WRITTEN COMMENTS

of the European Roma Rights Centre Concerning Serbia

For Consideration by the Human Rights Council, Working Group on the Universal Periodic Review, of the 29th Session (January–February 2018)

CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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european roma rights centre

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INTRODUCTION

1 The European Roma Rights Centre (ERRC)[1] submits this parallel report to the Council Working Group on the Universal Periodic Review reporting country-specific information on issues affecting Roma in Serbia that raise questions under the Covenant on Civil and Political Rights (CCPR). The present report describes the current situation regarding serious human rights abuses of Roma in Serbia – school segregation, ethnic discrimination and lack of birth registration.

2 The ERRC respectfully submits its written comments concerning Serbia for consideration by the Covenant on Civil and Political Rights (CCPR) at its 29th working group session, which will be held from January to February 2018. The ERRC has undertaken regular monitoring of the human rights situation of Roma in Serbia and this report reflects the current priorities in our work in Serbia.

3 According to current official estimates, Roma in Serbia make up approximately 2.05%[2] of the total population or 147,604 Roma. This makes Roma the second largest minority after Hungarians.[3] However, a verified and accurate count remains elusive. Unofficial sources suggest that the number of Roma in Serbia is significantly higher, ranging between 250,000 to 500,000.[4] In addition to the autochthonous groups, an estimated to 50,000 Roma fled during and after the conflict in Kosovo to Serbia; only half of whom registered as internally displaced persons (IDPs).[5] However, it is not known if all of them remained in Serbia or left for destinations in Western Europe. Furthermore, thousands of Roma have been returned to Serbia from Western European countries in the last years as failed asylum seekers; including Roma who were originally from Kosovo.

4 Roma are the youngest ethnic group in Serbia. The average age is 27.5 years, compared to 40.2 years among the general Serbian population.[6] According to UNICEF, the primary school completion rate for non-Roma children is 94.5% and the transition rate to secondary school is 96.5%, while for Roma children the primary school completion rate is considerably lower - 63%, while the numbers for secondary school for Roma youngsters is even lower - 55.5%.[7] Illiteracy rates range between age groups from 13.7% amongst adolescents to 57.2% among the elderly.[8] Romani women are extremely disadvantaged when it comes to education achievements; illiteracy is estimated to reach up to 80%.[9]

SCHOOL SEGREGATION

5 The need for the collection of disaggregated data concerning Roma pupils and the lack of a systematic and uniform approach to recoding data on national belonging[10] is a serious issue pointed out in the *National*

1 The ERRC is a Roma-led an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education. Since its establishment in 1996, the ERRC has endeavored to provide Roma with the tools necessary to combat discrimination and achieve equal access to justice, education, housing, health care and public services. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations. The ERRC has been regularly reporting to the United Nations Committees on the situation of Roma in various countries of Europe and submitted several Parallel reports to the Human Rights Committee. More information is available at: www.errc.org.

2 Statistical Office of the Republic of Serbia, available at: http://webrzs.stat.gov.rs/WebSite/public/PublicationView.aspx?pKey=41&pLevel=1&pubType=2&pubKey=154.

3 Roma Feel Less Fear and More Hope After Census, Open Society Foundations, 12 December 2012, available: at: http://www.opensocietyfoundations.org/voices/roma-feel-less-fear-and-more-hope-after-census.

4 Government of the Republic of Serbia, "Strategy for Improvement of the Status of Roma in the Republic of Serbia", Belgrade, 2010, p. 9, available at: http://www.seio.gov.rs/upload/documents/ekspertske%20. misije/protection_of_minorities/strategy_for_roma.pdf.

5 *Ibid*.,p.28.

6 See: http://www.care.rs/wp-content/uploads/2011/08/Situational-Analysis-of-Education-and-Social-Inclusion-of-Roma-Girls-in-Serbia.pdf.

7 See: http://www.unicef.org/ceecis/MICS_5_-_Key_Findings.pdf.

8 See: http://webrzs.stat.gov.rs/axd/popis/htm.

9 See: http://www.care.rs/wp-content/uploads/2011/08/Situational-Analysis-of-Education-and-Social-Inclusion-of-Roma-Girls-in-Serbia.pdf.

10 The Strategy for Improvement of the Status of Roma in the Republic of Serbia, p. 11.

Millennium Development Goals in the Republic of Serbia[11] and *The Strategy for Improvement of the Status of Roma in the Republic of Serbia.*[12] The problem has been partly solved by adopting the Law on Primary Education.[13] However, despite the legal provisions demanding schools to keep track of "*pupils or children, their academic achievement, exams, educational process and employees"*[14] the law also makes the declaration of national belonging voluntary[15] and refers to the data on national belonging as supplementary to the records of the single information system of education.[16] Therefore, primary schools often do not collect data on ethnicity. It also remains unclear whether the data on national belonging is based on self-declaration or on the perception of the persons in charge. Also, due to such a legal provision, data collection is not regulated or stored within the system of education in a uniform and systematic manner, which opens the space to potential abuse and arbitrariness. The main issue remains that data collection on national belonging is not an integral part of the single information system of education according to the *Law on the Fundamentals of Education System.* This affects the monitoring of the right to education by persons belonging to national minorities and reduces the efficiency of the education system to provide adequate means for social integration and prevention from social exclusion and marginalisation of ethnic minorities.

6 International organisations support the collection of sensitive personal data in specific circumstances that are justified. The UN Committee on Economic, Social and Cultural Rights expressed its concern about the lack of systematic collection and processing of disaggregated data to allow for an adequate assessment of the fulfilment of economic, social and cultural rights in Serbia. The Committee recommended setting up a system to collect statistical data on the major factors affecting the implementation of the economic, social and cultural rights set forth in the Covenant, duly disaggregated by year, sex, age, urban/rural population, ethnic origin, disadvantaged and marginalised groups and other relevant criteria, and including such statistical data in the next periodic report.[17]

RESIDENTIAL SEGREGATION AND OTHER FORMS OF DISCRIMINATION

7 In Kruševac, a 120-metre long and 2-metre high wall was erected in November 2016, separating over 2,000 Roma living in the Marko Orlović settlement from the rest of the city. The public agency that built the wall, "Roads of Serbia", claimed that the wall was a "noise barrier" to protect citizens from the traffic from the highway. In fact, the wall only shields the Roma settlement, and does not extend to other stretches of this allegedly "noisy" road where non-Roma dwell. The wall creates a barrier which considerably limits access for public services such as ambulances, fire-fighters, and sanitation services. In addition, this wall exacerbates segregation and ghettoisation, further stigmatising the Roma community, in particular Romani children. Since the wall was built, activists and Roma from the community have expressed the view that their children feel more isolated and discriminated at school and excluded from the wider society.

8 In Niš, the electricity company cut the power to the Romani settlement Crvena Zvezda on August 22, 2016 leaving the entire Roma community without access to electricity. The power cut was the inevitable result of an unheard-of arrangement whereby the community's electricity is distributed through collective meters located off-site with the discriminatory label "Roma settlement" on them; the collective bills, which the residents cannot pay, are addressed, likewise, to the "Roma settlement".

11 The Government of the Republic of Serbia, the National Millennium Development Goals, Belgrade, 2006, available at: http://www.minrzs.gov.rs/files/doc/porodica/strategije/Nacionalni%20milenijumski%20ciljevi.pdf (20/02/2016), p. 23-29.

12 The Strategy for Improvement of the Status of Roma in the Republic of Serbia (*Official Gazette of RS*, no. 27/09), available at: http://www.inkluzija.gov.rs/wp-content/uploads/2010/03/Strategija-SR-web-FINAL.pdf (22/02/2016).

13 Law on Primary Education (*Official Gazette of RS*, no. 55/13).

14 Law on Primary Education, Art. 80.

15 Law on Primary Education, Art. 81, paragraph 3.

16 According to the Trends in Development and Upgrading of the Quality of Preschool, Primary, General Secondary and Art Education and Upbringing 2010 – 2020, a single information system of education has been recognised as an "urgent need of Serbia." The information system of education should fulfil all basic requirements: to collect all relevant information on education, conduct analyses of the information collected, appropriately communicate the results of these analyses for different users and thus provide a basis for effective management of the education system. National Education Council, Education in Serbia: How to Reach Better Results, Trends in Development and Upgrading of the Quality of Preschool, Primary, General Secondary and Art Education and Upbringing 2010-2020, p. 35.

17 Concluding observations on the second periodic report of Serbia, UN Committee on Economic, Social and Cultural Rights, July 2014.

Romani residents are expected to organise collection of cash between themselves and pay this to the electricity company collectively. Representatives from the ERRC and the Office of the UN High Commissioner for Human Rights have visited the area to investigate what appears to be an obvious case of discrimination. Information gathered on the ground suggests Serbian authorities are breaching human rights obligations by allowing the electricity company to relegate this community to total deprivation. Disconnecting the electricity seriously worsened the already dilapidated conditions in the settlement. The decision to cut electricity is already unnecessarily heightening the risk of illness, and putting the lives of children, pregnant women and the elderly at risk. The ERRC has demanded further information from authorities on their proposed next steps to return power to the settlement. The electricity was reconnected on 26 of December. However, the Roma households are still required to collectively pay their bills and could have the electricity cut off at any time.

9 2014, the electricity of the entire Roma community was likewise cut off for five months, resulting in the Serbian Equality Commissioner issuing a recommendation on the case that the disconnection was discriminatory. This recommendation stated that electricity should be provided to the inhabitants of the settlement "on an equal basis with other persons in Serbia", i.e. with individual meters and separate household billing. The recent events show that that the electricity company or the local authorities did not implement the commissioner's recommendation.

10 On 17 May 2017, Romani children and their families were forced by police officers to leave the playground in Kalemegdan Park, Belgrade. The incident was recorded and the video posted on social media.[18] The Deputy Chief of Communal Police Darko Dujović, rejected the accusation that Romani people were denied access to public space by a representative of the police referring to the outcomes of internal investigation they conducted.[19] According to Dujović, the communal police only warned the Romani parents about their children's improper use of playground equipment. The investigation of the case is ongoing.

11 Romani children are disproportionately represented in "special schools" excluding them from equal access to quality education. Despite the positive legislative measures (i.e. the adoption of the Law on Foundations of the Educational system in 2009) leading to the *inter alia* decrease of the proportion and overall number of Romani pupils in special education (EPD schools), the increase in the number of Romani pupils transferred from mainstream schools to EPD schools remains. General steps are taken to reduce the use of EPD schools,[20] however no particular measures are taken vis-à-vis the Roma pupils.

12 Among the 80 EPD schools in Serbia, attended by around 9,000 pupils (7,500 at primary school and 1,500 at secondary level). There is a lack of reliable data concerning the proportion of Romani children in special education. Data from the 2010/2011 school year, suggested that the number of Roma pupils in the "special schools" amounted to 1,199 (or 28% of the total number - 4,248 pupils.).[21] However, the actual situation is potentially higher for two reasons: 1) due to prejudice Roma do not openly declare their ethnicity and 2) the lack of identity documents additionally troubles the data collection.[22]

13 The ERRC's 2013 data-collection exercise, complemented by a survey conducted in ten localities across the country in 128 Romani households with students in EPD schools showed that despite the fact that their total number has decreased, the Romani students are still overrepresented in these schools. The ERRC survey shows[23] that in 2011/2012 a total of 41 Roma first graders (or 20% of the total number) enrolled in EPD schools. In 2012/13, the number of Romani students enrolling in such schools dropped to 24 new students (11%). Despite the positive indications for decrease, the chance of Romani children enrolling in "special schools" is higher than their chance of attending mainstream education. In 2014, an ERRC report[24] confirmed that despite the positive legal and policy reforms such as the 2009 Law on the Foundations of the Education System, Romani pupils are still overrepresented in EDPs despite the

18 See: https://www.youtube.com/watch?v=YOtaliLL8CM.

19 See: http://mondo.rs/a1009568/Info/Drustvo/Komunalna-policija-Romi-Incident-na-Kalemegdanu.html.

20 Education of pupils with disabilities (formerly known as "special schools").

21 The Education Advancement Institute, Educational Institutions for Children and Pupils with Developmental Challenges (Beograd: Zavod za unapređivanje obrazovanja i vaspitanja, 2012).

22 Praxis, 2011, *Analysis of the Main Problems and Obstacles in Access of Roma in Serbia to the Right to Education,* p.24.

23 ERRC, A Long Way to Go: Overrepresentation of Romani Children in "Special Schools" in Serbia. Available at: http://www.errc.org/cms/upload/file/serbia-education-report-a-long-way-to-go-serbian-13-march-2014.pdf.

24 ERRC, A Long Way to Go: Overrepresentation of Romani Children in "Special Schools" in Serbia. Available at: http://www.errc.org/cms/upload/file/serbia-education-report-a-long-way-to-go-serbian-13-march-2014.pdf.

overall decreased number. The data collected from 31 schools in Serbia has revealed an extremely high proportion of Romani students (reaching up to 73% in 2012/13) in "special schools".

14 In general, there is insufficient support for Romani pupils to stay in mainstream education and practices of transferring students from mainstream to EPD schools remain. ERRC-commissioned research from 2016[25] showed that: the out-dated catchment area system lacks revision and does not take into consideration demographic changes and it is not implemented, it allows for unchecked "white-flight" leading to segregation of Romani children in schools close to Romani settlements; and "in integrated classes Romani children are far more likely to be designated to follow individual education plans, which allows schools to reduce the size of the class".[26] The issue of over-representation in "special schools" remains without any progress.[27]

CHILDREN IN INSTITUTIONAL CARE

15 Despite the comprehensive legal framework in the Republic of Serbia prohibiting any discrimination against children on the basis of ethnicity, prejudices against Roma persist. According to recent data, Romani children are over-represented in state care.[28] For example, in the city of Belgrade, Romani children make up 34.25% (or 200) of the total number of children (584) placed in foster care.[29] According to the 2011 Census, Roma are the most numerous ethnic minority and constitute 1.65% of the population in Belgrade. The data concerning the Municipalities of Obrenovac and Zvezdara is particularly alarming: respectively 64.95% and 61.54% of the total number of children in foster care are of Romani origin.[30] In a number of cases Romani children live far from their biological parents which worsens their chances of reuniting with their biological family.[31] A large number of Romani children are also placed in foster care in the west of Serbia - Šabac, Koceljeva, Bogatić and Vladimirci, where the number of Roma children exceeds one third of the total number of children in foster care, while in the Municipality of Ub that number reaches one half.

16 According to official data, the overwhelming reason for removal of children is improper parental care.[32] Whereas basic support services and prevention measures are weak, prejudices against Roma families prevail when deciding on removals. Roma parents are often perceived as disinterested, not fully dedicated parents, with no capacity to improve and recognise their failures in parenting. Whereas there is a prevailing view among professionals in the social welfare system that poverty itself is not a sufficient reason for the relocation of Romani children from their biological families, however in conjunction with other elements, especially with "lack of parental competence" it often leads to the decision on the removal.[33]

17 The ERRC research[34] also suggested that Romani children in care have very limited contact with their parents and systematic support for strengthening biological families for the return of children is completely undeveloped. The advisory-therapeutic and socio-educational services are undeveloped, which results in a very small number of Romani children being returned to their biological families. This was confirmed by the Committee on the Rights of the Child as well in 2008, which has already warned the Serbian state about "*the lack of a systematic support system and multisectoral service provision to parents, and at the overall weakness of measures to support families and prevent deterioration of family relations and its effect on children due to the lack of well-trained social workers.*"

25 See: http://www.errc.org/cms/upload/file/ec-submission-on-roma-inclusion-in-the-western-balkans-july-2016.pdf.

26 *Ibid.*,p.13.

27 *Ibid.*,p.13.

28 ERRC research, to be published

29 Data provided by The Centre for Foster Care and Adoption Belgrade on a request by NGO Praxis, 2 September 2016.

30 According to the 2011 Census, Roma constitute 2.17% of the total population in the Municipality of Obrenovac and 1.08% of the total population in the Municipality of Zvezdara.

31 The Palilula Municipality Department of the City Social Welfare Centre referred to the Centre for Foster Care and Adoption Belgrade requests to place 102 children to foster care, of whom almost half (more precisely - 49) were Roma children . On the other hand, only 12 Roma children are placed in foster care in the Municipality of Palilula, which indicates that many children do not live close to their biological families.

32 Data provided by The Centre for Foster Care and Adoption Belgrade on a request by NGO Praxis, 2 September 2016.

33 ERRC research, to be published.

34 ERRC research, to be published

BIRTH REGISTRATION AND PERSONAL DOCUMENTATION

18 Lack of birth registration documents is a particular problem many Roma in Serbia face, stemming from social exclusion, discrimination and forced movement in the 1990s. In such cases the registration of new-borns in the system is refused by the responsible institutions which perpetuates exclusion and leads to statelessness. According to a 2014 UNICEF survey, 5% of Romani children are unregistered.[35] There is no accurate data to measure this phenomenon among the affected Roma. It is accepted that due to the frequent migration of the Roma population, reluctance to declare themselves as Roma because of prejudice, lack of documentation, it is not possible to collect fully comprehensive data on the lack of identity documents among Serbian Roma.[36]

19 The ERRC and Praxis, with support from the European Network on Statelessness, lodged a constitutional "initiative" with the Constitutional Court in Serbia in February 2016 attacking a provision of the Law on Registries which allows registrars to delay birth registration.[37] The initiative is included in Annex 1.[38] The ERRC and Praxis relied primarily on Article 24(2) of the ICCPR, and the requirement that births must be registered "immediately". In September, the Constitutional Court rejected the initiative. A translation of the decision can be found in the Annex. The ERRC and Praxis strongly urge the Committee to give careful consideration to this judgment, which does not appear to be in accordance with Article 7(1) of the Convention.

RECOMMENDATIONS CONCERNING THE SITUATION OF ROMA IN SERBIA

1 Establish a systematic approach to keeping records of national and ethnic origin in all institutions in the system of social protection in the Republic of Serbia, in accordance with national and international standards.

2 Adopt guidlines to prevent removals of Romani children from their biological families .

3 Introduce new and/or improve existing social services (such as the service of family assistant) to strengthen biological families. Services of empowerment of biological families should include both financial and advisory support, within the same range of support as envisaged for foster families.

4 Ensure training of professionals in the social welfare system in order to eliminate the prejudices and strengthen counselling work with parents of Roma children in care to strengthen their capacities for bringing the child back in the biological family.

5 Continue encouraging potential foster families in order to dispel prejudices when it comes to the adoption of Romani children.

6 Develop precise guidelines for social welfare centres on the treatment of cases of urgent relocation of children and displacement of children at particular risk, such as: readmitted persons, refugees and IDPs, „legally invisible" persons, women victims of domestic violence, etc.

7 Further improve the plan for the transformation of social care institutions for children and youth in the Republic of Serbia for the period 2009-2013 and continue its implementation as a managing principle of deinstitutionalization process in the country.

8 Amend the Law on Registries to ensure that all births are registered immediately.

9 Publicly condemn and sanction all forms and instances of discrimination based on ethnicity by public and/or private actors, in particular those targeting Roma community.

10 Eradicate all forms of spatial segregation and ghettoisation and ensure equal treatment and access to services for Roma communities in Serbia; dismantle the wall separating Roma from non-Roma in Kruševac and prevent the building of any further walls designed to segregate Roma communities.

11 Implement the recommendation of the Serbian Equality Commissioner concerning access to electricity for Roma from Crvena Zvezda in Niš and ensure that Romani households are not subjected to "collective punishment" by electricity providers.

35 See: http://www.refworld.org/pdfid/57bd436b4.pdf.

36 Praxis 2011 *Analysis of the Main Problems and Obstacles in Access of Roma in Serbia to the Right to Education,* p.24.

37 See: http://www.errc.org/cms/upload/file/ec-submission-on-roma-inclusion-in-the-western-balkans-july-2016.pdf.

38 See: http://www.errc.org/cms/upload/file/serbia-birth-initiative-7-march-2016-english.pdf.