member of the working group for monitoring the effects of LFSFC and drafting amendments, warning of the need to change the provisions of Article 25 that discriminate against Roma children. However, the Minister's Office replied that the issue (i.e., the issue of discrimination against Roma children) was not within the competence of the ministry, which primarily deals with demographic policy, and forwarded a letter MLEVSA, which never responded to the letter. See the Platform of Organizations for Cooperation with UN Human Rights Mechanism, UPR Mid-term report – Third Cycle, Republic of Serbia (2018–2020), available at: <https://platforma.org.rs/wp-content/uploads/2020/11/Platform-UPR-Mid-term-2020-Serbia-3rd-cycle.pdf>, p. 16, note 55.

¹²⁷ Only exceptionally, a mother who has three children and then gets two or more children in the next childbirth can exercise the right to parental allowance for each child born in that childbirth, based on a special decision of the ministry responsible for social affairs. On the other hand, the right to child allowance is exercised for the first, second, third and fourth child in the order of birth in the family, and only exceptionally for the child of higher birth order, if due to the age limit for one of the first four children this right cannot be further exercised. See Article 22, Para. 3 of the Law on Financial Support to Families with Children. For more details, see: A 11 – Initiative for Economic and Social Rights, *Comment on the Draft law on Amendments to the Law on Financial Support to Families with Children*, April 2021, available at: https://www.a11initiative.org/wp-content/uploads/2021/04/Komentar-ZFPPD_Inicijativa-A-11.pdf.

subsequent children if one of the first four children can no longer exercise the right due to the age limit.¹²⁸ This limitation of the number of children who are included in the benefits for parental and child allowance disproportionately affects the most vulnerable families with children.¹²⁹ Namely, data from the Statistical Office of the Republic of Serbia shows that according to the latest census, from 2011, there are only 5,264 families with more than five children in Serbia. A 11 Initiative received data from the Statistical Office of the Republic of Serbia, obtained by special processing of data from the census, which shows that, of that number, there are as many as 1,719 families in which one or both parents stated that they are Roma. Furthermore, out of that number, in 782 families one or both parents are illiterate, while in 1,024 families both parents have completed no school or a maximum of three grades of primary school. These are families that are particularly economically and socially endangered, which is confirmed by the fact that, out of that number, almost 300 families share an apartment with a family that owns an apartment, or lives in a cottage, inhabited business premises or emergency rooms, or collective housing. In terms of the equipment of the apartments in which they live, as many as 767 of these families do not have a bathroom, and 644 do not have a toilet.¹³⁰

Insight into the characteristics of families with five or more children shows that the most vulnerable families are disproportionately affected by the limited number of children who can receive parental and child allowance. In addition, having in mind the ethnicity of parents who have five or more children, the mentioned limitation raises the issue of discrimination. Although Roma makes up 2.05% of the population according to the 2011 census, in families with five or more children they make up as much as 32.66%. Given that the number of families with five or more children is not large, the abolition of this limitation would not require large budget expenditures.¹³¹ Above all, this would abolish the seemingly neutral norm that disproportionately affects the most vulnerable families and that, based on the Law on Financial Support to Families with Children, constitutes indirect discrimination under Art. 7 of the Law on Prohibition of Discrimination. This is another proposal that was not adopted during the amendments to the LFSFC.¹³²

¹²⁸ Article 26 of the Law on Financial Support to Families with Children.

¹²⁹ For more details, see: Imogen Richmond-Bishop and Danilo Ćurčić, "Welfare caps: how the UK and Serbia became outliers in child support", Open Global Rights, 21 April 2021, available at: <https://www.openglobalrights.org/welfare-caps-how-the-uk-and-serbia-became-outliers-in-restricting-child-support/?lang=English>¹³⁵ Danas, Brnabić: U pripremi sistem socijalnih karata, ubuduće bolja socijalna zaštita, 18. januar 2019. godine.

¹³⁰ A 11 – Initiative for Economic and Social Rights, *Comment on the Draft law on Amendments to the Law on Financial Support to Families with Children*, op. cit.

¹³¹ *Ibid.*

¹³² *Ibid.*

Law on Social Card

In January 2021, the long-awaited Law on Social Card¹³³ was adopted, which was supposed to “introduce records for all existing users, i.e. a register of social cards where data will be cross-referenced so as not to get into a situation where someone comes for social assistance in an ‘Audi 8,’ which is currently happening,” as the Prime Minister once stated at the meeting of the National Convention on the European Union.¹³⁴ As stated in Article 2 of this Law, the “Social Card” system is a single register containing data on the individuals and connected persons in need of social assistance, including socio-economic status, the type of rights and social protection services that the person uses or has used, and data on officials who administered or decided on the individual’s rights. This system envisages the processing of a large amount of data about social protection system beneficiaries, potential beneficiaries of this system and all those persons who are considered “connected persons,” such as spouses, ex-spouses, extramarital partners, ex-extramarital partners, children and relatives in the direct line, regardless of the degree of kinship, relatives in the lateral line to the second degree of kinship, guardians and foster parents, provided that they live in a joint household, stepchildren, and stepparents. Analyses have shown that the Social Card contains at least **135 forms of personal data of social protection system beneficiaries**, and that such a large amount of personal data is not collected and processed by state bodies on individuals in any other life situation in the Republic of Serbia.¹³⁵

The law is not fully harmonized with the provisions of the umbrella law that regulates the processing of personal data, the Law on Personal Data Protection,¹³⁶ and at the same time contains provisions that are in conflict with the provisions of the Law on Social Protection governing social protection and the protection of personal data. These inconsistencies raise the issue of violations to the constitutional principle of unity of the legal order, meaning that the basic principles and legal institutes provided by laws regulating one area of social relations must be respected in special laws as well, unless that law explicitly prescribes the possibility of different regulation of the same issues.¹³⁷

¹³³ The Official Gazette of RS, no. 14/2021.

¹³⁴ Danas, Brnabić: *Social Cards System Underway, Better Social Protection in the Future*, 18 January 2019.

¹³⁵ Partners for Democratic Change Serbia, *Privacy and Personal Data Protection in Serbia, Analysis of Selected Sectoral Regulations and Their Implementation*, p. 58.

¹³⁶ The Official Gazette of RS, no.87/2018. For details on the inconsistency of the Law on Social Card with the obligations prescribed by the Law on Personal Data Protection, see also: Commissioner for Information of Public Importance and Personal Data Protection, *Opinion on the Draft law on Social Card*, no. 073-12-2598/2020-02 as of 15 December 2020.

¹³⁷ The Constitutional Court, Už 13652/2018, IUz-361/2012.

The key problems that will be brought by the application of this law are related to the **violation of the principle of minimizing the processing of personal data**, and the impossibility of participation of social protection system beneficiaries in decision-making based on the automatic processing of their personal data. Article 17 of the Law on Social Card stipulates that if inconsistencies in data of the beneficiary or connected persons are found during processing, a notice will be created and forwarded to the records in the field of social protection instructing the data user, i.e. the body responsible for social protection issues, the social welfare centre or other bodies responsible for implementing activities to improve social protection, that it is necessary to verify the data. This is done by inspecting and downloading data from official records, documents and public documents, or that it is necessary to make a decision upon the request of the party, i.e. it is necessary to initiate proceedings *ex officio* because the facts that may affect the exercise, change or termination of rights from social protection were identified. In such a situation, there are two basic requirements that need to be met by the decision-making system. The first request refers to the **transparency of the algorithm that automatically checks the compliance of data in the Social Card** with the criteria for exercising social protection rights, while the second relates to enabling the **beneficiary of the social protection system to declare on the circumstances related** to the automatic processing of personal data.

It is important to note that in other countries, in similar situations when new technologies are used to achieve the proclaimed goal of improving the social protection system, the courts were asked about the **proportionality of this processing of personal data** and respect for the right to private and family life based on the European Convention for the Protection of Human Rights and Fundamental Freedoms.¹³⁸ It remains to be seen whether the domestic regular courts and the Constitutional Court of Serbia will take these arguments into account and analyse the compliance of this law with the guarantees from Article 8 of the European Convention on Human Rights upon the beginning of the implementation of the Law on Social Card.

¹³⁸ The District Court of the Hague, NJCM and others v. Holland (2020), The Hague District Court ECLI: NL: RBDHA:2020:1878 (SyRI).

Financial assistance to mitigate the consequences of the COVID-19 pandemic

Similar to 2020, in 2021 the state provided all adult citizens of Serbia with financial assistance in the amount of 60 euros in dinar countervalue in order to mitigate the economic consequences of the COVID-19 pandemic.¹³⁹ Payment of this assistance is regulated by the Law on the Provisional Register of Adult Citizens of the Republic of Serbia to whom financial assistance is paid to mitigate the consequences of the COVID-19 pandemic SARS-CoV-2 virus (hereinafter: the Law on the Provisional Register)¹⁴⁰ and the Rulebook of the manner of application for financial assistance, the method of payment of financial assistance and the submission of complaints.¹⁴¹ The Law on the Provisional Register first envisages the payment of a one-time financial assistance of 60 euros, which was paid in the amount of 30 euros on two occasions, and the amendments to that law also envisaged additional financial assistance of 20 euros.¹⁴²

Article 2 of the Law on the Provisional Register specifies that an adult citizen of the Republic of Serbia is “a natural person who is an adult on the day this law enters into force,¹⁴³ who is a citizen of the Republic of Serbia, with the permanent residence registered in the territory of the Republic of Serbia” – in line with the law regulating temporary and permanent residence of citizens, a person who possesses a valid identity card and who applies for financial assistance in accordance with this law.” The Rulebook on the manner of application for financial assistance specifies that the personal identification number and the registration number of a valid ID card must be submitted

¹³⁹ Although it is not a measure of social protection, financial assistance to mitigate the consequences of the pandemic will be considered here because of the impact that this measure (or the funds allocated for its implementation) could have on the position of poor citizens.

¹⁴⁰ The Official Gazette of RS, no. 40/2021 and 96/2021.

¹⁴¹ The Official Gazette of RS, no. 42/2021 and 107/2021.

¹⁴² Law on Amendments to the Law on the Provisional Register of Adult Citizens of the Republic of Serbia to whom financial assistance is paid to mitigate the consequences of the COVID-19 pandemic SARS-CoV-2 virus, The Official Gazette of RS, no. 96/ as of 8 October 2021.

¹⁴³ The law came into force on 23 April 2021. With the amendments to the Law on Provisional Register, the possibility to apply for additional financial assistance has been extended to citizens who have reached the age of majority in the period from 24 April to the date of entry into force of amendments to this regulation, which provides for additional financial assistance i.e. until 16 October 2021. See Article 2, Para. 1 Law on Amendments to the Law on the Provisional Register of Adult Citizens of the Republic of Serbia to whom financial assistance is paid to mitigate the consequences of the COVID-19 pandemic SARS-CoV-2 virus.

with the application.¹⁴⁴ In that way, citizens who do not have a unique citizen's number, ID card or registration of permanent residence are excluded from the possibility of receiving that assistance.

The possibility of receiving a one-time financial assistance of 60 euros and additional financial assistance of 20 euros did not depend on the degree of vulnerability, but on the possession of a personal identification number, registration of residence and ID card, a seemingly neutral condition unrelated to ethnicity. However, in reality, members of the Roma national minority are disproportionately affected, since in Serbia Roma individuals are most likely to face problems in accessing personal documents.¹⁴⁵ These individuals are also recognized as being particularly at risk of the negative socio-economic consequences of the pandemic.¹⁴⁶ However, they were excluded from the possibility of receiving financial assistance of 80 (30 + 30 + 20) euros,¹⁴⁷ which was available to all other adult citizens who have an ID card, personal identification number and registration of permanent residence.¹⁴⁸

¹⁴⁴ Article 5 Rulebook of the manner of application for financial assistance, the method of payment of financial assistance and the submission of complaints, The Official Gazette of RS, no. 42/2021 i 107/2021.

¹⁴⁵ Praxis, ISI, ENS and ERRC, *Joint Submission to the Human Rights Council at the 29th session of the Universal Periodic Review*, 2017, 4, para. 12. Committee on the Rights of the Child, Concluding remarks to the Combined Second and Third Periodic Report of Serbia on the Implementation of the Convention on the Rights of the Child, 2017, paragraph 30. Protector of Citizens, *Special Report of the Protector of Citizens on Reproductive Health of Roma Women*, Belgrade, 2017, p. 3 and 11. UNHCR and CeSID, *Persons at Risk of Statelessness in Serbia, Review of the Current Situation and Recommendations for the Future*, 2020, p. 6. Government of the Republic of Serbia, *Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia for the period from 2016 to 2025*, p. 53. Protector of Citizens, *Special Report of the Protector of Citizens on the Implementation of the Strategy for Social Inclusion of Roma Men and Women with Recommendations*, Belgrade, November 2019, p. 50 and 60–61.

¹⁴⁶ Andrea Cârstocea, Raul Cârstocea and Craig Willis, ECMI Minorities Blog: The Impact of COVID-19 on Roma Communities in Non-EU Countries in Eastern Europe, 5 October 2020; Craig Willis, "Economic Effects of the COVID-19 Pandemic on Roma Communities in Albania, Bosnia & Herzegovina, Moldova, Montenegro, North Macedonia, Serbia and Ukraine", The European Centre for Minority Issues, 21 October 2020.

¹⁴⁷ In 2021, the Law on the Provisional Register first envisaged the payment of a one-time financial assistance of 60 euros, which was paid in the amount of 30 euros on two occasions, and the amendments to the Law on the Provisional Register envisages additional financial assistance of 20 euros.

¹⁴⁸ In an almost identical way, undocumented Roma were excluded from the possibility of exercising the right to a one-time financial social assistance of 100 euros in 2020.

Case study: Financial assistance to mitigate the consequences of the pandemic

The unfairness and discriminatory nature of the conditions for exercising the right to financial assistance of 60 euros becomes clearer if we look closely at who this assistance remains inaccessible to. One such individual is Ajna, whose case illustrates the difficulties faced by members of the Roma national minority in trying to obtain documents.

Difficulties in accessing personal documents

Until recently, Ajna has been a legally invisible person. She lives in Belgrade with her unmarried partner and their two children. She was not registered in the birth registries because during the war in Kosovo in 1999, three years before her birth, the registry books in which her parents were registered were destroyed, and undocumented parents could not register the birth of a child. Her mother died when she was seven, and her father when she was 14, which made the procedure of registration in the birth registries even more difficult. In September 2020, Ajna finally managed to register in birth registries on the basis of a court decision, after a non-contentious procedure for determining the time and place of birth, which is intended for persons who cannot register in administrative proceedings. After the birth registration procedure, in order to have registered fact of citizenship of the Republic of Serbia, she first had to carry out the procedure of re-registration of citizenship for at least one of her parents. That procedure was successfully conducted for the father, since she managed to obtain a copy of his ID card issued before 1999. Once the re-registration procedure for Ajna's father was completed, the fact of citizenship of the Republic of Serbia was registered for her as well. In December 2020, Ajna obtained birth and citizenship certificates for the first time. She became an adult in the same year. However, she is still unable to obtain an ID card because she does not have her permanent residence registered. On two occasions, she tried to submit a request for registration of residence in the competent police station, but she was verbally rejected. With the help of A 11 Initiative, she finally managed to submit a request for registration of residence in May 2021, but that procedure was not completed until December 2021.

Impossibility to exercise the right to financial assistance for mitigation of the consequences of the epidemic

In May 2021, Ajna submitted an application for the payment of financial assistance to mitigate the consequences of the COVID-19 disease pandemic, first through the call centre and the portal of the Treasury Administration. After her application was rejected as incomplete or invalid - due to lack of ID card and residence registration - Ajna submitted a written application and explained in writing the difficulties she faced in trying to obtain documents, and asked for financial assistance despite the lack of ID card and residence registration. She emphasized that she had been born and lived in Serbia, that she was a citizen of Serbia, that she had no other citizenship except Serbian citizenship, or registration of residence or stay in any other country. She submitted medical documentation, including a discharge list from the maternity hospital in Belgrade, as evidence of her actual stay in Belgrade. However, the competent Ministry of Finance - Treasury Administration also rejected her written application, explaining that she does not meet the conditions prescribed by law, i.e., does not have an ID card and has no registered residence in the Republic of Serbia. In June 2021, in accordance with Art. 6, para. 7 of the Law on Provisional Register, Ajna submitted a complaint to the Treasury Administration and requested that, in order to prevent discrimination due to lack of registration of residence and ID card, she should be granted financial assistance of 60 euros. Her complaint was also rejected, with the explanation of the competent ministry that in order to exercise the right to financial assistance, it is necessary to cumulatively meet all the conditions from the Law on the Provisional Register, including registration of residence and possession of an ID card. Since she does not have an ID card and registration of permanent residence, Ajna does not have the ability to establish an employment relationship, nor the possibility to exercise any right provided by the social protection system. In the conditions of an additionally worsened situation due to the epidemic, the approval of financial assistance of 60 euros intended to mitigate the consequences of the coronavirus would be of great importance to her. Due to the lack of documents, she could not exercise the right to parental allowance, and she does not have health insurance, which is why she had problems in accessing health care during both pregnancies.

Ajna's example shows what problems some Roma face when trying to obtain documents. It is clear that these persons, due to special vulnerability and complete exclusion from the social protection system, would especially benefit from the approval of financial assistance to mitigate the consequences of the pandemic, but they are also excluded from the possibility of receiving this type of assistance. In addition to being excluded from state support measures, Ajna also failed to obtain protection against discrimination, which is illustrated by the procedure conducted before the Commissioner for the Protection of Equality.

Roma without permanent residence and ID card – without support measures and protection from discrimination

In October 2021, A 11 Initiative filed a complaint with the Commissioner for the Protection of Equality against the Ministry of Finance - Treasury Administration, for not taking into account the unequal position of Ajna when considering her application for financial assistance. An adult citizen of Serbia was denied a request for financial assistance for not having an ID card and permanent residence registered, although it is not her fault that she cannot register the permanent residence and obtain an ID card. The complaint points out that the Ministry of Finance did not take into account her factual inequality, which is reflected in the impossibility of obtaining an ID card and registration of residence, and which is caused by difficulties such as untimely registration in birth registers - a problem which in Serbia is faced almost exclusively by the members of the Roma national minority. The Ministry of Finance, the body responsible for deciding on this financial assistance, treated a member of a particularly vulnerable and marginalized group as they would any other applicant for financial assistance who does not face difficulties in accessing documents. Therefore, the complaint emphasizes that in certain situations it is necessary to treat groups that are in different positions differently, in order to correct inequalities between them. Moreover, failure to treat differently persons whose situations are significantly different may in itself constitute a violation of the prohibition of discrimination, as clearly confirmed by the practice of bodies monitoring the implementation of human rights treaties, including the European Court of Human Rights.¹⁴⁹ It was especially pointed out that the acting body did not draw any distinction between foreign citizens residing in Serbia without residence and the applicant, who is a domestic citizen, has no connection with any other state, and cannot register residence

¹⁴⁹ ECtHR, *Thlimmenos v. Greece* (VV), Para 44.

due to marginalization and specific difficulties faced as a Roma. Finally, it was emphasized that the procedure was not about the fact that the acting body did not have enough space to take into account Ajna's specific situation and to correct the factual inequality that was pointed out. It was emphasized that the acting body, instead of being guided exclusively by the definition of "an adult citizen of the Republic of Serbia" from the Law on Provisional Register, had to take into account anti-discrimination provisions from ratified international treaties and domestic regulations, including the Constitution, as well as other regulations specifying how to prove Serbian citizenship and when when the age of majority is reached, from which it undoubtedly follows that Ajna is an "adult citizen of the Republic of Serbia," although she does not have the permanent residence registered or an ID card. All this indicates that in Ajna's case, it was not true that domestic law did not leave room for a different treatment and consideration of the request for granting financial assistance o the person in Ajna`s position, even without enclosing and ID card. However, the described factual inequality was not taken into account when considering her request.

In its conclusion, the Commissioner rejected the complaint, stating that the Ministry of Finance while deciding upon the request for the payment of financial assistance, was bound by the adopted law.¹⁵⁰ There was no reference to the allegations in the complaint that the domestic legislation left the Ministry of Finance enough room (and anti-discrimination provisions required) to apply the Law on the Provisional Register in a more flexible way, in order to correct the factual inequality that Ajna faced.¹⁵¹ The conclusion further states that the Commissioner for the Protection of Equality, in accordance with the powers from Article 33, item 9 of the Law on Prohibition of Discrimination, recognizing the problem of adult citizens of the Republic of Serbia who have no registered residence in Serbia or ID card, had already submitted to the ministry, as the authorized proposer of the law, a recommendation of measures for achieving equality and protection from discrimination. In that recommendation, it was especially pointed out that the conditions regarding residence and possession of a valid ID card prevent some persons from exercising the right to financial assistance, and that this condition affected members of

¹⁵⁰ Commissioner for Protection of Equality, act no. 07-00-556/2021 as of 16 November 2021.

¹⁵¹ See in this regard ECtHR, *Guberina v. Croatia*, particularly Para. 93 and 98.

the Roma a national minority the most due to difficulties encountered by individuals when registering their permanent residence.¹⁵² The recommendation also pointed out that the mentioned persons are citizens of Serbia and belong to the category of the most vulnerable citizens, as well as that these persons need to be included in support measures, either by amendments to the Law on Provisional Register or by adopting a special regulation that would stipulate special measures for the mentioned persons.

The Ministry of Finance apparently ignored the Commissioner's recommendation and did not take any measures to include Roma without an ID card and permanent residence in support measures. The Commissioner easily rejected Ajna's complaint, although the Ministry did nothing to act on the recommendation to protect Roma from discrimination. Protection against discrimination of this particularly vulnerable group of Serbian citizens boiled down to issuing recommendations that obviously had no effect.¹⁵³

In the meantime, the Law on the Provisional Register was amended, but the same conditions regarding permanent residence and ID card were maintained for the realization of additional financial assistance of 20 euros provided by those amendments, which once again confirmed discriminatory treatment of undocumented Roma.

¹⁵² The recommendation of measures, which the Commissioner sent to the Ministry of Finance on 26 August 2021, after receiving complaint from the NGO Praxis, is available at: <http://ravnopravnost.gov.rs/rs/preporuka-mera-ministarstva-finansija-2/>.

¹⁵³ Having in mind the previous practice of the Constitutional Court, these persons could hardly get protection from that court, but for another reason - because the Constitutional Court considers that the preconditions for deciding on the constitutional complaint are not met because it is a minor financial damage. Thus, for example, the Constitutional Court rejected the constitutional complaint of a refugee filed due to discrimination on the basis of permanent residence during the determination of taxes, with the explanation that it is about 7,500 dinars, which does not represent significant monetary damage. UŽ-2102-2018 and UŽ-2101-2019 as of 11 September 2019.

**The right to
adequate
housing**

During 2021, there were no significant changes in terms of exercising the right to adequate housing. The accumulated problems in this area, created first by the privatization of the public housing fund during the 1990s, and then by the almost complete withdrawal of the state from the roles related to providing housing solutions for citizens, have affected this situation. Finally, the commodification of housing, that is, the treatment of housing as a commodity rather than a right guaranteed by the International Covenant on Economic, Social and Cultural Rights, has further affected the current state of housing.

In terms of access to the right to adequate housing, there are a number of groups that are unable to enjoy this right - ranging from Roma,¹⁵⁴ IDPs,¹⁵⁵ refugees, the homeless¹⁵⁶ to those citizens who cannot solve their housing problem in the market due to low incomes, unemployment or other challenges they face. It is particularly important to note that there is no data on housing, housing needs and problems faced by citizens in exercising **the right to adequate housing**. This situation negatively affects the potential planning of measures that would be aimed at solving some of the problems in the field of housing.

Although in the case of exercising the right to housing, the state often uses the argument that this right is "expensive" and that there are not enough available resources to exercise the right to housing for those citizens who are most vulnerable, the fact is that in recent years the Republic of Serbia has started to invest intensively in housing. However, for now, these investments relate only to the **construction of cheap apartments for members of the security services**, which is provided by a special law, the Law on Special Conditions for the Realization of the Project of Construction of Apartments for Members of the Security Forces.¹⁵⁷ This law prescribes preferential treatment for members of the security services and retired members of the security services who have not resolved the housing issue, as well as for veterans, families of fallen soldiers, war-disabled combatants

¹⁵⁴ Recent research conducted by the UN Human Rights Team in Serbia and the Team for Social Inclusion and Poverty Reduction found that more than 167,000 Roma live in informal settlements. For details of research, see: https://serbia.un.org/sites/default/files/2021-02/Mapiranje_podstandardnih_romskih_naselja_SRB_web.pdf, May 2021.

¹⁵⁵ According to the research conducted by the Commissariat for Refugees and Migration, there are over 68,000 internally displaced persons "in need" in Serbia. For details of research, see: <https://www.unhcr.org/rs/wp-content/uploads/sites/40/2021/04/02-Stanje-i-potrebe-IRL-2018.pdf>, May 2018.

¹⁵⁶ There is almost no data on the homeless, which also indicates at the degree of exclusion of these persons. The last research that was conducted in 2012, and the Statistical Office of the Republic of Serbia prepared a special publication after the Census, which dealt more closely with the number and characteristics of the homeless in Serbia. This publication is available at: <https://publikacije.stat.gov.rs/G2014/Pdf/G20144011.pdf>.

¹⁵⁷ The Official Gazette of RS, no. 41/2018, 54/2019, 9/2020 i 52/2021.

and peacetime military disabled who have not resolved the housing issue. It is especially important to note that Article 2 of this law stipulates that the implementation of the project is of general interest and importance for strengthening the National Security System of the Republic of Serbia. It is estimated that 64 million euros were spent on the construction of these apartments in just three years.¹⁵⁸ On the other hand, there is almost no cheap housing for other categories of people who need support to address their housing needs, or it comes down to project support funded from international funds.¹⁵⁹

In such a situation, those most at risk do not have the opportunity to exercise their right to adequate housing. Thus, for example, there are over 160,000 Roma in Serbia who live in informal settlements, which are often without access to drinking water. According to data collected by mapping substandard¹⁶⁰ Roma settlements, over 32,000 Roma do not have access to water¹⁶¹ in these settlements, and over 24,000 of them do not have electricity.¹⁶² On the other hand, in 2021 there was no progress in improving the position of homeless people either, so a good number of services related to access to social protection and health care for this group depends on project support which associations of citizens provide from donors.

Implementation of the Law on Housing and Building Maintenance¹⁶³

The umbrella law in the field of housing, which regulates the issues of housing units' management, maintenance of buildings, eviction and relocation procedures, and social housing (supported housing) was passed at the end of 2016. Although it was expected that the change in the law would bring a number of novelties that should regulate the area of housing, that did not happen. Also, the public policy documents envisaged by this law

¹⁵⁸ Insajder, *Cheap apartments for security guards: In the next three years about 64 million euros without VAT from the state treasury*, online, available at: <https://insajder.net/arhiva/vesti/jeftini-stanovi-za-bezbednjake-iz-drzavne-kase-u-naredne-tri-godine-oko-64-miliona-evra-bez-pdv-a>.

¹⁵⁹ For example, projects under the Regional Housing Programme to address the housing needs of refugees or the recently opened EU Support to Social Housing and Active Inclusion Programme, which allocates 27 million euros to provide sustainable housing solutions and active inclusion measures for people with disabilities, young people without parental care, women victims of domestic violence and Roma.

¹⁶⁰ Lately, the term "substandard settlements" is often used on an equal footing with the term "informal settlements". In this report, the term "substandard settlements" is used only in cases where it is used by other stakeholders dealing with the right to adequate housing.

¹⁶¹ UN Human Rights Unit in Serbia and Team for Social Inclusion and Poverty Reduction, *Mapping substandard Roma settlements by risks and access to rights, with special reference to the COVID-19 pandemic*, p. 10.

¹⁶² *Ibid.*, p. 14.

¹⁶³ The Official Gazette of RS, no.104/2016 i 9/2020.

have not been adopted until the end of 2021, and the Housing Council has not been formed, nor have measures been taken to implement the housing support program. Moreover, **the eviction and resettlement procedures** provided by law in cases involving collective relocations, as we had the opportunity to see in the period from 2009 to 2012, were not conducted in accordance with the law. Only a few local self-government units carried out these procedures as provided by the Law on Housing and Maintenance of Buildings, and not without omissions that were to the detriment of persons affected by evictions.¹⁶⁴

The practice of particular concern in the context of conducting eviction and resettlement procedures was documented in early 2021, when the competent state authorities decided not to implement their legal obligations and to reduce the eviction procedure exclusively to the payment of compensation to families affected by eviction.

Case Study: Eviction of the Settlement "Vijadukt" in Belgrade

Over 70 families lived in the facilities of the former company "Vijadukt," mostly Roma men and women, who moved into them after the extended building of abandoned workers' barracks. In addition to Roma, this location was home to internally displaced persons, refugees, as well as former workers of "Vijadukt" factory. According to the estimates of A 11 Initiative, about two thirds of them lived of financial social assistance, while the rest earned income through informal work, most often by collecting secondary raw materials.

In mid-July 2020, the residents of this settlement informed A 11 Initiative that the mayor of the Municipality of Rakovica and the head of the Department for Property and Legal Affairs verbally ordered them to move out within 14 days, under the threat of demolishing the residential buildings in which they lived. As they stated, the reasons for the eviction were that they were at a location intended for the construction of a bypass around Belgrade. Therefore, A 11 Initiative contacted the competent state bodies and reminded them of the obligations prescribed by the Law on Housing and Building Maintenance and the International Covenant on Economic, Social and Cultural Rights.

¹⁶⁴ One such case was in relation to the forced eviction of collectors of secondary raw materials who lived on the edge of the landfill in Vinča and who were affected by the eviction procedure due to the construction of the incinerator. Regarding the problems this group of collectors of secondary raw materials faced during and after the eviction procedure, A 11 Initiative initiated a mediation procedure before the Independent Project Mechanism of the European Bank for Reconstruction and Development. For more details, see: <https://www.ebrd.com/work-with-us/projects/i-pam/2021/01.html>.

The Law on Housing and Building Maintenance stipulates that a local governmental unit has to adopt a resettlement plan before the eviction, conduct a consultation process with the community on possible housing solutions, and adopt a decision on the need to conduct the eviction. The Law also stipulates that the local self-government unit conducting the eviction and resettlement procedure has the obligation to enable public participation in the consultation process, after which decisions on eviction are made, against which residents have the right to appeal. A 11 Initiative also reminded the representatives of the Office of the Prime Minister of the Republic of Serbia and the company Corridors of Serbia of these obligations at the meeting held in October 2020.

At the end of 2020, the Protector of Citizens, whom the inhabitants of this settlement previously addressed, got involved in this case as well as in finding a solution for conducting the eviction and relocation of the inhabitants of the settlement "Vijadukt".

After that, the Protector of Citizens, referring to his role of mediator with the preventive goal, in order to realize the guaranteed rights of the inhabitants of this settlement, took steps that are in complete contradiction with the provisions of the Law on Housing and Building Maintenance and practically mediated reaching the agreement on compensation for "voluntary eviction of the inhabitants of the settlement Vijadukt."

The mediation resulted only in financial compensation for eviction, in the amount of 19,000 euros to each family from the settlement, so the inhabitants accepted the only option offered to them and declared that they would move out within seven days of paying this amount. This decision is not only inconsistent with the state's obligations to make maximum use of available resources for the progressive realization of economic and social rights, but for over one million and three hundred thousand euros, which was the least amount of this compensation, a sufficient number of social housing apartments could have been built for the residents of the settlement.

Instead, the residents of the settlement were forced to find a new home in a very short time after the compensation was paid, which was further complicated by the fact that the compensation payment took place in the last days of 2020 and the eviction deadline was during the New Year holiday.

Despite these promises, the demolition machinery started removing buildings in the settlement "Vijadukt" on the first working day of 2021, when one barrack was demolished, whose tenants had failed to find other accommodation during the three days of New Year's holidays. After complaints and a telephone call with the Protector of Citizens, the eviction was completed a few days later, when all buildings were demolished.

None of the observers and representatives of human rights organizations were present at the eviction, nor was the presence of competent public services provided, or documentation to prove possible damage and loss of property, all of which were obligations of the competent state bodies.

Finally, it is important to note that all residents of the settlement "Vijadukt" were required to sign statements¹⁶⁵ waiving the right to appeal or use any other legal remedy in relation to this proceeding. Such a waiver is completely legally null and void because it is against the public interest, it was not given consciously and freely, but it was conditioned by compensation, which prevented the residents of this settlement from submitting subsequent complaints. At the same time, these statements "released" the competent public authorities from any further obligations towards the residents of the settlement "Vijadukt".

The significance of this case is reflected in the fact that the clearly prescribed legal obligations of public authorities were annulled by signing statements mediated by the Protector of Citizens, who not only failed to exercise his powers and control the work of competent bodies, but also actively contributed to violation of human rights of the residents of the settlement "Vijadukt" and violated the powers given to him by the Law on the Protector of Citizens. It turned out that in cases important for "development" it is allowed to violate the regulations of the Republic of Serbia, and that one of the competent institutions for providing protection to citizens in cases of violation of their human rights will not only fail to react, but will actively contribute to violating their rights.

A 11 Initiative addressed the Protector of Citizens, the Mayor's Office and the Ministry of Construction, Transport and Infrastructure, as well as other competent public authorities, but did not receive any response before this report was published.

¹⁶⁵ The copy of the statements is in the ownership of A11 Initiative.

Adoption of the National Housing Strategy for the period 2022–2032.

Ten days before the end of 2021, the Ministry of Construction, Transport and Infrastructure opened a “public debate” on the **Draft National Housing Strategy for the period 2022-2032**.¹⁶⁶ Despite the importance of this strategic document for exercising the right to housing, as well as the fact that the preparation of the Strategy was delayed for several years, the competent ministry decided to organize a “public debate” during the holidays and vacations, without public presentation of the strategic document and meetings where its content would be discussed. Such organization of the “public debate” represents an abuse of authority of the competent ministry and **essentially prevents public participation in the process of preparation of measures and activities aimed at solving the accumulated problems in the field of housing.**

The process of adopting the strategy itself was marked by a number of other procedural irregularities. In addition to these irregularities, the proposed measures and activities to improve the housing situation also contained a number of significant shortcomings. Thus, for example, the Law on Planning System of the Republic of Serbia¹⁶⁷ and the Law on Prohibition of Discrimination prescribe the implementation of ex-ante and ex-post analysis and assessment of the impact of public policy on socio-economically vulnerable categories of citizens, which the Ministry failed to implement during the preparation process of the strategic document. Also, the Draft Strategy does not in any way deal with the issue of homelessness, housing problems of refugees and displaced persons, Roma, tax treatment of publicly leased apartments, nor does it propose alternatives for achieving greater housing affordability for households and individuals in Serbia.

Despite the fact that the **Housing Equality Movement**¹⁶⁸ and other interested actors prepared **numerous comments and suggestions** to this document, the competent ministry rejected most of the proposals without a valid explanation, and continued with the preparation of the National Housing Strategy and accompanying Action Plan.

¹⁶⁶ Ministry of Construction, Transport and Infrastructure, *Public debate on the Draft National Housing Strategy for the period 2022-2032. year, with the Action Plan for implementation for the period 2022-2024*, online, available at: <https://www.mgsi.gov.rs/lat/aktuelnosti/javna-rasprava-o-predlogu-nacionalne-stambene-strategije-za-period-od-2022-2032-godine>.

¹⁶⁷ The Official Gazette of RS, no.30/2018.

¹⁶⁸ The Housing Equality Movement is an informal network of organizations dealing with housing issues and housing inequalities consisting of: Who builds the city, A 11 - Initiative for Economic and Social Rights, Joint Action Roof over the Head, Ministry of Space and Housing Centre. For more details on the Movement, see: <https://stambenipokret.rs/o-nama/>.

Social housing

As mentioned in the report “Second-Class Rights,” the issue of access to affordable housing in the Republic of Serbia significantly burdens many households. Thus, it is stated that, according to data published in December 2019, a total of 66% of households in Serbia are financially burdened by the total cost of housing.¹⁶⁹ Despite that, social housing, i.e. housing support, is insufficiently developed in Serbia, and even those citizens who manage to qualify for receiving social housing for rent cannot financially support the costs of this housing.¹⁷⁰ The unaffordability of social housing and housing intended for internally displaced persons and refugees is also affected by the obligation to pay taxes on the lease of these apartments for more than a year, which is prescribed by the Law on Property Taxes.¹⁷¹ This kind of **“poverty tax”** significantly affects the increase of social housing bills of the most vulnerable and represents an additional financial burden to which they are exposed solely due to their financial and housing vulnerability. An initiative was submitted six years ago to assess the constitutionality of the provisions of the Law on Property Taxes which prescribe this obligation, but the Constitutional Court has not yet decided on the submitted initiative.

In terms of the affordability of social housing, the situation in the settlements “Mileva Marić Ajnstajn” and “Kamendin” in Belgrade can serve as an illustration of the accumulated problems. These two settlements are large complexes in which there is a significant number of social apartments intended for the poorest citizens of Belgrade. Due to accumulated debts, both for renting social housing and utility costs charged by the Public Utility Company “Infostan,” and for paying electricity bills, **more than 60 families live without electricity, and enforcement proceedings have been initiated against more than 200 of them to collect debts for “Infostan”**.¹⁷² Also, many households in this settlement whose contracts for the lease of social housing have expired, which are usually concluded for five years, no longer have contracts because they do not meet the conditions for their extension, again due to the fact that they did not regularly pay debts to “Infostan”.

¹⁶⁹ Eurostat, Financial burden of the total housing cost – EU-SILC survey, available at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_mdcd04&lang=en.

¹⁷⁰ After the visit, the United Nations Special Rapporteur on the Right to Adequate Housing, in 2016, pointed out the problems of insufficient affordability of social housing to the Republic of Serbia. Despite the recommendations that Serbia received after this visit, they have not been implemented to date. For more details, see the report after the visit to Serbia, UN document no. A/HRC/31/54/Add.2.

¹⁷¹ The Official Gazette of RS, no.26/2001, 42/2002 – Decision SUS, 80/2002, 80/2002 – other law, 135/2004, 61/2007, 5/2009, 101/2010, 24/2011, 78/2011, 57/2012 – Decision of the Constitutional Court of RS, 47/2013, 68/2014 – other law, 95/2018, 99/2018 – Decision of the Constitutional Court of RS, 86/2019, 144/2020.

¹⁷² Data obtained by requests for access to information of public importance during 2019 and 2020.

Despite numerous meetings and appeals to start solving the problem of accumulated debts, as well as to involve the competent city services in solving the problems in this settlement, which the residents of "Kamendin" sent to the Secretariat for Social Welfare, Secretariat for Property and Legal Affairs, Mayor of Belgrade and even to the Protector of Citizens, no institution responded positively to their requests. Therefore, the problems with non-payment of bills and constant fear of forced evictions for many families from this settlement have been going on for years.

The example of Božidar, a person with a disability living in this settlement, documents in a good way the problems that the inhabitants of this settlement face.

In 2008, Božidar, as a socially vulnerable person without housing, together with his family, applied at a competition for receiving a social apartment for rent. After the successfully conducted competition and fulfilment of the prescribed criteria, he, together with his wife, mother-in-law and three children, concluded a contract on the lease of a social apartment with the Belgrade City Administration, Secretariat for Social Welfare. This contract was concluded for a period of five years, with the possibility of extension. Božidar is a person with a disability, with determined bodily damage in the amount of 100%, in accordance with the Rulebook on Determining Physical Injuries,¹⁷³ and he is also a beneficiary of increased allowance for assistance and care of another person, which he receives in accordance with Article 94 of the Law on Social Protection. His monthly income is around 26,000 dinars, and his electricity bills are around 2,500 dinars, while his "Infostan" bill is 19,000 dinars. This means that after paying the bill for housing in a social apartment in "Kamendin", he is left with a little over 40 euros for monthly expenses, which pushes him below the line of extreme poverty.

Back in October 2012, Božidar received the decision of the Housing Commission of the Mayor of the City of Belgrade XIX / 02 no. 360/17/711/07, which terminated his contract for the lease of a social apartment and ordered him to move out within 30 days. His contract was terminated due to irregular payment of "Infostan" bills. Božidar appealed against this decision, but the second instance body confirmed the previously made decision.

¹⁷³ The Official Gazette of RS, no.105/03 and 120/08.

Pursuant to Article 28 of the Decision on the Conditions and Manner of Disposing of Apartments Built under the 1,100 Apartment Construction Project in Belgrade,¹⁷⁴ no further legal remedy was allowed against the decision of the second instance body - the Mayor of the City of Belgrade. As a result, Božidar filed a constitutional appeal against this decision in January 2013. In April 2013, the Constitutional Court issued a decision rejecting the constitutional complaint, and Božidar was referred to file a lawsuit before the Administrative Court within 30 days against the second-instance decision made in the procedure regarding the termination of his contract for renting a social apartment.¹⁷⁵ In accordance with this new deadline, Božidar filed a lawsuit before the Administrative Court with a proposal to postpone execution until a court decision was made, and in July 2013 he received a decision of the Administrative Court rejecting the proposal to postpone execution until a court decision.¹⁷⁶ Although at the time Božidar was in the same legal and factual situation as several other families of social housing beneficiaries in "Kamendin", the Administrative Court in his case did not adopt a proposal to postpone the execution of the decision to terminate the contract until a court decision was made. Finally, in May 2015, the Administrative Court passed a verdict accepting the lawsuit, annulling the second-instance decision terminating his contract for the lease of a social apartment and returning the case for a new decision.¹⁷⁷

However, in June 2014, the Third Basic Court passed a verdict¹⁷⁸ in a parallel civil case initiated against Božidar by the City of Belgrade approving the claim and ordering the defendant Božidar to move out of the social apartment within 15 days of the verdict becoming final. Despite the appeal filed by Božidar, the Court of Appeal upheld the verdict in June 2017.

In March 2021, Božidar received a decision on execution, by which the public executor ordered him to move out of the social apartment in which he lived.¹⁷⁹

¹⁷⁴ The Official Gazette of the City of Belgrade, nos. 20/03, 9/04, 11/05, 6/10, 37/10.

¹⁷⁵ The Constitutional Court of the Republic of Serbia, Decision no. UŽ-110/2013.

¹⁷⁶ The Administrative Court, Decision no. U 10038/13.

¹⁷⁷ The Administrative Court, Judgement no. 20 U 10038/13.

¹⁷⁸ The Third Basic Court, Judgement, no. 15 P 34940/13.

¹⁷⁹ Public Executor Mirjana Dimitrijević, Conclusion on Execution no. I.I. 518/2020.

Shortly afterwards, A 11 Initiative submitted a motion to the European Court of Human Rights to impose an interim measure against the Republic of Serbia, due to the danger of irreparable damage and violation of Article 3 and Article 8 of the European Convention on Human Rights. After the initial determination of the temporary measure and its subsequent extension for another fifteen days, the European Court of Human Rights finally extended the temporary measure indefinitely, until the Republic of Serbia provided valid guarantees that the eviction procedure of Božidar and his son would not be carried out. Shortly after the extension of the temporary measure, Božidar was visited by representatives of the competent city secretariats, who offered to move him to a smaller and cheaper apartment in Municipality of Batajnica, but to date that relocation has not taken place.

**The right to
health**

Right to health is protected by a series of documents of international law ratified by the Republic of Serbia. One of them is the International Covenant on Economic, Social and Cultural Rights, which in Article 12 emphasizes, and in General Comment No. 14 elaborates, that States parties recognize the right of every person to enjoy the best physical and social health he/she can achieve, inter alia, by implementing the measures necessary to create favourable conditions for the provision of medical services and medical care to all in the event of illness.

The Constitution of the Republic of Serbia states that **everyone** has the right to protection of their physical and mental health, while children, pregnant women, mothers during maternity leave, single parents with children up to the age of seven and the old are listed as separate categories protected by the Constitution. In reality, it looks different - citizens face a number of discriminatory practices, especially if they do not have personal documents, if they are members of the Roma community, internally displaced persons, beneficiaries of social welfare institutions, precarious workers, and the like. Of course, the right to health implies not only access to health care, but also broader socio-economic factors, determinants of health, which affect the possibility of healthy living - safe working conditions, adequate housing, nutrition or a healthy environment. For all these elements of the right to health, it can be said that the pandemic year 2021 was extremely challenging, and that the realization of this right in practice usually depended on whether individuals trying to exercise the right belong or do not belong to a particularly vulnerable category of citizens.

Despite the generally wide scope of health care, the system has been suffering from the same problems for years. In addition to the issues covered in this report, the following problems remain prevalent: the problems of insufficient capacities (especially secondary and tertiary levels of protection)¹⁸⁰, unavailability of basic therapy for certain diseases,¹⁸¹ medical treatment of children abroad financed through solidarity actions of citizens¹⁸²,

¹⁸⁰ See, for instance: Danas, *Serbian citizens forced to go to private doctors during the pandemic*, 28. 2. 2021, available at: <https://www.danas.rs/vesti/drustvo/gradjani-srbije-tokom-pandemije-prinudjeni-da-odlaze-kod-privatnih-lekara/>.

¹⁸¹ See, for instance: Danas, NORBS: *More money needed to treat rare diseases*, 28 February 2022, available at: <https://www.danas.rs/vesti/drustvo/norbs-potrebno-vise-novca-za-terapiju-retkih-bolesti/>.

¹⁸² See, for instance: Euronews, *Humanitarian actions and treatment of children in Serbia: Andjela and her family have been struggling for adequate treatment for 11 years*, 22 July 2021, available at: <https://www.euronews.rs/srbija/drustvo/9809/humanitarne-akcije-i-lecenje-dece-u-srbiji-andela-i-njena-porodica-se-11-godina-bore-za-adekvatno-lecenje/vest>.

long waiting lists for diagnostic examinations¹⁸³, lack of professional staff in health care institutions¹⁸⁴, obstetric violence¹⁸⁵ and the similar.

Considering that some of the examples noted in this report are almost the same as those noted in the previous report of the A 11 Initiative¹⁸⁶, and bearing in mind the new examples from 2021, it can be said that regulations and practice continue to threaten the citizens' constitutional right to protect their health, and that there are still numerous problems in exercising the right to health, especially for citizens from the most vulnerable social groups.

Budget investments in the health sector

The year the report refers to was particularly demanding for Serbia's health system due to the pandemic and public health crisis that is still ongoing. During 2021, the state increased public investments in the health system, primarily focused on infrastructure projects such as Covid hospitals and the Clinical Centre of Serbia.¹⁸⁷ However, one of the structural problems of the functionality and accessibility of this system remains a **shortage of employees**. According to the estimates of the Fiscal Council, health care currently lacks over 5,000 people, which is the largest shortage of employees in the public sector.¹⁸⁸ This affects the reduced quality and coverage of services that the health system offers to citizens. In addition, **the state predicted that next year it would reduce investments in health care by twenty billion dinars, which the Fiscal Council considers the biggest shortfall in the capital budget in 2022**, emphasizing that investments in that

¹⁸³ See, for instance: 021, *Waiting for Help: How long are people waiting for medical interventions in Novi Sad?*, 28 February 2022, available at: <https://www.021.rs/story/Novi-Sad/Vesti/299030/Cekajuci-pomoc-Koliko-se-ceka-na-medicinske-intervencije-u-Novom-Sadu.html>.

¹⁸⁴ See, for instance: Danas, *Politicism or the real picture: Medical workers on Loncar's assessment that health care is coming out of the pandemic stronger*, 4 January 2022, available at: <https://www.danas.rs/vesti/drustvo/politi-kantstvo-ili-realna-slika-medicinski-radnici-o-oceni-loncara-da-zdravstvo-izlazi-jace-iz-pandemije/>. The Fiscal Council, whose data were presented at the beginning of this report, also talks about this.

¹⁸⁵ See, for instance: Euronews, *Hundreds of reports of obstetric violence in maternity hospitals in Serbia: "Pain during childbirth is forgotten, but humiliation never"*, 12 March 2022, available at: <https://www.euronews.rs/srbija/drustvo/40374/stotine-prijava-za-akusersko-nasilje-u-porodilistima-u-srbiji-zaboravi-se-bol-prilikom-porodaja-ali-ponizenje-nikada-vest>.

¹⁸⁶ A 11 Initiative, *Second-Class Rights*, 2020, available at: <https://www.a11initiative.org/wp-content/uploads/2021/11/WEB-ENG-Utu%C5%BEivost-ekonomskih-i-socijalnih-prava-u-Srbiji.pdf>.

¹⁸⁷ Fiscal Council, *Evaluation of the Proposed Rebalance of the Budget of the Republic for 2021 and basic recommendations for the budget for 2022*, 25 October 2021, available at: http://www.fiskalnisavet.rs/doc/ocene-i-misljenja/2021/FS-Ocena_Predloga_rebalansa_budzeta_Republike_za_2021_preporuke_za_budzet_2022.pdf.

¹⁸⁸ Fiscal Council, *Assessment of the Draft Law on the Budget of the Republic of Serbia for 2022*, 18 November 2021, available at: http://www.fiskalnisavet.rs/doc/ocene-i-misljenja/2021/FS-Ocena_Predloga_budzeta_za_2022.pdf.

area should not be left to inertia, but to keep the level which is at least three times higher than planned, in order to affect the quality of life of citizens and economic development.¹⁸⁹

According to the 2018 analysis of the Fiscal Council, Serbia would have to invest more than 0.5% of GDP per year to catch up with other Central and Eastern European countries in this area. Although there has been a growth in investment, that level was not reached before the pandemic.¹⁹⁰ As investment in health care is declining again, this will have direct consequences for the realization of the right to health, especially for members of marginalized social groups.¹⁹¹

Access to health care for persons without personal documents

Although the Law on Permanent and Temporary Residence¹⁹² back in 2011 enabled the registration of permanent residence at the address of the competent social welfare centre, the procedure for registering permanent residence, and thus obtaining personal documents, continues to be discriminatory and inappropriately long.¹⁹³ As long as they do not have a residence permit, citizens are not able to have an ID card and a health booklet, and thus unable to exercise their right to health without impediments. This mostly affected people experiencing homelessness, members of the Roma community and internally displaced persons.

This happened to Lejla, a single mother of three who lives in a mobile housing unit in the Roma settlement "Makiš II" in Belgrade, without registered permanent and temporary residence. When scheduling an appointment for an unwanted termination of pregnancy in the Obstetrics and Gynaecology Clinic "Narodni Front", she was told that in addition to a valid health card, she also needed an ID card, travel document or driver's license to be

¹⁸⁹ *Ibid.*

¹⁹⁰ Fiscal Council of the Republic of Serbia, *The effect of the health crisis on fiscal and economic trends in 2020 and recommendations for fiscal policy for 2021*, available at: http://www.fiskalnisavet.rs/doc/analize-stavovi-predlozi/2020/FS_Efekat_zdravstvene_krize_na_fiskalna_i_ekonomska_kretanja_u_2020_+preporuke_za_2021.pdf.

¹⁹¹ This is also stated in the report submitted to the United Nations Committee on Economic, Social and Cultural Rights in January 2022 by A 11 Initiative and the Centre for Economic and Social Rights, available at: <https://www.a11initiative.org/resursi/prilozi/>.

¹⁹² The Official Gazette of RS, no. 87/2011.

¹⁹³ Data from the practice of organizations that assist undocumented people in the procedure of registration of residence (which is a prerequisite for obtaining personal documents) show that this procedure lasts between 3 and 12 months. This is further illustrated by the joint report submitted by a group of organizations and trade unions to the United Nations Committee on Economic, Social and Cultural Rights in December 2021, available at: https://www.a11initiative.org/wp-content/uploads/2022/03/Zajednicki-podsetnik-komitetu-UN_.pdf.

admitted to the Day Hospital. However, Lejla did not have any of the mentioned documents with her, given that the second-instance procedure for registering residence at the address of the Social Welfare Centre Čukarica was not completed at that time. A 11 Initiative assisted her in drafting a certificate that a second-instance procedure was underway before the Ministry of Internal Affairs of the Republic of Serbia in the administrative matter of registration of permanent residence, especially pointing to constitutional and legal provisions guaranteeing special protection for pregnant women and members of the Roma minority. After considering the certificate, Lejla was admitted to the Day Hospital ward at the scheduled time, where her pregnancy was terminated.

Another example that the A 11 Initiative came across in its work during 2021 refers to the case in the Health Centre "Dr Milutin Ivković" Palilula. Namely, the employees of the Women's Health Care Service in that institution told Marija, a pregnant woman with high-risk pregnancy, after the first examination "not to come to the Health Centre next time because she would not be admitted as she did not have personal documents". Samira also encountered difficulties in being admitted to a health institution at the Zvezdara Clinical Hospital during her second delivery. At the reception for delivery, she was told "that she would not be admitted to the hospital without any of her personal documents, or confirmation that the procedure for registering residence had been initiated." As the Palilula Police Station did not issue her a certificate of initiation of the residence registration procedure, Samira could only submit a birth certificate and a certificate of citizenship, after which she was admitted to the hospital. She had a similar situation during her first delivery, when she was threatened with initiating court proceedings for non-payment of childbirth costs, which according to the regulations, should not even be collected.

These examples, as well as the examples from the previous annual report of A 11 Initiative¹⁹⁴, show that the previously described **illegal treatment of patients is a widespread practice**, which is regularly repeated in various institutions of the health system. Such treatment is obviously illegal because Article 16 of the Law on Health Insurance¹⁹⁵ stipulates that Roma, who do not have a permanent or temporary residence in the Republic of Serbia due to their traditional way of life, are insured even though they

¹⁹⁴ A 11 – Initiative for Economic and Social Rights, *Second-Class Rights – Social Rights in the Light Austerity Measures*, 2020, available at: https://www.a11initiative.org/wp-content/uploads/2020/06/Second-Class-Rights_Social-Rights-in-the-Light-of-Austerity-Measures-SERBIA-2012-%E2%80%93-2020.pdf.

¹⁹⁵ The Official Gazette of RS, no. 25/2019-3.

do not meet the conditions for acquiring insured status other bases provided by the Law. The same is prescribed by the Law on Health Care¹⁹⁶, which in Article 11, among other things, states that social care for health is achieved by providing health care to groups of the population exposed to increased risk of disease, as well as health care for socially vulnerable populations, including Roma without a registered permanent and temporary residence. However, in practice, the inconsistency of laws and bylaws, as well as the lack of knowledge among health care institutions, leads to the fact that citizens of Roma nationality are obliged to submit proof of permanent residence registered at the address of the competent social welfare centre for applying for health insurance, if they do not have their own address of residence, as provided by the Law on Permanent and Temporary Residence.

Costs of childbirth and other medical interventions of undocumented persons

In addition to the fact that undocumented persons have difficulty in accessing health care institutions, when they actually manage to reach them, as in previous years, **in practice there are still cases of attempts by institutions to collect costs that they are not allowed to charge by law.** The most common example is that of **charging childbirth to women** who do not have personal documents. This is because the Law on Exercising the Right to Health Care for Children, Pregnant Women and Mothers¹⁹⁷ provides discriminatory regulation of the exercise of the right to health for these categories of the population. Namely, the Law prescribes that children, pregnant women and new mothers exercise the right to health care and the right to reimbursement of transportation costs related to the use of health care, regardless of the basis on which they are insured, if they cannot exercise these rights under compulsory health insurance in accordance with the law governing health insurance. They exercise these rights from the funds of the obligatory health insurance. However, in practice, this means protecting only children, pregnant women and new mothers who *already have* a health insurance document (health card). Although the basic idea of the Law is to protect children, pregnant women and new mothers, in fact the only relief that the Law introduces is that it is not necessary for these categories to extend the validity of health card. Thus, there is a legal gap which

¹⁹⁶ The Official Gazette of RS, no. 25/2019-40.

¹⁹⁷ The Official Gazette of RS, no. 104/2013.

fails to regulate the exercise of the right to health of many children, pregnant women and new mothers who do not have a health card, an ID card or even a birth certificate.¹⁹⁸

In addition to the mentioned law, which provides protection directly to children, pregnant women and new mothers, these categories of the population are also protected by the Law on Health Insurance, which in Article 16, among others, lists them as special categories of insured persons who are guaranteed health care also *when they do not fulfil the conditions to be insured on another basis*. The Law on Health Care in Article 11 also speaks about these categories of the population. In addition, they are protected by the Constitution, which says that children, pregnant women, mothers during maternity leave, single parents with children up to the age of seven and the elderly receive health care from public revenues, if they do not exercise it otherwise. In practice, it looks different.

At the beginning of the year, Berim addressed the A 11 Initiative, due to the problems in exercising the right to health care that his illegitimate partner Bljerona encountered. Namely, Bljerona was born in Kosovska Mitrovica and was not registered in the birth registry books of the Republic of Serbia. Due to the lack of personal documents, she could not apply for health insurance. In the twentieth week of pregnancy, she was admitted to the Obstetrics and Gynaecology Clinic "Narodni Front" due to the lack of fetal heartbeat detected by the ultrasound, due to which the pregnancy ended in an emergency caesarean section, and the child was stillborn. During her discharge from the hospital, she was issued an invoice in the amount of over 300,000 dinars. Bljerona borrowed money and paid part of the bill in the amount of 20,000 dinars, while she did not pay the rest of the bill because she had no income. However, eight months after the intervention, Bljerona was contacted by the administrative service of the Obstetrics and Gynaecology Clinic "Narodni Front", which demanded that she pay the rest of the bill, noting that otherwise the bill would be collected by force. With the provided legal assistance, Bljerona submitted to the Obstetrics and Gynaecology Clinic "Narodni Front" a request for exemption from the costs of treatment related to pregnancy. To date, she has not received an answer.

¹⁹⁸ In addition, the Law treats mothers who have not given birth to a live child differently, giving them the right to health care only for three months after giving birth, unlike mothers who give birth to a live child and who are guaranteed access to health care for one year. If the child dies within one year of birth, the woman's right to health care is automatically revoked.

In addition to the aforementioned constitutional and legal provisions prohibiting such treatment of patients, the same is provided by the Law on Health Care, which in Article 17 guarantees emergency medical care financed from the budget of the Republic of Serbia to persons of unknown permanent residence, as well as other persons who do not exercise the right to emergency medical care in a different way. In addition, the Republic Fund for Health Insurance emphasized that every childbirth, even the one in time, is considered an emergency.¹⁹⁹ This is explained by the Rulebook on the manner and procedure of exercising the right to compulsory health insurance²⁰⁰, which in Article 50 defines emergency medical care as current medical care provided to avoid endangering the insured person, i.e. irreparable or serious weakening or damage to his health or death, adding that this assistance is provided with or without the referral letter of the chosen doctor, as well as in the case when the insured person is not able to submit proof of the status of the insured person.

A large number of cases of violations of the right to health care, which the A 11 Initiative encounters, refers to Roma men and women. The Report on the Roma Perception on Discrimination from 2021²⁰¹ records the exposure of Roma to discrimination in health care - 20% of respondents (17.2 men and 21.8 women) answered that they had experienced discrimination in a health institution only on the basis of belonging to Roma community. They stated that they did not have the same rights and chances to access health care as other citizens.²⁰²

One of the successful mechanisms for the protection of Roma health rights that can influence the change in the current situation is health mediators, introduced in practice back in 2009. Health mediators are in charge of direct work in Roma settlements - assistance in accessing health services, informing about prevention and similar activities to bring Roma men and women closer to health institutions.

¹⁹⁹ RFZO, Instruction 02/5 number 54-684/10-1 as of 16 March 2010.

²⁰⁰ The Official Gazette of RS, no. 10/2010, 18/2010 - correction, 46/2010, 52/2010 - correction, 80/2010, 60/2011 - decision of the Constitutional Court, 1/2013, 108/2017, 82/2019 - other regulation i 31/2021 - other regulation.

²⁰¹ The Commissioner for Protection of Equality, *Roma Perception on Discrimination*, February 2021, available at: http://ravnopravnost.gov.rs/wp-content/uploads/2021/02/PERCEPCIJA-ROMSKE-ZAJEDNICE-O-DISKRIMINACIJI_final_compressed.pdf.

²⁰² Discrimination against Roma in the health care system is also noted in the report "Roma in the Republic of Serbia - Challenges of Discrimination", published by *Minority Rights Europe* in March 2021, available at: https://minority-rights.org/wp-content/uploads/2021/03/MRG_Rep_RomaSerb_SE_Mar21_E.pdf.

According to the latest available data, they operate in 70 municipalities.²⁰³ In order to provide more significant support to Roma in exercising their right to health, **it is necessary to enlarge the number of health mediators, increase salaries that are currently minimal, regulate their employment status** (which currently does not imply proper employment, but precarious employment contracts) and thus permanently solve the issue of systematization of their workplace in the health care system. The importance of this issue during 2021 was again emphasized by the Protector of Citizens,²⁰⁴ but various recommendations for regulating the employment status of health mediators are repeated from year to year, without results.

Access to health care for persons accommodated in social welfare institutions

At the end of 2021, the Law on the Rights of Beneficiaries of Social Welfare Temporary Accommodation Services was passed.²⁰⁵ It stipulates that the beneficiary of accommodation has the right to the provision and availability of health care, as well as that the provision of health care can be requested by the beneficiary himself. In addition, the Law prohibits discrimination against the beneficiaries of accommodation based on their health status. The Law also envisages the establishment of an independent mechanism authorized to establish the quality of provision of services and protection of the beneficiaries' rights, performed by independent bodies for the protection of citizens' rights and protection of equality, and operationalization of that mechanism is expected in the coming period.

In February 2021, A 11 Initiative sent a letter to the Shelter for Adults and the Elderly due to forcing one of the beneficiaries to choose between the right to health care and a roof over their head. Namely, Marko, a person in a long-term homelessness situation who takes

²⁰³ Social Inclusion and Poverty Reduction Unit, *Report on the Implementation of the Operational Conclusions from the Seminar "Team for Social Inclusion and Poverty Reduction of Roma Men and Women in the Republic of Serbia" for the period October 2019 - October 20*, available at: https://sociojalnoukljucivanje.gov.rs/wpcontent/uploads/2021/06/Izvestaj_o_sprovodjenju_operativnih_zakljucaka_sa_seminara_Sociojalno_ukljucivanje_Roma_i_Romkinja_oktobar_2019-oktobar_2021.pdf.

²⁰⁴ Protector of Citizens, *Opinion of the Protector of Citizens on the Baseline for the Development of the National Strategy for Gender Equality for the period 2021-2030*, 7 September 2021, available at: <https://www.ombudsman.rs/index.php/2011-12-11-11-34-45/7208-2021-2030>.

²⁰⁵ The Official Gazette of RS, no. 126/2021.

various types of medicaments, was placed in the Shelter in December 2020. As Marko is in extremely poor health, due to the outbreak of the coronavirus pandemic, he found himself among the group of the population who were at the highest risk. Considering that he is a socially vulnerable person, he has the right to be exempted from paying the participation fee for regular examinations and treatment on that basis. However, due to the fact that the Shelter was closed for visits and goings-out, due to the pandemic, Marko was not able to get out of it and return without impediments, in order to submit a request for exemption from participation payment in the competent health insurance branch.

The Shelter was obliged to provide the necessary support in this case on the basis of Article 50 of the Decision of the City of Belgrade on Social Welfare Rights and Services,²⁰⁶ which states that service of temporary accommodation in shelters for adults and the elderly includes temporary care in the form of accommodation, food, health care and cultural and entertainment activities. In addition, the Law on Health Care in Article 11 prescribes that social care for health is achieved by providing health care, among other things, to socially vulnerable population, i.e. beneficiaries of accommodation in social protection institutions. At the same time, Article 58 of the Law on Social Protection²⁰⁷ provides for the provision of intersectoral services, i.e. envisages that, depending on the needs of the beneficiaries, social protection institutions, together with social welfare services, may also ensure services provided by educational, health and other institutions, on the basis of concluded protocols on cooperation.

Taking into account the above stated, in this case the Shelter, as well as other social protection institutions, had the obligation to provide the beneficiary with unhindered access to the necessary health care. In this particular case, this could mean either that the beneficiary is allowed to go and submit the request in person, with an unhindered return to the institution, or that the Shelter ensures the arrival of a notary who would certify the power of attorney. This is especially important given the fact that the amount of money for personal needs, which in Marko's case was determined by the Social Welfare Centre, is approximately equal to the amount of participation costs. This means that if he does not submit a request for exemption, the beneficiary would be left without any funds for personal needs.

²⁰⁶ The Official Gazette of the City of Belgrade, no. 55/11, 8/12 – correction, 8/12, 42/12, 65/12, 31/13, 57/13, 37/14, 82/15, 4/16, 37/16, 56/16, 114/16, 102/17, 50/18, 103/18 and 101/19.

²⁰⁷ The Official Gazette of RS, no. 24/2011.

This is not an isolated case, people experiencing homelessness often cite the inability to access adequate health care in the Shelter for Adults and the Elderly as the reason for not wanting to find there their temporary roof over the heads. In the Shelter, only primary health care services i.e. general practitioner is available to beneficiaries. In addition, as one of the examples of previously described problems, they cite the inadequate postoperative conditions that the Shelter offers to beneficiaries. This is a problem even in regular conditions, and especially in the conditions of the current health crisis and the closed system of functioning of that institution.

Access to health care after changing a permanent residence

The problem of the lack of information and inconsistency in the work of state institutions working at different levels is obvious in the example of denying access to health care to citizens who have changed their place of residence. Although A 11 Initiative contacted the RFHI²⁰⁸ in 2018 and pointed out at the **practice of local branches of the Fund to require citizens to go to their previous place of residence and deregister from health insurance**, so that they can apply for health insurance in a new place - that practice continued in 2021. Back in 2018 the RFHI explained that when changing the place of residence, the principle of registering to the new branch is applied, and not deregistering from the old one. In addition, it was emphasized that all branches were familiar with this procedure.²⁰⁹

The Milenković family from Prokuplje had impeded access to health care for three years because they could not deregister from the health insurance in the place where they had registered their temporary residence. Despite the fact that all family members already had registered permanent residence in Prokuplje, when submitting the application for health insurance, the RFHI branch office in Prokuplje required from the insured to cancel the compulsory health insurance in the branch where they had previously registered. As the family did not have enough funds to travel to Bačka Topola for treatment and deregistration from health insurance, they turned to A 11 Initiative for help. In this regard, the family was forwarded a statement from the RFHI, which explained that, in the event of a change of residence, deregistration from health insurance was not required.

²⁰⁸ Appeal of the A 11 Initiative sent to the Republic Fund for Health Insurance of the Republic of Serbia on 18 September 2018.

²⁰⁹ Republic Fund for Health Insurance, act 02/4 no. 180/1391/18-3 as of 3 October 2018.

Based on the attached RFHI response, members of the family were able to apply for health insurance in the place where they lived.

Even if the application in the branch in charge of the new place of permanent residence has not been done, it must not be an obstacle to access to health care. This was determined in 2011 by the Rulebook on the Manner and Procedure of Exercising Rights from Compulsory Health Insurance²¹⁰, which stipulates in Articles 17 and 47 that the insured person can exercise the right to primary, secondary and tertiary health care at a health institution *outside the parent branch* based on the valid health card.

This practice often leaves citizens without health care, because most of them are not informed that they are not obliged to go to their previous place of permanent residence to cancel their health insurance, and often this trip is not feasible for them due to illness or high travel costs. The most affected citizens are those of lower economic status, internally displaced persons and Roma, and thus inequalities in access to health care are deepened, and the consequences of regulations and public policies that are not tailored to the needs of the most vulnerable citizens affect them the most.

Access to health care for people on move

During the state of emergency in 2020, the Psychosocial Innovation Network PIN forwarded to A 11 Initiative a case of a minor citizen of Afghanistan who had problems with various serious mental illnesses. The competent institutions (Clinic for Neurology and Psychiatry for Children and Youth and the Clinical Department for Adolescents at the Clinic for Psychiatric Disorders "Dr Laza Lazarevic") refused to provide him with appropriate health care. After several attempts, he was admitted and prescribed therapy, but it turned out that it was not appropriate for his psychological condition and that his health condition worsened. Apart from the one-time intervention that the Clinic of Neurology and Psychiatry for Children and Youth agreed to upon the intervention of the police, the mentioned institutions continued to refuse to deal with his hospitalization, further treatment and follow-up. Due to the repeated manifestation of self-destructive and aggressive behaviour, the minor was examined in the third institution - the Institute for

²¹⁰ The Official Gazette of RS, no. 10/2010, 18/2010 – correction, 46/2010, 52/2010 – correction, 80/2010, 60/2011 – decision of the Constitutional Court, 1/2013, 108/2017, 82/2019 – other regulation i 31/2021 – other regulation.

Mental Health - he was given adequate pharmacotherapy and hospitalization was again refused.

After informing the Ministry of Health and the Protector of Citizens about that case, those health institutions gave contradictory explanations about their inaction, after which A 11 Initiative again turned to the Ministry of Health for instructions in future similar situations. In November 2021, the Protector of Citizens issued an opinion stating that it was necessary for the Ministry of Health to take all necessary steps to improve the emergency hospitalization of adolescents with mental disorders, through better coordination of the existing resources and capacity building. In the opinion, it was also stated that it was necessary to map the territorially competent institutions at the primary, secondary and tertiary levels of health care, with a clear definition of which level of health care should one be referred to.

Such actions of health care institutions violated numerous provisions of the Law on Health Insurance, the Law on Health Care, the Law on Foreigners²¹¹, as well as the provisions of ratified international documents. Foreigners are guaranteed health care by law, as well as the citizens of Serbia, especially in urgent situations. The actions of health institutions in this case did not serve to respect the right to health and provide adequate care, but to ad hoc calming of the situation in order to transfer responsibility to other institutions.

Refugees, asylum seekers and migrants in practice often have problems with access to the health care system and in these situations solving this problem comes down to initiatives and resources of the civil sector. Representatives of the civil sector help people on the move to overcome some of the problems in accessing the health care system, such as language barriers, lack of documents, or cultural specificities. **During 2021, people on the move had particularly difficult access to hospitals because they operated in a covid system - for example, people from the Krnjača Asylum Centre were referred to the Zvezdara City Hospital, which was designated for coronavirus patients and could not provide other health services in full.** An additional problem related to the pandemic is the vaccination of people on the move, which involved long waits. The vaccination process was organized by waiting for a sufficient number of interested people

²¹¹ The Official Gazette of RS, nos. 24/2018 and 31/2019.

to apply, so that only then could the Commissariat for Refugees and Migration organize a group trip for vaccination. In the field, the **problem of access to the health care system of people on the move who are outside the camps** is especially noticeable. Since the closure of the Doctors Without Borders Clinic in Belgrade, they have been virtually denied access to health care and nursing services.

The right to health care and environmental protection

The right to a healthy environment is closely linked to the exercise of the right to health. In November 2021, the United Nations Human Rights Council recognized for the first time the right to a clean environment as a human right. The resolution that was passed on that occasion emphasized that the protection of the environment contributes to the right to life and the achievement of the highest possible standard of physical and mental health.²¹²

Serbia is one of the most polluted countries in Europe, and it directly endangers the right to health of its citizens. Despite the alarming situation, the institutions do not have an adequate and comprehensive response to this health crisis. A clear illustration of these claims is the fact that the Institute of Public Health has been hiding from the public for a year the analysis "Improving the Management of Contaminated Sites in Serbia"²¹³, which provides clear evidence of the scope of the problem. The document became publicly available in September 2021, only after the insistence and request for access to information of public importance by the Association for the Development of the City of Bor. This document presents the results of a pilot study analysing the City of Bor in the context of exposure to industrial pollution. The study shows that the citizens of Bor have an increased risk of getting sick and dying from all malignant diseases besides skin tumours, as well as a higher risk of dying from other diseases such as respiratory, digestive and cardiovascular diseases, congenital deformities and malformations. This situation is in direct conflict with Article 74 of the Constitution of the Republic of Serbia, which guarantees that everyone has the right to a healthy environment and to timely and complete information about its condition. Bearing in mind that Bor is not the only industrial city in Serbia and that the number of reports on air pollution in Smederevo, Valjevo, Belgrade and other cities has recently increased, the question arises whether Bor is an isolated case or an indicator of a systemic problem to greatly influence the exercise of the right to health in Serbia.

²¹² UN Human Rights Council, *Resolution on Human Right to a clean, Healthy and Sustainable Environment*, 18 October 2021, available at: <https://undocs.org/A/HRC/RES/48/13>.

²¹³ The Institute of Public Health of Serbia, *Improving the Management of Contaminated Sites in Serbia*, 2020, available at: http://www.sepa.gov.rs/download/Unapredjenje_upravljanja_kontaminiranim_lokacijama.pdf.

The destruction of the environment certainly endangers the life and health of the poorest members of the population who have the least resources to protect themselves, do not have an equal access to health care (as elaborated in this report), and are forced to use cheap and harmful fuels to warm them up and live in inadequate housing facilities, or are in a situation of homelessness, are forced to perform tasks that expose them to harmful substances on a daily basis, etc. There is not enough data in Serbia on how environmental damage affects citizens of different socio-economic status, nor are there enough public policies that address this dimension of the problem.

Poverty is partly the cause and consequence of a polluted environment. In November 2021, Serbia adopted the definition of energy poverty as a state in which the household does not have enough opportunities to provide the necessary amount of energy needed for a healthy and dignified life, in a way that does not endanger other basic living needs of the household or the wider community.²¹⁴ The idea is to integrate this definition into legislative and strategic documents to provide opportunities for more efficient collection of data on the extent of energy poverty in Serbia, as well as a multisectoral approach to its solution. This is additionally important because **poor citizens are often discriminated due to the fact that they are in a situation of energy poverty**, such as the increasing number of protests against Roma living in informal settlements where they are heated by solid fuel or collect secondary raw materials, which sometimes include burning cables to melt the formwork around copper wires sold as secondary raw materials.²¹⁵ Currently, limited support policies at the national level in this area are implemented by the Decree on Energy Vulnerable Customer²¹⁶, which implies a reduced definition of vulnerable, so its coverage is insufficient. In addition, the Decree targets only vulnerable consumers of electricity and natural gas, while research shows that the majority of the population (42%), especially the economically vulnerable, rely on heating devices in individual rooms, such as solid fuel stoves.²¹⁷

²¹⁴ Team for Social Inclusion and Poverty Reduction, *Draft Definition of Energy Poverty Adopted*, available at: <https://socijalnoukljucivanje.gov.rs/rs/usvojen-predlog-definicije-energetskog-siromastva/>.

²¹⁵ Srbin info, Belgrade: *Protest against the environmental threat posed by Roma from an illegal settlement*, 12 December 2016, available at: <https://srbin.info/drustvo/beograd-protest-zbog-ekoloske-pretnje-koju-izazivaju-romi-iz-nelegalnog-naselja-video/>.

²¹⁶ The Official Gazette of RS, no. 113/2015, 48/2016 – other regulation, 88/2016 – other regulation, 49/2017 – other regulation, 104/2017 – other regulation, 36/2018 – other regulation, 59/2018, 88/2018 – other regulation, 34/2019 – other regulation, 82/2019 – other regulation, 76/2020 – other regulation, 144/2020 – other regulation i 51/2021 – other regulation.

²¹⁷ RES Foundation, *Everything you wanted to know about energy poverty in Serbia 2021*, available at: <https://www.res-foundation.org/wp-content/uploads/2021/09/Sve-sto-ste-hteli-da-znate-o-energetskom-siromastvu-u-Srbiji.pdf>.

**The right to
education**

The field of education in the Republic of Serbia during 2021 was marked by the pandemic of the COVID-19 virus. Children and students from particularly vulnerable groups had great problems in adapting to the new situation, so their already bad situation was further aggravated. In addition, the adoption of the Strategy for the Development of Education until 2030²¹⁸ is also one of the most important innovations and, as a strategic document, it is the starting point for further development of the field of education.

Adoption of the Strategy for the Development of Education until 2030

One of the key innovations in 2021 refers to the adoption of the Strategy for the Development of Education until 2030 (hereinafter: SDE 2030). The strategy is based on the presentation of strategic priorities by thematic areas that are common to different levels of education. Along with the Strategy, the Action Plan for its implementation in the period from 2021 to 2023 was adopted.²¹⁹

The general goal of the Strategy is to increase the quality of teaching and learning, fairness and accessibility of pre-university education and strengthening the educational function of educational institutions, while special goals are those that, among others, talk about improving teaching and learning in pre-university education, improvement of the coverage and equity of higher education and the digitalisation of higher education.

The strategy contains an overview and analysis of the current situation by levels of education, which describes well the current situation in the field of education. The analysis shows that the total number of children covered by preschool education is constantly increasing, but that the number of children varies with age. The analysis concludes that the number of children aged 6 months to 3 years, as well as children aged 3 to 5.5 years, is lower than in EU countries and countries in the region. Also, there is a difference in the number of children between local self-government units, as well as a disparity in the number of children from the Roma population, so it is concluded that the **coverage set by the Strategy for Development of Education in Serbia until 2020²²⁰ has not been achieved**. The development of diversified programs, as well as the relevance and

²¹⁸ The Official Gazette of RS, no. 63/2021.

²¹⁹ Ministry of Education, Science and Technological Development, Action Plan for the period from 2021-2023 for the implementation of the Strategy for the Development of Education until 2030, available at: <https://www.mpn.gov.rs/wp-content/uploads/2021/02/AP-Strategija.docx.pdf>.

²²⁰ Strategy for the Development of Education until 2030, p. 6.

efficiency of preschool education, were assessed negatively. The area which is stated to require more efforts in the future is the **development of valid educational statistics**. Another interesting conclusion is drawn from the analysis of the current situation, which refers to the fact that in the Republic of Serbia **there is no developed awareness about preschool education** and it is still seen as a “childcare system”.²²¹

Furthermore, the analysis of the situation in primary education concludes that the goals set by the Strategy for the Development of Education in Serbia until 2020 have been partially achieved. The coverage of children with this level of education is one percent below the planned (98%), but the percentage of children graduating from primary school has increased. **The dropout rate has also been reduced, but there is still a large disparity when it comes to students from the Roma population**, with a primary school completion rate of only 64%. **The achievements** of the students of the Republic of Serbia were **below the average** on the scales of reading, mathematical and scientific literacy on the testing of students with the PISA test in 2018. The analysis of the current situation also states that in the near future it is inevitable to **review the quality of the final exam** or the matriculation exam and that the general impression of parents and students is that the combined test is unnecessary and a great burden. The analysis also concludes that more efforts are needed in the area of information and communication technologies and various forms of “online” learning, especially in the situation caused by the COVID-19 pandemic.

Secondary education coverage in the Republic of Serbia is 80%, and a better-than-expected result was observed when it comes to the percentage of enrolled students (98%). However, as with pre-school and primary education, the coverage of children with secondary education is significantly below average when it comes to children from the Roma population and it is only 55%. The completion rate of secondary school in 2020 was 88%, while when it comes to children from the Roma population, this percentage was 61%. It is interesting to point out that the dropout rate is only 1.1%, while in EU countries it is 10.2%. The part of the Strategy that refers to the analysis of the previous situation mentions the change of the Constitution of the Republic of Serbia, which should include the introduction of secondary education as compulsory. The part of the text concerning

²²¹ *Ibid.*, p.

the analysis of the secondary vocational education states that **it is necessary to introduce new activities that would support children from vulnerable groups**, as well as to provide support to students attending three-year profiles given that the success of this group of students on the PISA test has been significantly lower than that of the students who attend high school or four-year professional profiles, and that as many as 80% of them do not reach the basic level of literacy. The number of dual educational profiles that students can attend has been steadily increasing since 2018, and in 2021/2022 school year, students will have the opportunity to attend one of 52 dual profiles. It is interesting to single **out the data from 2019, according to which 89% of students who finish high school** continue their education, but that the previously set goal of 95% of students who enroll and finish high school is not achieved, given that this percentage is 85%.

The percentage of highly educated people in the Republic of Serbia has been constantly increasing since 2012, but it is still significantly lower than in EU countries. The goal of continuing education after high school has been partially achieved, given that the percentage of young people continuing their education is 88.7%. The analysis of the current situation emphasizes **greater inclusion of certain social groups of young people in the higher education system**, such as young people from poorer families, young people from families with the lowest level of education, young people from Roma families and young people with disabilities. **Gender segregation** in higher education is also a term that needs to be addressed in the future. What should be especially emphasized is the fact that the measure envisaged by the Strategy for Development of Education in Serbia until 2020, which refers to the increase in the number of PhDs, has been fully realized. Namely, the data show that in 2016, 10 times more PhDs were proclaimed than in 2012.

One of the pervading topics of the analysis of the current situation in the Strategy for the Development of Education in Serbia until 2020 is inclusion. The analysis states that even **after 10 years of implementing inclusive education, a satisfactory level has not yet been reached**. It is stated that the capacities of teachers are questionable, as well as that the high rate of inclusion of children from vulnerable categories²²² does not guarantee

²²² This category of children refers to children with disabilities, Roma children, children from very poor or households in rural areas, as well as children from hilly and mountainous and border areas.

their stay in the education system. What needs to be done further is to provide more support to the teaching staff in the field of inclusion. The analysis states that almost one quarter of primary schools and **one third of secondary schools do not meet the quality standards of institutions related to the support of children from vulnerable groups**, and that the measures provided by law are not used in full capacity. It is also noteworthy that students who by law have the right to listen to classes in Serbian sign language have limited access to education, as well as support during this process. Roma children are another separate group mentioned in the analysis, which, despite the introduction of various support measures during enrollment and schooling itself, is still not equally represented at schools. The dropout rate of this population of children is also higher than that in the general population. **The analysis states that the problem of presence of segregated departments, and even schools, has been identified.**²²³ Some progress has been made in including children from the migrant population in the education system, and according to the Commissariat for Refugees and Migration and the Ministry of Education, almost all children of primary school age are included in the education system. When it comes to high school, the percentage drops drastically to only 12%.

Similar to what has already been stated in the section on health care, budget allocations for the field of education are worrying. Thus, the analysis of the implementation of the previous strategic document states that **the increase in the percentage of public funding, which was one of the most important goals of the previous strategy, has not been met.** The increase in the percentage of public funding from the then 4.5% (2012) to 6%, as planned for 2020, did not happen. In 2019, this percentage was only 4%, in 2018 it was 3.1%, and in 2017 it was 3.7% of GDP. This data is even more worrying if we take into account the fact that there is a noticeable trend of increasing allocations for education in EU countries (except for higher education), and at the same time it raises the issue of respecting the state's obligation to make maximum use of available resources for the progressive realization of the rights guaranteed by the International Covenant on Economic, Social and Cultural Rights.

²²³ Strategy for the Development of Education until 2030, p. 12. It is important to note that during 2021, the Law on Prohibition of Discrimination was amended, so that Article 5 of this law prescribes segregation as a special form of discrimination. As the problem of segregated schools and classes that exists in some local self-governments for several decades cannot be solved only at the level of changing the normative framework, further activities on the desegregation of these schools and departments are highly needed.

In the text of the Strategy for the Development of Education in the Republic of Serbia until 2030, vulnerable groups occupy a special place: children, pupils and students whose families have low socio-economic status, Roma, especially those living in Roma settlements, people with disabilities and developmental problems, residents of rural areas, and especially residents of hilly and mountainous and border areas. The novelty of this strategy is the fact that the education of national minorities is treated as an integral part of the education system. Also, one of the basic goals of Strategy for the Development of Education in the Republic of Serbia 2030 is the development of digital education.

Improving the normative framework in the field of education

Another novelty related to education in the Republic of Serbia, which took place in 2021, is the **adoption of the Rulebook on the Resource Centre**.²²⁴ The Resource Centre is designed as an educational institution that aims to raise the level of quality of inclusive education and increase the availability of additional support to children, students, adults, families and employees in other educational institutions. It is envisaged that the status of a resource centre can be obtained by any public institution if it meets the requirements related to the quality of work of the institution, equipment, human resources, as well as cooperation with other public institutions, local self-government units, competent health institutions and child and social protection institutions. The establishment of such an institution can significantly contribute to improving the conditions for inclusive education.

At the end of 2021, amendments to the Law on the Fundamentals of the Education System²²⁵, the Law on Primary Education²²⁶ and the Law on Secondary Education were adopted²²⁷. The amendments refer to terminological harmonization, keeping records and providing data, taking final exams for the next level of education, adopting a religion curriculum, and introducing the anthem of the Republic of Serbia to mark the beginning of preschool, primary and secondary education.

²²⁴ The Official Gazette of RS, no. 80/2021.

²²⁵ The Official Gazette of RS, no. 129/2021.

²²⁶ The Official Gazette of RS, nos. 129/2021 and 129/2021-I – another regulation.

²²⁷ *Ibid.*

Analysis of existing measures for inclusive education and support for children and students from vulnerable groups

Involvement of parents in decision-making processes in education

The current situation in the field of education in the Republic of Serbia indicates the need for greater involvement of parents of children and students from vulnerable groups in the decision-making process that is important for the process of education and upbringing of their children. One of the ways to achieve this goal is parental advice. Article 120 of the Law on the Fundamentals of the Education System provides for a Parent Council composed of parents or guardians representing each individual class or an educational group. It is important to point out that this provision also envisages proportional participation of parents of children and students belonging to national minorities in the Council, which is often not the case in practice.

Representatives of families of lower socio-economic status, Roma, especially those living in informal Roma settlements, families living in rural and hilly and mountainous areas, are often not included in parent councils, mostly for practical reasons. Namely, parents or guardians who have difficulties in earning the income necessary for the survival of their family cannot be expected to get engaged in such processes on their own initiative without any additional motivation, which are of great importance for their children, but are not highly rated on the scale of primary needs. Parents or guardians from these groups are often forced to work longer or work several jobs in order to earn enough, and it is simply impossible for them to get involved in such activities due to lack of time. A certain number of parents or guardians of children from socially deprived backgrounds, Roma or informal settlements, do not have sufficient capacity to independently engage in decision-making processes concerning their children. Of course, for parents of children and students from hilly, mountainous and border areas, the reason for not being involved in decision-making processes can often be the distance of the institution. Due to all the above stated, in order to ensure equal participation of all parents in decision-making processes related to their children, it is necessary to devise innovative ways of their involvement, motivation, as well as tools to strengthen their capacities. Parents from socially deprived backgrounds often have low levels of education, knowledge gaps, and a lack of self-confidence, and this should be kept in mind when creating mechanisms for their inclusion.

Implementation of Individualized Educational Plans

One of the most important measures for greater inclusion and smaller dropout of students from vulnerable groups is the adoption of an Individualized Educational Plan during preschool, primary or secondary education (hereinafter: IEP). The IEP is adopted if a student needs additional support in education due to social deprivation, developmental problems, disability, learning difficulties, risk of early school leaving and other reasons. The goal of the individual educational plan is the optimal development of the child and student and the realization of the educational outcomes, in accordance with the prescribed goals and principles, i.e. satisfying the educational needs of the child and students, and it is developed by the child support team or the inclusive education team. A student may attend a preschool group or school according to IEP only with the consent of a parent or guardian. The team for additional support to the child in education system differs in terms of composition in relation to whether it is formed in preschool institutions or primary schools, but in both cases, in addition to educators or teachers, it must consist of professional associates, pedagogical assistants and parents. The IEP is adopted by the pedagogical board of the institution upon the proposal of the team for inclusive education, i.e. the team for providing additional support to the child and student.

IEP1 refers to the simple adaptation of the manner of work and conditions and to the simple acquisition of the language in which teaching is done. If a student who learns according to IEP1 does not achieve the desired results, IEP2 is adopted, in which, in addition to adjusting the manner of work and conditions, the goals of the content and manner of realization of the curriculum and the outcome of educational work are adjusted as well. It is important to note that the opinion of the interdepartmental commission formed by the local self-government unit is necessary for the adoption of IEP 2. Attending school according to the individualized educational plan has an impact on the number of students in the class, and the law provides for a reduction in the number of students in the class. It is also important whether students in the class attend IEP 1 or 2. Although creating an individualized educational plan is a good way to provide additional learning support to the student, the question arises as to how effective and purposeful this measure is in practice. Namely, **the implementation of an individualized educational plan often represents an additional burden for teachers who besides the additional time required for this way of working, do not have enough knowledge needed to work with vulnerable groups.**

The availability of various trainings and courses varies depending on the location and capacity of schools, but also on the budgets of local self-governments. **Despite the best intentions of teachers, it is sometimes simply not possible to conduct work in parallel with the entire class and with students working according to the IEP.** It happens that students who work in this way move to higher grades, without mastering the planned curriculum, and in higher grades there are bigger problems and too many gaps in knowledge. This also happens to students who do not work according to the IEP, but belong to vulnerable groups. One of the solutions to this problem may be **ensuring pedagogical assistants**, which is again **limited by the budgets of local self-government units**. Providing this type of support can be done in a private arrangement or on a project basis, but in this way, it is not possible to provide a sufficient number of pedagogical assistants. Engagement of this type of support is provided by the Law on the Fundamentals of the Education System, laws regulating preschool, primary and secondary education, as well as the Rulebook on Pedagogical and Andragogical Assistants.²²⁸ It is interesting to point out that the Rulebook envisages pedagogical assistants for children and students of Roma nationality who need additional support in education, as well as pedagogical assistants for children and students with disabilities. This data shows that there is a large number of Roma students who, due to lack of language skills, social exclusion or reduced parental capacity, need additional support during the educational process. In addition to enrolling children from vulnerable groups in regular groups, the Rulebook on the Fundamentals of the Preschool Education Curriculum envisages the possibility of enrolling children with “severe degrees of disability” in “developmental classes”, from which it can be concluded that this category of children is considered authentic or special, which is not in accordance with international standards governing this area.

Another measure that can encourage greater involvement in the education system of children and students from vulnerable groups is the **provision of transportation to a preschool or school**. The Law on the Fundamentals of the Education System, Article 189, provides for allocation from the local self-government budget for the needs of: transportation of children and their companions to attend a preparatory preschool programme at a distance of more than two kilometres, primary school students at a distance of more than four kilometres; transportation, accommodation and nutrition of

²²⁸ The Official Gazette of RS, no. 87/2019.

children and students with disabilities and their companions, regardless of the distance of the place of residence from the school; transportation of children and students residing in the territory of the local self-government unit at a distance of more than four kilometres from the school headquarters and in cases when primary school students attend school in the territory of another local self-government unit. If this situation is considered from the point of view of parents or guardians of children from vulnerable groups, it can be concluded that simply applying this envisaged measure would have an extremely positive impact. **Providing transportation services would also reduce the segregation of Roma children.** It often happens in practice that children from Roma settlements enroll in preschool groups or schools in institutions that are close to their place of residence, and segregation occurs and these schools are labelled as "Roma". In order to avoid segregation, it happens that preschools and primary schools refuse to enroll children from Roma settlements, sending them to other schools, and due to reduced capacities of parents to exercise their legal rights, children in such cases sometimes remain outside the educational system.

As with transportation, **providing free meals in schools would also help increase the inclusion of children from vulnerable groups in the education system.** The Law on Primary Education stipulates that the school, in agreement with the local self-government unit and donors, may provide free or partially free meals for all students. The fact is that schools, school staff, parents' groups or the Parents' Council are often organized on this occasion, but it is necessary to systematically provide meals for all students who come from families with low socio-economic status.

Providing textbooks for students with low socio-economic status is also a measure whose use is not sufficiently defined by law. This type of support depends on the budget of local self-government units. In addition to the decisions of municipalities and cities to provide free textbooks to students enrolling in the first grade, other initiatives depend on individuals, school employees, the schools themselves, the Parents' Council or parent communities. In addition to this type of support for first grade students, it is necessary to provide the same type of support for older students, especially for those who come from families with low socio-economic status.

stipulates that **a school or preschool institution informs parents about the regular attendance of students, it is important to note that this does not happen in practice, especially in relation to vulnerable groups of students.** Parents of children living in Roma or informal settlements often do not have the capacity to check the regular attendance of classes, and the process of educating their children, do not have or often change phone numbers, and it is necessary to ensure better cooperation between institutions and parents, not only in cases of irregular attendance. **Local self-governments do not have adequate records** of families living in Roma or informal settlements, and as a result, the process of enrollment and further participation in the educational process is difficult. **Employees in preschool institutions are often unfamiliar with the conditions in which children from vulnerable groups live,** and closer contact with the family or a possible visit to the family depends exclusively on the educator, i.e. the individual and his desire to meet the family.

It should also be mentioned that the Rulebook on more detailed conditions and the manner of achieving social protection of children in a preschool institution²³⁰ clearly prescribes the support measures that need to be applied. The measures relate to support for the child or student, as well as support for parents and families. Unfortunately, in practice these processes differ depending on the school or local self-government unit and are rarely implemented in full capacity. **It is necessary to additionally motivate educators who work with vulnerable groups of children in order for them to get better acquainted with the context from which these children come.** Due to all the above stated, it is very common for children to complete preschool education and enroll in primary school, without acquiring sufficient social skills, getting used to the institutional environment or adopting a satisfactory level of knowledge.

Primary education

Article 4 of the Law on Primary Education stipulates that every person has the right to free and quality primary education in a public school, as well as that every student of a public school may use textbooks, school supplies, transport, food and accommodation free of charge, when it is necessary, in accordance with the law. In practice, students can rarely

²³⁰ The Official Gazette of RS, no. 131/2014.

Attending the preparatory preschool, as well as the preschool programme, is of special importance for children from vulnerable groups and it is necessary to ensure their greater participation. The Rulebook on Detailed Conditions for Determining Priorities for Enrollment of Children in a Preschool Institution²²⁹ gives priority to children from socially vulnerable groups, including children victims of domestic violence, children from families using some form of social protection and children without parental care, children of single parents, children from socially unstimulating backgrounds, children with mental and physical disabilities, children from a family with a child who is seriously ill or has mental and physical disabilities, children of severely ill parents, children whose parents are war invalids or have the status of displaced or exiled person, children proposed by the social welfare centre and children from areas where their health, safety and development are endangered due to family and other life circumstances. Growing up in rural, hilly and mountainous areas, as well as in Roma or informal settlements, can have multiple negative effects on children, especially in the segment of their socialization. **Due to socio-economic deprivation, children who encounter rules of conduct in institutions for the first time may develop resistance or institutional anxiety, which significantly complicates their further upbringing and education. Procedure of enrollment in preschool is a complicated process even without an “online” procedure** that can cause stress and burden for all parents, especially for parents of children who come from vulnerable groups. In addition to enrolling in the preschool group, parents have many obligations related to testing, as well as health examinations of their children. A novelty introduced by Article 14 of the Law on Preschool Education in previous years, which has proven to be of great importance for enrolling children in a preschool, is enabling children who do not have a birth certificate to enrol in preschool institutions. A measure that should further facilitate the enrollment of children from vulnerable groups in preschool institutions is also prescribed by Article 13 of the same Law, which gives priority to this group of children when enrolling.

For regular attendance of the preschool program, it is necessary to provide greater cooperation between preschool institutions, local self-government units and parents of students. Considering that the Law on the Fundamentals of the Education System

²²⁹ The Official Gazette of RS, no. 44/2011.

stipulates that **a school or preschool institution informs parents about the regular attendance of students, it is important to note that this does not happen in practice, especially in relation to vulnerable groups of students.** Parents of children living in Roma or informal settlements often do not have the capacity to check the regular attendance of classes, and the process of educating their children, do not have or often change phone numbers, and it is necessary to ensure better cooperation between institutions and parents, not only in cases of irregular attendance. **Local self-governments do not have adequate records** of families living in Roma or informal settlements, and as a result, the process of enrollment and further participation in the educational process is difficult. **Employees in preschool institutions are often unfamiliar with the conditions in which children from vulnerable groups live,** and closer contact with the family or a possible visit to the family depends exclusively on the educator, i.e. the individual and his desire to meet the family.

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²³⁰ The Official Gazette of RS, no. 131/2014.

achieve this type of support, which is especially important for children from vulnerable groups. The measure that was conceived as a form of support for children from particularly vulnerable groups is the postponement of enrollment in the first grade for a year. In practice, postponement of enrolment is recommended for children who do not achieve satisfactory results on enrollment testing due to the lack of knowledge of language "poor socialization", which may be due to inadequate preschool attendance. Although the testing of children for enrollment, which is performed by school psychologists and pedagogues, can also be realized in the child's mother tongue, it is still not realized in practice and contributes to poor test results or even delayed enrollment. The Law on Primary Education stipulates that students with "developmental problems" or disabilities, in addition to the option to acquire their education together with other students, can be educated in special classes or schools for students with "developmental problems" and disabilities. In practice, it often happens that children from socially deprived backgrounds are transferred to these schools or to classes for students with "developmental problems" during the education process, of course with the consent of parents who can be manipulated by school employees. Unfortunately, there is often an initiative of teachers to transfer children from vulnerable groups to schools or classes for students with "developmental problems" and disabilities. Students are enrolled in such schools or classes based on the opinion of the interdepartmental commission, and learning support mechanisms for students who need help in mastering the curriculum can reflect in organizing additional classes or individual classes, which in practice is also extremely rare, especially during the COVID-19 pandemic.

What needs to be emphasized, and which is provided by the Law on Primary Education, is the **Program of Cooperation with the Family. In practice, cooperation with the family in most cases refers to cooperation with the families of children coming from the general population, while there is no or sufficiently developed cooperation with the parents of children from vulnerable groups.** Additional support for children from vulnerable groups is provided through the cooperation of the school with the bodies of the local self-government unit, as well as with the school for students with "developmental problems" and disabilities, other organizations and institutions. **This provides for the fact that these types of support vary and depend on the budget and capacity of local governments and are not sufficiently implemented.** It is necessary to provide more funds from the budget in order to provide a larger number

of pedagogical assistants or personal companions for children. As mentioned earlier, some forms of support that would have a major impact on increasing the coverage of children from vulnerable groups in education are the provision of transportation and meals. This type of support is provided for in Article 69 of the Law on Primary Education, but its use is disproportionate and varies depending on the budget of local governments. As with pre-school education, primary school staff are often unfamiliar with the living conditions of vulnerable children, and closer contact with the family or a possible visit to the family depends solely on the teacher or individual and his or her desire to get to know the family. Employees who work with vulnerable groups of children need to be further motivated in order for them to become better acquainted with the context from which these children come. Currently, in practice, it happens that children with questionable quality of knowledge reach the fifth grade after which the curriculum becomes much more difficult, and the possibility of dropping out of the educational system drastically increases. It is not uncommon for students from particularly vulnerable groups to complete primary school, while still being functionally illiterate or lacking knowledge of basic arithmetic operations.

Secondary education

When it comes to secondary education, it can be concluded that **the number of children from vulnerable groups is disproportionately higher in vocational schools, especially in the three-year period**, compared to the number of students attending vocational schools lasting for 4 years or high schools. Forms of support for students from vulnerable groups are reduced to individualization of the education plan, while all other forms of support require the cooperation of the school with the bodies of the local self-government unit, organizations, institutions and associations. The fact that secondary education is not a legal obligation also has an impact on the number of children from vulnerable groups who enroll and complete this level of education. Purposeful and timely support for this group of students depends on the initiatives of individuals and the ability of parents or students to organize themselves. As with primary education, the law governing secondary education provides for a programme of cooperation with the family, but in practice in most cases **refers to cooperation with families of children coming from the general population while there is no or insufficient development of cooperation with parents of children from vulnerable groups**. What is new in relation to the previously mentioned cycles of education is the Article 36a of the Law on

Secondary Education, as well as the Article 19 of the Law on Fundamentals of the Education System, which stipulates that certain persons or groups of persons from vulnerable categories, persons with disabilities, can enroll in high school under more favourable conditions in order to achieve full equality in acquiring the education. The Rulebook on enrollment of students in secondary schools²³¹ envisages enrollment of students of the Roma national minority under more favourable conditions by increasing the number of points based on achievements at school and the results of the qualifying exam by 30%. If the student comes from a family that is a beneficiary of financial social assistance, this percentage is 35%. It should be emphasized that all the above-mentioned laws of importance for education clearly state that all educational institutions must keep records of their students, which, in addition to personal data, data on educational and health status of students, must contain a detailed description of the child's social status. Although this information can provide insight into the living conditions of the student, it cannot fully enable educators and teachers to understand the context in which students come from, and it is necessary to enable or organize field visits of teachers, which is currently very rarely and only on the personal initiative of employees in preschool institutions or schools. Also, the Law on the Fundamentals of the Education System, as one of the most important ways to increase the quality of education, envisages the implementation of the process of innovation and improvement of curricula and expected educational outcomes, and it is necessary that future curricula be more outcome- and competences- and less content-oriented.

The existing legal framework envisages various types of support and initiatives aimed at providing support to children and students from vulnerable groups, but problems arise in the application of legislation. The envisaged solutions cannot give good results in practice, given the very large number of children from these groups. The number of used support measures and their effectiveness depends on the individuals who work in educational institutions.

Education of students from the refugee population

Enrollment of children from the migrant and refugee population in primary and secondary schools in Serbia for the school year 2021/2022 began in August 2021. However, due to a somewhat more complicated procedure, most students from this population started

²³¹ The Official Gazette of RS, no. 42/2022.

attending classes in October. **The biggest challenge, in addition to not knowing the language, is the organization of transportation of these students from the reception camps to educational institutions.** In most accommodation units, it usually happens that the employees of the Commissariat for Refugees and Migration independently organize transportation, so that there is no established practice due to the lack of financial and staff related capacities. Despite positive assessment of the investment of already modest capacities in organizing the transport of children from the migrant and refugee population, such organization of transportation of children does not fully contribute to their inclusion and integration. There is a room for improving this practice, but it implies better organization and greater cooperation between the Commissariat for Refugees and Migration, other state bodies and organizations that perform their activities in reception centres, and whose target groups are children. In addition to organizing transportation and better cooperation, **it is necessary to provide learning materials for these students and work further on motivating parents** to support their children during this process. The low motivation of parents to participate in the process of including their children in the education system and the low motivation of the students themselves can be better understood if we take into account the fact that most families do not plan to stay in Serbia longer. The organization of the educational process is further complicated when it comes to children traveling unaccompanied by adults. According to the relevant ministries, 98% of children from the refugee and migrant population are involved in the education process. Although this is an extremely high percentage, it is necessary to consider the issue of regular attendance of students and the quality of such education in observing the position of children from this population in the educational program.

The COVID-19 virus pandemic has further hampered the education process for children from the migrant and refugee populations. The "online" way of learning, which requires greater motivation and engagement, both of students and adults who take care of them, but also of those whose task is to convey educational content, is just another in a series of burdens for these children. Language barriers, lower educational status or reduced capacities of parents, poor connection to the Internet, but also the lack of devices through which classes can be attended, are factors that further contribute to the poorer quality of education. Although great efforts have been made and there is a common consensus that the inclusion of refugee and migrant children in education is one of the most important factors in the integration process, much room remains for the improvement of this process and the quality of education these children receive.

It is necessary to especially mention the group of students who are at special risk of not being included or of dropping out of the educational system and who came to Serbia **under a readmission agreement. The lack of knowledge of the language and ignorance of the procedures related to the enrollment of these children, as well as the lack of systemic mechanisms to support this population, are the biggest obstacles to quality integration.** Most of these children, almost 90%, come from Germany, and the Republic of Serbia does not have adequate and reliable records on data related to these families, and even less on data related to children's education.

"Online" education during the COVID-19 virus pandemic

The experience of working with children and students from vulnerable groups has shown that there are major gaps in the education and upbringing of all students, especially students from this group, during the COVID-19 virus pandemic. Given that educational institutions have somewhat adapted to the changed working conditions during 2020, there were no major problems in the organization during 2021. In addition to shortened classes, the possibility of attending classes at a distance and the extended duration of vacations, educational institutions have not devised new measures that would help attend classes. When analysing the pandemic and its impact on education in the Republic of Serbia, **the different capacities of parents** in providing support to their children during distance learning must be taken into account. It is also necessary that the household in which the student lives has conditions that allow the student to attend this form of classes, i.e., that the family has a **TV, computer, access to the Internet and electricity.**²³² Many teachers organized "Viber" or "WhatsApp" groups, and in that way reached out to their students, which was not always possible when it comes to this population of children. The lack of adequate learning space is another important factor that has negatively affected the learning process. Students who attend classes according to the IEP did not have the opportunity to continue attending school in this way. Students attending special classes or schools for students with "developmental problems" were particularly affected by the new situation, and the quality of education of these children is particularly questionable in this period. Most of the activities related to education were realized by the parents of the children themselves, and on this occasion, it is also necessary to take into account the capacities of the parents, as well as the amount of time

²³² For instance, more than 24,000 inhabitants of informal Roma settlements do not have regular access to electricity. See: https://serbia.un.org/sites/default/files/2021-02/Mapiranje_podstandardnih_romskih_naselja_SRB_web.pdf.

they can spend working with children considering other daily obligations. If we look at the problem from this perspective, **it is necessary to conclude that students from vulnerable groups were particularly vulnerable to the situation.** It is inevitable that the quality of education of all children declined during the pandemic, but it is devastating that neither the Republic of Serbia nor the competent ministry or the relevant institutions reacted and devised additional forms of support for the most vulnerable. In addition, the Minister of Education, Science and Technological Development stated at the UNESCO Conference on Pandemic Education at the end of March 2021 that this ministry was completely satisfied with what had been done in the field of education, but he failed to mention the numerous problems that arose and affected the students themselves and their families, as well as the teaching staff in educational institutions. In order to ensure adequate classes and progress of each student, on their own initiative, many teachers prepared materials for work from home for their students. However, as already mentioned, the motivation and cooperation of the teaching staff with the parents of children from vulnerable groups is questionable, and it often happens that the parents of these children are not available for teachers. Parents of children from Roma or informal settlements, as well as parents of children from rural or mountainous and border areas, often do not have the opportunity to come to educational institutions regularly and exchange information or educational content relevant to their children. The pandemic itself had a great impact on the organization of the work at school. It often happened that educators, teachers and class teachers became infected with the virus, and schools had a problem with providing a sufficient number of teachers for uninterrupted work. It should be noted that this situation also contributed to the fact that schools did not have the opportunity to send their employees to the necessary trainings that would contribute to the development of their capacities. Also, the factual situation is that **not all teachers have developed enough skills regarding the use of new technologies, necessary for this type of teaching organization.** When it comes to secondary and higher education, adaptation to the new situation has passed with fewer problems, given that there are greater capacities and access to the necessary skills and technology in this area.

The main data, recommendations and conclusions obtained through research conducted during 2021

The research on the impact of the COVID-19 virus pandemic on families with children in Serbia, conducted during 2020 and 2021 by UNICEF²³³ can provide a better insight into

²³³ UNICEF Serbia, *Research on the effect of the COVID-19 pandemic on families with children in Serbia*, May 2020 and November 2021.

problems related to the field of education. The research included families of children aged 0 to 17. The data collected referred to the period from the beginning of the year to the middle of March. It should be noted that the research was done by the method of data collection by telephone survey with the help of computers, as well as through an “online” self-completion survey. Also, the highest response rate was recorded among highly educated parents or guardians, mostly from urban areas. In view of the above, the research left out some of the most vulnerable groups, such as families living in socially deprived areas, in Roma and informal settlements.

All studies conducted on the impact of the pandemic show that low-income households are multiply vulnerable, and in addition to the impact of the pandemic, risk factors include poor living conditions, number of family members and multigenerational families sharing small living space, the presence of the elderly members, as well as economic deprivation that affects the quality of nutrition and health status of the family.

Also, the research of the educational process by distance learning, conducted by the Institute for the Advancement of Education²³⁴, can provide a good insight into the experiences of teachers during the COVID-19 pandemic. The data were collected through the participation of teachers in trainings organized by the Institute, and the focus of interest was the attitudes and perceptions of employees in education on the realization of the educational process through distance learning. The research was realized in the period from May 2020 to October 2021, and it included 1,800 primary and secondary schools in the Republic of Serbia and a total of 50,202 employed educators, including teachers, principals and professional associates, participated in the research.

In addition to the data collected by the survey, the research offers the most important insights and guidelines for further work when it comes to distance learning. The questionnaire contained 11 questions to check the attitudes and perceptions of employees in educational institutions about the implementation of the educational process through distance learning. It turned out that a quarter of teachers do not have distance learning experience, so the data on the conditions in which they are expected to work every day in this way indicated **the need to establish a support system for a large number of teachers**. That support system should be continuous, diverse in its offer and adapted

²³⁴ Institute for the Advancement of Education, Review and analysis of the research results, Performing the educational process through distance learning, Belgrade 2021, available at: <https://zuov.gov.rs/prikaz-i-analiza-rezultata-istrazivanja-izvodjenje-obrazovno-vaspitnog-procesa-ucenjem-na-daljину-misljenje-50-000-prosvetnih-radnika/>.

to the different, individual needs of teachers. Also, the research showed that among the noted problems, those related to the availability of resources and technology to students stand out (53.6%); then, increased workload and stress when working from home (45.1%), and the availability of resources and technology to teachers (42.6%). Finally, slightly more than one third of respondents believe that assessing student progress is a significant problem (35%), and slightly less than one third see the problem in the low level of digital competencies of students (32%).

Also, the consolidation of the obtained data unequivocally points to the conclusion that **the use of digital textbooks has not taken root in our educational reality**, despite the context in which it is almost required that these textbooks be used. Only 9.82% of respondents stated that they used digital textbooks during this form of teaching. The data that need special attention is that slightly more than one fifth of the surveyed teachers claim that they did not use learning and teaching systems, but relied only on communication tools (20.36%).

Conclusion

When considering the situation in the field of exercising economic and social rights in 2021, the conclusion that emerges is that Serbia is still far from a situation in which these rights are respected and enjoyed in their full scope. This is evidenced by various cases of direct violations of economic and social rights, through which we illustrated the key problems in this area. This is also evidenced by the analysis of certain regulations that further complicate or prevent the exercise of economic and social rights for some of the most vulnerable citizens in the Republic of Serbia. Finally, in certain situations, even when the problem in exercising economic and social rights does not lie in the quality of regulations themselves, their poor or insufficient application makes it impossible to exercise these rights.

In addition, the problems we wrote about in the previous report "Second-Class Rights, Social Rights in the Light of Austerity Measures", concerning the introduction of austerity measures and their consequences, had a disproportionately negative impact on the most vulnerable categories of citizens or on the exercise of economic and social rights. These problems were visible in 2021 as well. Although at least at the level of the dominant narrative, austerity measures have been abandoned, their consequences still affect the most endangered. In addition, there are no compensation mechanisms for violations of these rights, nor the responsibility of the competent state authorities for violations of economic and social rights. On the other hand, neither the judiciary, and particularly nor the Constitutional Court, provides sufficient protection in cases of violations of economic and social rights, which leaves additional room for continued illegal or discriminatory practices and especially affects those citizens who need support to exercise their rights guaranteed by the Constitution and ratified international treaties. It can be concluded that, in addition to the culture of irresponsibility for violations of economic and social rights, there is not enough awareness that the state has an obligation to respect these rights and that not all does depend on the "budget", nor that the growth of gross domestic product or new investment can solve the accumulated problems in terms of exercising economic and social rights.

Also, the outbreak of the epidemic did not affect the improvement of the realization of economic and social rights, and the health crisis caused by the coronavirus grew into an economic and social crisis. The most vulnerable citizens during the first and second waves of the pandemic were in no way in the focus of the competent state authorities, and the first measure that recognized the need to obtain additional support for some categories of citizens related to the special compensation for the unemployed registered with the National Employment Service and it was conducted only in 2021.

With the already mentioned reduced public investments in economic and social rights, due to all this, the Republic of Serbia is far from implementing the key obligation it has under Article 2 of the International Covenant on Economic, Social and Cultural Rights, which prescribes the maximum use of available resources for progressive realization of economic and social rights.



INITIATIVE FOR
ECONOMIC AND
SOCIAL RIGHTS